DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H09-0117-24**	**Applicant:**	**Aldi**
Proposal:	Details of foul water drainage works, specification of compensation & enhancement measures for biodiversity & landscape maintenance details (Conditions 9, 13 part 1 & 15 of H09-1057-22)		
Location:	Aldi Fleet Street Holbeach		
Terminal Date:	4th April 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development
04	Approach to Flood Risk
28	The Natural Environment
30	Pollution

National Guidance

National Planning Policy Framework 2023

Section 2 - Achieving sustainable development
Section 4 - Decision-Making
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

Representations:

	Object	Support	No Obj.	Comments
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
OTHER STATUTORY BODIES	0	0	0	1
RESIDENTS	1	0	0	0

CASE OFFICER ASSESSMENT

Proposal

This is a discharge of conditions application for the discharge of conditions 9, 13 part I & 15 relating to H09-1057-22. The conditions relate to the following:

Condition 9 - Foul Water Drainage Works
Condition 13(i) - Biodiversity
Condition 15 - Landscape Maintenance

Site Description

The application site benefits from planning permission to erect a food store with associated parking. The access to the site is from B1515 Fleet Street. The site is located circa 160m from Holbeach District Centre.

History

H09-1057-22 - Demolition of existing buildings and construction of foodstore (Use Class E) together with car parking, landscaping, and associated works. Approved 15-03-23

Representations

Two objections have been received from the same representee. They state:

Since the completion of new affordable housing in Rathkenny Close which raised the ground level between Fleet Street and the top pond in Fishpond Lane, there is no longer drainage for the existing soakaways. This causes a couple of feet of standing water for several weeks, including raw sewage that rises from the foul network into private land. Will this be remedied in the proposal for the Aldi building application? Further buildings adjoining the rear gardens of Fleet Street will only exacerbate the current dire conditions are not dealt with.
AND
The foul network in Fleet Street is already overloaded as reported by Anglian Water themselves. Currently, raw untreated sewage overflows into private property. The 'Mayflower Residential Care Home' opposite the proposed development site already experiences raw sewage in their front garden. Also opposite is 47a Fleet Street and they're unable to use toilet and washing facilities for weeks at a time. Anglian Water state there is nothing they can do about the overflow as it is caused by "heavy rainfall events" and their network is overloaded. The onsite private pumping station will only force more foul into the network and there are no plans to remedy the situation. How can there be any approval with no details on how this will not exacerbate the current situation? There should be included a proposal on how additional capacity would be provided to accommodate the additional foul pumping station and surface water. Has the IDB been approached on the possibility of taking surface water? One reason cited by Anglian Water their network is overloaded is "inappropriate plumbing" of surface water into the foul network

Since these have been received the IDB, Anglian Water and the LLFA have all been reconsulted.

Consultation Responses

IDB
I note that the applicant intends to dispose of foul water to a main sewer. Should the applicant's proposals change to include the discharge of treated foul water to a watercourse, consent would be required under Byelaw 3.

Following re-consultation with objections:
No response

Highways/LLFA

The conditions submitted for discharge are not conditions requested by Lincolnshire County Council - we therefore have no comments to make.

Following re-consultation with objections:
Foul water is a matter for Anglian Water not something that is in our remit. I note the following justification from Jon Sharpe who dealt with the original application:

Anglian Water
The foul strategy as outlined in Drainage Operation Maintenance Manual is acceptable, the pumped rate will be assessed under CDM at Section 106 of the Water Industry Act. We can recommend discharge of condition 9

Following re-consultation with objections:

The assessment carried out for this development proposal has not determined that capacity related concerns are present in the area. The proposed development does not pose a risk to the network. The issues identified in the attached comments are due to surface water infiltration issues that are not affected by additional foul flow discharge to the network.

Lincolnshire Bat Group
I've had a look through this and no problem, but has the Protected Species licence been supplied (condition 13; section 6 of the Preliminary Bat Roost Assessment)? I believe they are only valid for one year, and then have to be reapplied for, but nothing can start without the licence in place.

Planning Considerations

Condition 9 - Foul Water
The condition requires the developer provide the following:

No building hereby permitted shall be first occupied until details of the design, implementation, maintenance and management of foul water drainage works have been submitted to and approved in writing by the local planning authority

The applicant has provided the following document:
Private Drainage O & M Manual. Ref 60108w0003a. Dated 26.05.2023

Anglian Water have been consulted and have no objections to the proposed solution for the disposal of Foul Water, stating "The foul strategy as outlined in Drainage Operation Maintenance Manual is acceptable, the pumped rate will be assessed under CDM at Section 106 of the Water Industry Act". In response to the objection comments they state "The issues identified in the attached comments are due to surface water infiltration issues that are not affected by additional foul flow discharge to the network". On this basis the information is considered acceptable. The IDB and LLFA have put forward no objections.

The condition was imposed in accordance with Policies 3 and 4 of the South East Lincolnshire Local Plan, 2019 and is hereby discharged.

Condition 13 - Compensation and enhancement measures for biodiversity

The condition requires the developer provide the following:

Notwithstanding the information contained in the submitted Biodiversity Metric Assessment, Biodiversity Calculations and Soft Landscaping Plan (ref MEL-535-001 Rev P3), prior to the occupation of development hereby permitted a specification (including methodology and programme of implementation) of compensation and enhancement measures for biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The specification shall include details of initial aftercare and long-term maintenance as well and details of monitoring and remedial measures. The works so approved shall be carried out in accordance with the approved programme of implementation and be retained thereafter for the lifetime of the development. On completion of the agreed compensation and enhancement measure in accordance with the approved programme of implementation, required as part of this condition, the development shall be inspected by a qualified ecologist and a statement of conformity and a copy of any Natural England protected species licenses as appropriate shall be submitted to the Local Planning Authority to confirm

whether all of the measures for enhancing biodiversity have been implemented in accordance with the details approved under this condition.

The applicant has provided information to discharge the first part of this condition, namely:

Notwithstanding the information contained in the submitted Biodiversity Metric Assessment, Biodiversity Calculations and Soft Landscaping Plan (ref MEL-535-001 Rev P3), prior to the occupation of development hereby permitted a specification (including methodology and programme of implementation) of compensation and enhancement measures for biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The specification shall include details of initial aftercare and long-term maintenance as well and details of monitoring and remedial measures. The works so approved shall be carried out in accordance with the approved programme of implementation and be retained thereafter for the lifetime of the development.

The 2nd part of the condition can only be discharged on completion.

The applicant has provided the following documents:

Landscape and Ecology Maintenance Plan. Ref RT-MME-159871-01. Dated 24.03.2023

This is considered acceptable and would meet with the requirement of the condition. The second part of the condition is still controlled, it requires that the development shall be inspected by a qualified ecologist and a statement of conformity with the agreed measures set out in the aforementioned documents and a copy of any Natural England protected species licenses as appropriate shall be submitted to the Local Planning Authority to confirm whether all of the measures for enhancing biodiversity have been implemented in accordance with the details approved under this condition. Lincolnshire Bat Group have questioned the species licence, however this (as stipulated by the condition) should be provided the ecologist confirmation.

This condition was imposed in accordance with Policy 28 of the South East Lincolnshire Local Plan, 2019 and is hereby PART discharged.

Condition 15 - Landscape Maintenance

The condition requires the developer provide the following:

Notwithstanding the submitted lighting details, before the development hereby permitted is first occupied details of any external lighting to be provided in association with the development shall be submitted to and approved in writing by the Local Planning Authority.

The applicant has provided the following document:

Electrical Engineering Services External Lighting

Environmental Protection have been consulted and have raised no issues, highways have also made comment that they have no objections.

The condition was imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and is hereby discharged.

Condition 15 - Schedule of Landscape Maintenance

The condition requires the developer provide the following:

Not Notwithstanding the maintenance details submitted as part of the application before the first occupation of the development hereby permitted a schedule of landscape maintenance in perpetuity has been submitted to and approved in writing by the local planning authority.

The applicant has provided the following document:

Landscape and Ecology Maintenance Plan.

This is considered acceptable showing location of planting, description of management and timing as well as ongoing monitoring. The condition was imposed in accordance with Policy 28 of the

South East Lincolnshire Local Plan, 2019 and is hereby discharged

Conclusion

Conditions 9, 13 part I & 15 relating to H09-1057-22 are hereby discharged.

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.