# SOUTH HOLLAND DISTRICT COUNCIL

**Report of:** **Development Manager**

**To:** **Planning Committee - 08 March 2023**

**(Author:** **Richard Fidler - Development Manager)**

**Purpose:** **To consider Planning Application H09-1057-22**

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| **Application Number:** | H09-1057-22 | **Date Received:** | 31 October 2022 |
| **Application Type:** | FULL | | |
| **Description:** | Demolition of existing buildings and construction of foodstore (Use Class E) together with car parking, landscaping, and associated works | | |
| **Location:** | Fleet Street Holbeach Spalding | | |
| **Applicant:** | Aldi Stores Ltd | **Agent:** | Planning Potential Ltd. |
| **Ward:** | Holbeach Town | **Ward Councillors:** | Cllr F Biggadike<br>Cllr T Carter<br>Cllr G T D Rudkin |

You can view this application on the Council's web site at
http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H09-1057-22

## 1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 The application site is Council owned land.

## 2.0 PROPOSAL

2.1 The application seeks permission to demolish the existing buildings on site to facilitate the space required for the construction of a food store with car parking, landscaping and associated works.

2.2 The Aldi foodstore would be rectangular in form and located centrally within the site. Car parking would be provided for 110 customers outside the northern and eastern elevations, with 17 staff spaces available to the south of the site. The delivery area is also located to the south of the site including a HGV turning area. The existing boundary hedges would be retained and an acoustic fence is proposed along the western and southern boundary.

2.3 The gross internal area of the proposed development is 1803 sqm with the foodstore occupying 1315sqm and the remainder occupied by a warehouse, plant rooms and staff welfare and accommodation. The building itself would have a mono pitched roof with a maximum height of 6.25m. Proposed materials include silver and anthracite cladding and anthracite curtain wall glazing to the front of the store facing towards Fleet Street, additionally charcoal brickwork below the glazing is proposed with cladding and a solid anthracite canopy with white boarding soffit.

2.4 The application is accompanied by the following documents and plans:

-Application Form
-Arboricultural Impact Assessment;
-Arboricultural Statement;
-Construction Method Statement;
-Design and Access Statement;
-Flood Risk Assessment and Drainage Statement;
-Geo Environmental Appraisal;
-Lighting Assessment;
-Location Plan;
-Noise Impact Assessment;
-Planning and Retail Statement;
-Preliminary Ecology Appraisal;
-Preliminary Bat Roost Survey;
-Dusk Emergence Surveys;
-Proposed Boundary Treatments;
-Proposed Elevations;
-Proposed Floorplan;
-Proposed Layout;
-Proposed Roofplan;
-Site Layout External Lights;
-Soft Landscaping;
-Statement of Community Involvement;
-Transport Assessment;
-Travel Plan;
-Visuals - Photomontage; and
-Visuals - Photomontage 2.

2.5 All the background documents pertaining to this application are available to view on the website via this link: https://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H09-1057-22&from=planningSearch or upon request.

## 3.0 SITE DESCRIPTION

3.1 The site extends to approximately 0.86 hectares and occupies brownfield land within the settlement boundaries of Holbeach. The most recent use of the site was a Council Depot (Sui Generis) which was recently vacated by the council and is now just used for the storage of wheelie bins. A Boxing Academy (Class E(d)) was also on site and closed around 5 years ago. Some of the existing trees on site are protected under a Tree Preservation Order and will be retained and enhanced through the proposed development.

3.2 Site access is via an existing access with B1515 Fleet Street to the north of the site. The site is situated on land to the south of B1515 Fleet Street and is approximately 500m to the east of the Centre of Holbeach.

3.3 The site sits circa 160 metres from Holbeach District Centre with established footpaths and cycle lanes lining Fleet Street promoting links with the centre and a mix of commercial and residential properties lining the route. It also has good access to public transport, with bus stops in situ.

## 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.

1 Spatial Strategy
2 Development Management
3 Design of New Development

4 Approach to Flood Risk
6 Developer Contributions
24 The Retail Hierarchy
28 The Natural Environment
29 The Historic Environment
31 Climate Change and Renewable and Low Carbon Energy
32 Community, Health and Wellbeing
33 Delivering a More Sustainable Transport Network
36 Vehicle and Cycle Parking
Appendix 6 Parking Standards

**National Guidance**

National Planning Policy Framework (NPPF), 2021

Sections -
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
11 Making effective use of land
12 Achieving well-designed places
14 Meeting the challenge of climate change, flooding and coastal change
15 Conserving and enhancing the natural environment
16 Conserving and enhancing the historic environment

Planning Practice Guidance (PPG)

## 5.0 RELEVANT PLANNING HISTORY

5.1 H09-1613-07 - Outline application for residential development - Withdrawn 2008.

H09-0937-09 - Part change of use of SHDC works depot (sui generis) to boxing academy (D2) - Approved 2010.

## 6.0 REPRESENTATIONS

6.1 This application has been advertised in the local press and site notices displayed. In addition, internal and external bodies and individuals have been consulted by individual letter or email. As a result, the following responses have been received:

6.2 Barton Willmore - Retail Impact

This planning application was accompanied by a retail impact assessment and a review of sequentially preferable sites. In the absence of a suitably qualified officer at the Council it was decided to instruct Barton Willmore, a third-party consultant who specialise on retail impact to conduct an independent review of the assessment. Barton Willmore raised initial questions to the Applicant, who then provided additional information before final comments were received by Barton Willmore. Their conclusions are summarised as follows:

-On balance, the overall conclusions of the Aldi Report are considered sound. The robustness of the assessment, however, could be improved by further sensitivity testing of the turnover of the store and the trade draw assumptions to consider further the impacts on Tesco and Co-op.
-Altogether, I expect the impact on Tesco and Co-op will be relatively significant, but I expect impacts of circa 20% could be withstood by these stores. The impacts should also be balanced against the wider context of the proposed Aldi store drawing further expenditure into the settlement and supporting the District Centre through linked trips and greater retail choice.

Subsequent Considerations - 10 Jan 2023
-Aldi have now undertaken the sensitively test, increasing the projected store turnover of the Aldi to £13.85m in 2030 (in 2018 prices) and considering greater trade draw from the Co-op. This assessment shows impacts of 16.5% on the Tesco and 21.1% on the Co-op. As noted previously, while this impact is relatively significant, it is considered that the stores could

withstand this level of impact and given the qualitative benefits associated with the provision of a further convenience store close to the District Centre, it is considered that the Report supports the Aldi proposals.

6.3 South Holland Internal Drainage Board - Comment

The site is within the Internal Drainage District (IDD) of the South Holland Internal Drainage Board (IDB) and therefore the Board's Byelaws apply. Whilst the Board's regulatory process (as set out under the Land Drainage Act 1991 and the Board's Byelaws) is separate from planning, the ability to implement a planning permission may be dependent on the granting of any required Land Drainage Consents. The Board's Officers have reviewed the documents submitted in support of the above planning application. Although no consent is currently required from the Board, officers have noted a potential for conflict between the planning process and the Board's regulatory regime (summarised as below).

South Holland Drainage Board provided comments that although no consent is currently required from the Board, officers have noted a potential for conflict between the planning process and the Board's regulatory regime as follows:

Byelaw 3 (Surface Water) The applicant proposes to discharge surface water to a sewer, which is the least sustainable method of surface water disposal within the drainage hierarchy. I recommend that you satisfy yourselves that this proposal is in line with the drainage hierarchy (as per best practice) and is viable in this location.

Byelaw 3 (Treated Foul Water) I note that the applicant intends to dispose of foul water to a main sewer. Should the applicants proposals change to include the discharge of treated foul water to a watercourse, consent would be required under Byelaw 3.

Section 23, Land Drainage Act 1991 I am not aware of any riparian owned/maintained watercourses within or adjacent to the site boundary, however this should be confirmed by the applicant. Should the applicant's proposals include works to alter a watercourse, or if works are proposed to alter a watercourse at any time in the future, consent would be required under the Land Drainage Act 1991 (and byelaw 4).

Byelaw 10 There are no Board maintained watercourses within or adjacent to the site boundary therefore Byelaw 10 does not apply.

6.4 Anglian Water - Comment

Section 1 - Assets Affected There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. Anglian Water would ask that the following text be included within your Notice should permission be granted. Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore, the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991. or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

Section 2 - Wastewater Treatment The foul drainage from this development is in the catchment of Holbeach Water Recycling Centre that will have available capacity for these flows.

Section 3 - Used Water Network This response has been based on the following submitted documents: FRA & Drainage Strategy 27/9/22 Development will lead to an unacceptable risk of flooding downstream. Anglian Water will need to plan effectively for the proposed development, if permission is granted. We will need to work with the applicant to ensure any infrastructure improvements are delivered in line with the development. (a full assessment cannot be made due to lack of information, the applicant has not identified a pumped discharge rate) We therefore request a condition requiring phasing plan and/or on-site drainage strategy (1) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087. (2) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087. (3) INFORMATIVE - Protection of existing assets - A public sewer is shown on record plans within the land identified for the

proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water. (4) INFORMATIVE - Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087. (5) INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

Section 4 - Surface Water Disposal The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer. The surface water strategy/flood risk assessment submitted with the planning application relevant to Anglian Water is wholly unacceptable, the sewer connection is proposed to is a designated public foul sewer. We would therefore recommend that the applicant needs to consult with Anglian Water and the Lead Local Flood Authority (LLFA). We request a condition requiring a drainage strategy covering the issue(s) to be agreed.

Suggested Planning Conditions:
Used Water Sewerage Network (Section 3) We have no objection subject to the following condition: Condition Prior to the construction above damp-proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme. Reason To prevent environmental and amenity problems arising from flooding

Surface Water Disposal (Section 4) CONDITION No drainage works shall commence until a surface water management strategy has been submitted to and approved in writing by the Local Planning Authority. No hard-standing areas to be constructed until the works have been carried out in accordance with the surface water strategy so approved unless otherwise agreed in writing by the Local Planning Authority. REASON To prevent environmental and amenity problems arising from flooding.

6.5 SHDC Environmental Protection - no objection

No issue with proposed noise mitigation measures.
Suggested condition relation to fixed plant and machinery:
Noise from fixed plant and machinery shall not exceed the background noise level by more than 5dB(A) when measured as a 15-minute L(A)eq on any residential boundary not within the applicant's ownership.
In addition, the proposed delivery hours (6-7am) should be made a condition.

6.6 Environment Agency - no comments

This proposal comes under cell F4 of the local flood risk standing advice and we therefore have no comments to make.

6.7 Lincolnshire Police - no objection

No objections

6.8 Lincolnshire Wildlife Trust - Comment

Lincolnshire Wildlife Trust wishes to register a holding objection on this application until further ecological information has been submitted and we are satisfied that there will be no significant negative impacts on protected or priority habitats and species as a result of the development.

As well as this we also require that details are provided as to how the mandatory 10% Biodiversity Net Gain and subsequent monitoring and management for the 30- year period will be achieved.

6.9 LCC Historic Environment Officer - no objection

Original Response
At present there is insufficient information available with which to make a reasoned decision on the archaeological impacts of the proposed development. Therefore, it is recommended that the developer is required to provide additional site-specific information in the form of an archaeological evaluation to be considered alongside this application. This evaluation should provide the local planning authority with sufficient information to enable it to make a reasoned decision on the archaeological impacts of this planning application. The evaluation should consist of trial trench excavation.

"Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation." National Planning Policy Framework section 16, paragraph 194.

Updated Response
I have had some additional information on the site of the proposed Aldi in Holbeach and although we would always prefer trial trenching to take place prior to determination so that you have information on the significance of any remains that might be impacted when you are making a decision, I think this is a case where it genuinely would be very difficult.

So if you are minded to approve this application we could recommend that the evaluation take place by condition post-determination. Ideally once some of the existing structures have been removed to ground level.

They have mentioned a depth of 'made ground' found in the GI works, but it is worth noting this was not carried out with archaeological input and to an engineer most of what we call archaeology would essentially constitute made ground (walls, floors, pits, ditches etc). So this does not necessarily mean that any archaeology here has already been lost.

6.10 Lincolnshire Bat Group - comments

Thank you for consulting Lincolnshire Bat Group on this application. We note that evidence of roosting bats has been found and that a European Protected Species Licence will be required, with further surveys to be carried out next year, and no work to be undertaken until the licence is in place.

6.11 Holbeach Parish Council - support

The Parish Council supports the application, however have raised concerns regarding existing traffic management.

6.12 LCC Highways - no objection

Outline applications and contributions

The entrance to the proposed store is from a high-quality road and on a part of the network that has sufficient capacity to safely accommodate customer, staff and goods delivery vehicle movements, without causing a residual cumulative impact. The site is "brownfield and its historic uses will have attracted and generated vehicle activity. The presence of the highway verge and the footway at the frontage of the site, together with the horizontal alignment of Fleet Road here, means that suitable visibility of any approaching vehicle is afforded to drivers leaving the site for them to be able to safely enter the highway at this point.

The existing footways and marked on-carriageway cycle lanes on each side of Fleet Road, the proximity of the site to the centre of Holbeach and the presence of bus stops close-by means that the proposed store would be readily accessible by means other than the private motor vehicle. Suitable, secure cycle parking is also to be provided within the site close to the building entrance.

The proposal includes car parking for staff and visitors, amongst which are spaces for registered disabled drivers and for customers with children, that are close to the building entrance. The proposal also makes future provision for charging of electric vehicles. The highway authority does not currently prescribe minimum car parking space standards but instead, and in line with the guidance provided within the NPPF, considers whether any shortfall in operational off-street car parking space provision would be expected to have an unacceptable impact upon the safe use of the neighbouring highway. It is not considered that that would be the case in this situation.

Consultants for the Applicants are presently engaged in direct discussions with the highway authority and lead local flood authority, in pursuit of agreeing an acceptable arrangement for conveying surface water from the impervious areas within the proposed development to an Internal Drainage Board- maintained watercourse, via existing surface water drainage Infrastructure within Fleet Street and Damgate rather than having to use the Anglian Water Combined Sewer. Those discussions are not yet concluded and it is therefore suggested that, to enable this Application to be determined in a timely manner, the standard surface water drainage Condition below is attached to any Consent that may be granted for this Application.

The highway authority is actively seeking to promote cycling and walking in a number of towns within the county, including Holbeach, by means of a series of Cycling and Walking Network Plans. The Authority therefore requests that any grant of Consent for this Application be conditional upon the Applicants being required, by means of a Section 106

Legal Agreement, to make a financial contribution of £75,000 towards the cost of delivering initiatives set-out within the Holbeach Cycling and Walking Network Plan.

Planning Conditions:

The development hereby permitted shall be undertaken in accordance with a Construction Management Plan and Method Statement that shall first be approved in writing by the Local Planning Authority. The Plan and Statement shall indicate measures to mitigate the adverse impacts of vehicle activity and the means to manage the drainage of the site during the construction stage of the permitted development. It shall include;

-the phasing of the development to include access construction;
-the on-site parking of all vehicles of site operatives and visitors;
-the on-site loading and unloading of all plant and materials;
-;the on-site storage of all plant and materials used in constructing the development;
-wheel washing facilities;
-a strategy stating how surface water run off on and from the development will be managed during construction and protection measures for any sustainable drainage features. This should include drawings) showing how the drainage systems (temporary or permanent) connect to an outfall (temporary or permanent) during construction.

Reason: In the interests of the safety and free passage of those using the adjacent public highway and to ensure that the permitted development is adequately drained without creating or increasing flood risk to land or property adjacent to, or downstream of, the permitted development during construction.

The permitted development shall be undertaken in accordance with a surface water drainage scheme which shall first have been approved in writing by the Local Planning Authority.

The scheme shall:
-be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development;
-provide flood exceedance routing for storm event greater than 1 in 100 year;
-provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;
-provide attenuation details and discharge rates which shall be restricted to no more than what would be the greenfield run-off rate of the undeveloped land;
-provide details of the timetable for and any phasing of implementation for the drainage scheme and
-provide details of how the scheme shall be maintained and managed over the lifetime of the development, including any arrangements for adoption by any public body or Statutory Undertaker and any other arrangements required to secure the operation of the drainage system throughout its lifetime.

-Retailing from the permitted development shall not be commenced until the approved scheme has been completed or provided on the site in accordance with the approved phasing. The approved scheme shall be retained and maintained in full, in accordance with the approved details.

Reason: To ensure that the permitted development is adequately drained without creating or increasing flood risk to land or property adjacent to, or downstream of, or upstream of, the permitted development.

Informatives
-Highway Informative 03
-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. Any traffic management required to undertake works within the highway will be subject to agreement. The access must be constructed in accordance with a current specification issued by the Highway Authority. Any requirement to relocate existing apparatus, underground services, or street furniture because of the installation of an access will be the responsibility, and cost, of the applicant and must be agreed prior to a vehicle access application. The application form, costs and guidance documentation can be found on the highway authority's website, accessible via the following link:
https://www.lincolnshire.gov.uk/licences-permits/apply-dropped-kerb.
-Highway Informative 08
-Please contact the Lincolnshire County Council Streetworks and Permitting Team an 01522 782070 to discuss any proposed statutory utility connections, Section 50 licences 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.

6.13 Ward Councillor Responses - comments

Cllr Biggadike
-Will bring back life to a redundant brownfield site
-Enable residents using the 505 bus route a choice of retail
-Provides much needed local employment

Cllr Carter
-The site has for some time brought a number of anti-social behaviour issues, so the opportunity for it to be cleared and redeveloped is extremely welcome.
-The store will give more budget options for local residents, and bring those from further afield to Holbeach too, giving more opportunity for those visitors to also use the other businesses in the town while in Holbeach.
-The store will bring jobs to local people too.
-Please fit a barrier at the entrance that is used when the store is closed to avoid the car park being used by groups of cars in the evenings causing potential noise issues for neighbouring properties. And set sensible, strict transport routes for the lorries bringing deliveries.

6.14 Public

In total 203 letters of response were received from the public during the consultation period. The following is a summary of the responses received:

-Objections received (summarised):
-Fear of increased parking on Fleet Street
-Fear of increased traffic and vehicle movements through Holbeach
-Letters of support (summarised)
-Good use of an old unkept site
-Tidies up the eyesore redundant site
-Access to a discount food store helpful in current financial crisis
-Will help residents shop more locally and travel less
-Will bring more shoppers to Holbeach which will in turn benefit independent traders
-Comments received (Summarised)
-Concern over pest removal on site - wasp nests and rats
-Concern proposal will lead to rat runs for vehicles in the area
-Concern how proposal will affect fence to rear of dwellings on Fishpond lane

## 7.0 CONSIDERATIONS

7.1 **Planning Considerations**

7.2 The main issues in this case are:

-Principle of Development
-Residential Amenity
-Layout and Design
-Highway Safety and Parking
-Heritage Impacts
-Contaminated Land
-Foul and Surface Water Drainage
-Biodiversity Net Gain and Impact on Trees
-Planning Conditions and Obligations

7.3 Principle of Development

7.4 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 materials considerations indicate otherwise.

7.5 Policy 1: 'Spatial Strategy' of the South East Lincolnshire Local Plan, March 2019 (SELLP) directs development to main and minor service centres. Within the settlement boundaries of main service centres development will be permitted that supports their role as a service centre for the settlement itself and helps sustain existing facilities or helps to meet the service needs of other communities.

7.6 The application site is inside the settlement boundaries of Holbeach which is considered a Main Service Centre within the SELLP. The proposed development is for an Aldi foodstore (Class E) which is considered a retail use.

7.7 Policy 24: 'The Retail Hierarchy' of the SELLP states that retail uses should be located in accordance with the retail hierarchy, with development in Holbeach District Centre acceptable where there will be no significant impact upon the vitality and viability of the centre. Out of centre retail uses are to demonstrate compliance with the sequential test and provide a robust assessment of impact on nearby town centres if greater than 250sqm (net) or more outside District and Local Centres. Policy 24 is consistent with the aspirations of section 7 of the National Planning Policy Framework 2021 (NPPF) and in particular paragraph 90.

7.8 The proposed development is for a supermarket with 1315 square metres (net) of retail floorspace. The application site is within the settlement boundary of Holbeach but not within the Town Centre boundary and therefore required further assessment to ensure the chosen location is appropriate and that other sites had been considered. Policy 24 of the SELLP seeks to focus main town centre uses (such as a 'food and drink outlets') within town centres and district/local centres, and requires proposals for such uses which are to be established outside of a Town Centre Boundary to demonstrate their suitability through a sequential test. The proposal falls below the 2,500sqm gross floorspace threshold for requiring an impact assessment as set out in national policy, however adopted Policy 24 'The Retail Hierarchy' requires out of centre retail developments over 250 sqm net to provide an impact assessment.

7.9 The Applicant's assessment considered the potential benefits and impacts of the proposed retail development when set against the criteria in paragraph 90 of the NPPF. The NPPF states that when assessing impact, only when it is demonstrated that any adverse impacts 'significantly and demonstrably' outweigh the benefits (positive impacts), should development be refused (paragraph 90). The planning system is actively encouraged to assume a 'presumption in favour of sustainable development', rather than being an 'impediment to sustainable growth'. This application was accompanied by a retail impact assessment and a review of sequentially preferable sites. The assessment stated it was carried out in line with the East Lincolnshire Town Centre and Retail Capacity Study (April 2020). In the absence of a suitably qualified officer at the Council it was decided to instruct Barton Willmore, a third party consultant, to conduct an independent review of the assessment. Barton Willmore raised initial questions to the applicant, who then provided additional information before final comments were received by Barton Willmore.

7.10 The retail impact assessment first considered the health of Holbeach District Centre (Health Check in Appendix 4 of the submitted Planning and Retail Statement). The health check assessed the current vitality and viability of Holbeach Town Centre as well as any impacts from the proposal. It was concluded that the addition of an Aldi store would strengthen the convenience shopping provision of the settlement and help to retain more expenditure in the settlement.

7.11 Additionally, the assessment considered the impact to existing convenience shopping patterns and turnovers. The assessment found no significant adverse impacts anticipated on existing, committed and planned public and private investment in centres within the catchment area of the proposal and therefore no harm on the vitality and viability of Holbeach District Centre is anticipated.

7.12 The Applicants responded to the initial comments from Barton Willmore with amended figures and additional information (sensitivity test). Following review of this information although impacts were considered significant to the existing Tesco and Co-Op stores at 16.5% and 21.1% trade draw, it was considered that the stores could each withstand this level and the impact is offset against the benefits associated with the provision of a further convenience store close to the District Centre. In light of this and following the advice received from Barton Willmore, it is considered that the development complies with the over-riding themes of sustainable development as promoted by policies 1 and 24 of the SELLP as well as the NPPF.

7.13 The location is within the defined settlement boundary of Holbeach but outside of the town centre boundary. Following the submission and consideration of a Retail Impact Assessment the proposed development is for a use which is considered appropriate when assessed against the relevant policies in the SELLP and the NPPF and therefore is in principle considered acceptable subject to the review of other material planning considerations which are discussed in turn as follows.

7.14 Residential Amenity

7.15 Policies 2 and 3 of the SELLP set out residential amenity and the relationship to existing development and land uses as main considerations when making planning decisions. Policy 30 of the SELLP indicates that development proposals will not be permitted, where taking into account any mitigation measures, they would lead to unacceptable adverse impacts upon the health and safety of the public, the amenities of the areas or the natural, historic or built environmental by way of such factors as air quality, noise, light levels and land quality and condition. These policies are consistent with advice within the NPPF at paragraph 130, which amongst other matters, seeks places with a high standard of amenity for existing and future users.

7.16 Paragraph 185(c) of the NPPF requires consideration of light pollution from developments, specifically that they are designed to limit light pollution from artificial light on local amenity, intrinsically dark landscapes, and nature conservation. Paragraph 185(a) of the NPPF seeks to ensure that development does not conflict with or have any adverse impact upon neighbouring noise sensitive land uses.

7.17 Due to the location of the proposed development, amongst a predominantly residential area, the impacts upon residential amenity are considered very important. Lighting for the application site is detailed on the External Lighting Plan and Report. It is proposed to be controlled to ensure no light spillage to neighbouring properties. Lights in the car park will be turned off at night, with low level lighting remaining in the stores for security purposes. As such the development complies with policies 2, 3 and 30 of the SELLP. Notwithstanding what was submitted by the Applicant a condition has been recommended requesting further information prior to installation of any proposed external lighting.

7.18 Acoustic Design Technology Limited have undertaken an environmental noise survey to determine the currently prevailing noise levels in the vicinity of the surrounding noise sensitive areas. It includes an assessment of the fixed plant installations and noise from the servicing operations carried out to the latest British Standards. The layout of the building on site has aimed to minimise impacts on surrounding properties with acoustic fencing proposed around the servicing and plant areas. The residual impact after taking consideration of the site's context equates to 'no observed adverse effect' using the Planning Practice Guidance. As such the

development complies with policies 2, 3 and 30 of the SELLP. A suitable condition has been recommended regarding potential noise from fixed plant and machinery.

7.19 The Lead Environmental Protection Officer raised no objection to the proposed development based on review of the aforementioned submitted details and supporting documents. Conditions relating to noise from fixed plant and machinery as well as delivery hours have accordingly been proposed.

7.20 The proposal is therefore considered to comply with Policies 2, 3 and 30 of the SELLP as well as the NPPF at paragraph 130.

7.21 Layout and Design

7.22 Policy 2 and 3 of the SELLP states that sustainable development considerations should be met in relation to such matters as quality of design, size, scale, layout density and impact on the character and appearance of an area and the relationship to existing development. Policy 2 of the SELLP indicates that developments will be permitted which will not have harmful impacts upon the character and appearance of the area. Policy 3 of the SELLP stipulates that development should respect the massing of neighbouring buildings.

7.23 The proposed food store would be rectangular in form and located centrally within the site. Car parking would be provided for 110 customers outside the northern and eastern elevations, with 17 staff spaces available to the south of the site. The delivery area is also located to the south of the site including a HGV turning area. The existing boundary hedges would be retained and an acoustic fence is proposed along the western and southern boundary.

7.24 The gross internal area of the proposed development is 1803sqm with the foodstore occupying the majority of the space at 1315sqm, with the remainder occupied by a warehouse, plant rooms and staff welfare. The building itself would have a mono pitched roof with a maximum height of 6.25m, which is considered modest in scale. Proposed materials include silver and anthracite cladding and anthracite curtain wall glazing to the front of the store facing towards Fleet Street, additionally charcoal brickwork below the glazing is proposed with cladding and a solid anthracite canopy with white boarding soffit. The choice of materials and simple modern design with muted palette of materials is not considered to have significantly harmful impacts on the wider area's character or its appearance.

7.25 The site layout retains the majority of the existing trees around the site, including the TPOs along the eastern boundary. Trees to be removed are due to their existing poor condition and to enable the site's access. The scheme introduces additional planting along the remaining boundaries and within the car park to add visual interest, soften the development and break up expanses of hard surfacing. Low-level planting, shrubs and trees are introduced towards the site's borders to help define the boundary between the store and neighbouring developments. Overall, the scheme will make a positive contribution to the general street scene and improve the biodiversity value of the site post-development. A Landscaping Plan produced by Middlemarch was submitted in support of the application and provides further detail on the proposed landscaping which includes a mix of hard and soft boundary treatments to tie the scheme in with the wider area.

The current underused brownfield site will be redeveloped into a new retail unit with associated hard and soft landscaping and it is considered that the proposal will not have harmful impacts upon the character and appearance of the area, and that it therefore will meet the requirements of Policy 2 of the SELLP and the relevant policies within the NPPF.

7.26 Highway Safety and Design

7.27 Policies 2 and 3 of the SELLP indicate that sustainable development consideration should be met in terms of access and vehicle generation levels and layout of car parking. Policy 36 as well as appendix 6 set out the minimum standards for parking provision based upon the use class.

7.28 Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual

cumulative impacts on the road network would be severe.

7.29 A Transport Assessment (TA) and Interim Travel Plan (ITP) has been submitted in respect of this application by Andrew Moseley Associates.

7.30 The TA concludes that the site can be appropriately accessed, there are no significant highway impacts and that the site is located in a sustainable location, with access to a variety of key facilities and services via sustainable modes of transport such as walking, cycling and public transport.

7.31 The ITP summarises the accessibility of the site and outlines a range of Travel Plan measures which will be promoted to employees to encourage sustainable travel patterns. Measures within the Travel Plan will focus primarily on staff travel as there is a good potential for a high level of staff trips to the store to be made using sustainable modes.

7.32 The application site will be accessed by all modes of transport, including deliveries, via a new priority-controlled T-junction with B1515 Fleet Street (the access into the site). The access will be located slightly east of the existing access location and would see the provision of a formalised site access junction, providing a betterment over the existing site access arrangement. It is considered that the sustainable transport links are of good quality.

7.33 LCC Highways were consulted and have no objections subject to conditions and a suggested planning obligation. LCC Highways commented that the entrance to the proposed store is from a high-quality road and on a part of the network that has sufficient capacity to safely accommodate, customer, staff and goods delivery vehicle movements, without causing a residual cumulative impact. The service also acknowledge that the proposed store would be readily accessible by means other than the private motor vehicle. Suitable, secure cycle parking is also to be provided within the site close to the building entrance.

7.34 The application proposes 110 customer and 17 staff parking spaces for the foodstore. LCC Highways also highlight the fact that the proposal includes car parking for staff and visitors, amongst which are spaces for registered disabled drivers and for customers with children, that are close to the building entrance. The proposal also makes future provision for charging of electric vehicles. LCC Highways does not currently prescribe minimum car parking space standards but instead, and in line with the guidance provided within the NPPF, considers whether any shortfall in operational off-street car parking space provision would be expected to have an unacceptable impact upon the safe use of the neighbouring highway. It is not considered that that would be the case in this situation.

7.35 LCC Highways is actively seeking to promote cycling and walking in a number of towns within the county, including Holbeach, by means of a series of Cycling and Walking Network Plans. LCC Highways therefore requested that any grant of Consent for this Application be conditional upon the Applicants being required, by means of a Section 106 Legal Agreement, to make a financial contribution of £75,000 towards the cost of delivering initiatives set-out within the Holbeach Cycling and Walking Network Plan. Planning obligations are discussed later in this report in a separate section however, for the purposes of this section of the report, it is not considered this request meets the test of regulation 122 of the Community Infrastructure Levy Regulations (2010) and therefore has not been considered as a requirement to provide an acceptable planning permission.

7.36 In the case of the proposed development, it has been demonstrated that there would not be an unacceptable impact on highway safety, nor would the residual cumulative impacts on the road network be severe and therefore the site is considered to be a sustainable location in line with Policies 33 and 36 and paragraph 111 of the NPPF.

7.37 Heritage Impacts

7.38 The application site is not located within a conservation area nor is it close to any listed buildings however it is situated within the area of the historic settlement of Holbeach. The site had already been developed by the time of the production of the first detailed maps of Holbeach during the mid 19th century. These show that a series of probable industrial buildings appeared to have stood on the site as well as several historic drainage channels to take away water from

the site towards the fens to the south of the town. There is therefore potential for as yet unrecorded archaeological remains to survive here, which would be impacted by the proposed development. The NPPF at paragraph 194 states that where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. This is echoed in policy 29 of the SELLP which also states that distinctive elements of the South East Lincolnshire historic environment will be conserved and, where appropriate, enhanced. Opportunities to identify a heritage asset's contribution to the economy, tourism, education and the local community will be utilised including:

-The historic archaeological and drainage landscape of the Fens;
-The distinctive character of South East Lincolnshire market towns and villages;
-The dominance within the landscape of church towers, spires and historic windmills.

7.39 The initial consultation response from the LCC Historic Environment Officer concluded that there was insufficient information available to make a decision on the archaeological impacts of the proposed development. It was recommended that the developer provided additional site-specific information in the form of an archaeological evaluation, including trial trench excavation to enable further review.

7.40 Following additional information received the Historic Environment Officer commented that although they would always prefer trial trenching to take place prior to determination this is a case where it genuinely would be very difficult. Moreover, this is not a mandatory requirement of policy, law or otherwise. In the planning judgement of officers, it is not considered necessary to require this prior to determining the application. Therefore, it has been recommended that the site evaluation take place by condition post-determination. Ideally once some of the existing structures have been removed to ground level.

7.41 The inclusion of a condition to cover the aforementioned points is considered to be reasonable to achieve compliance with policy 29 of the SELLP and paragraph 194 and the NPPF.

7.42 Contaminated Land

7.43 Policy 30 of the SELLP indicates that, where there is reason to suspect ground contamination, proposals must include an assessment of the extent of contamination and any possible risks.

7.44 The Applicant provided a site assessment in support of the proposed development. The assessment carried out by Groundtech Consulting dated May 2022 had the objective to establish the sites' environmental and geotechnical background in order to generate a Conceptual Site Model to identify any potential constraints and linkages which may affect the redevelopment of the site.

7.45 The assessment concluded that the application site has formerly been utilised as a depot, a sewage works and an orchard. Other features present at the site include a pond and a drain which have been identified during the Ground Investigation. The site is formed by two adjoined areas with associated large commercial/industrial buildings and tarmac surfacing present over most of the site. Some areas of soft landscaping are present in the south eastern area.

7.46 The following further work was recommended necessary to progress the site to construction phase:

·Completion of gas monitoring programme;
·Issue gas assessment;
·Intrusive site investigations post demolition of the buildings on site;
·Demolition Asbestos survey;
·Detailed foundation design;
·Production of a Remedial Specification;
·Confirmation of remedial recommendations with the Regulators.

7.47 The inclusion of a contaminated land condition to cover the aforementioned points is considered to be reasonable to achieve compliance with Policy 30 of the SELLP.

7.48 Foul and Surface Water Drainage

7.49 Policy 4 of the SELLP seeks to ensure that new development is not unnecessarily exposed to flood risk, and does not increase flood risk elsewhere. Paragraph 159 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Paragraph 167 of the NPPF states that when determining any planning applications development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that a number of criteria are met.

7.50 As the site is designated as being in Flood Zone 3, but not located in an area at risk of surface water, the site is considered to be located within Flood Zone 3a. As such, a Flood Risk Assessment and Drainage Strategy has been provided by Craddys Pitchers Ltd. Furthermore, as the application site falls within Flood Zone 3, a sequential test has been carried out, however due to the vulnerability classification for the proposed development use being less vulnerable within Flood Zone 3a, an exception test is not required (as defined within the Flood Risk Vulnerability and Flood Zone Compatibility in Planning Policy Guidance at table 2).

7.51 The submitted Flood Risk Assessment concluded that there are no sequentially preferable sites for the proposed development and that the application site put forward will not increase the risk of flooding elsewhere nor will it result in an unacceptable level of run-off.

7.52 In accordance with paragraphs 167 of the NPPF and SELLP Policy 4, it has been demonstrated that there are no reasonably available sites that are appropriate for the proposed development in areas with a lower probability of flooding and therefore the sequential test is satisfied.

7.53 Surface water was proposed to be discharged via a public combined sewer running along Fleet Street to the north of the site and foul water discharged via an existing foul sewer passing through the middle of the site.

7.54 The Internal Drainage Board and Environment Agency both provided no objection to the proposed drainage strategy, however, Anglian Water had concerns regarding the surface water drainage. LCC Highways act as Lead Local Flood Authority (LLFA) for the Council and their additional comments were sought.

7.55 The LLFA commented that engineers for the Applicants are presently engaged with them in pursuit of agreeing an acceptable arrangement for conveying surface water from the impervious areas of the application site. The Applicants are proposing to drain this water to an Internal Drainage Board maintained watercourse via the existing surface water drainage infrastructure within Fleet Street and Damgate rather than having to use the Anglian Water Combined Sewer. As the discussions are not concluded at the time of this report being written, the LLFA and Anglian Water are happy that to enable determination in a timely manner, the standard surface water drainage condition is attached to any consent that may be granted which would require a full scheme of drainage be submitted to and approved in writing before the development commences.

7.56 On balance it is considered that the proposed development is acceptable when assessed against policy 4 of the SELLP and section 14 of the NPPF.

7.57 Biodiversity Net Gain and Impact on Trees

7.58 Policy 3 of the SELLP states (amongst other criteria not listed here) that the incorporation of existing hedgerows and trees and the provision of appropriate new landscaping to enhance biodiversity, green infrastructure, flood risk mitigation and urban cooling.

7.59 Policy 28 of the SELLP part 3a seeks to ensure that all development proposals provide an overall net gain in biodiversity to help address gaps in the ecological network.

7.60 Paragraph 179 of the NPPF states that to protect and enhance biodiversity and geodiversity, plans should (amongst other criteria not listed here) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

7.61 The application was submitted with an ecological desk study and a walkover survey, carried out by Middlemarch Environmental Ltd. The survey identified the features of ecological importance on site and provided a preliminary assessment of the potential impacts of the proposed development on these features. In addition, Middlemarch have undertaken a Preliminary Bat Roost Assessment and Bat Activity Surveys at this site, the findings of which are submitted.

7.62 The Preliminary Roost Assessment identified one Building (B3) with high bat roost potential. To determine the bat species and roost status of Building B3 and presence/absence of roosting bats within Buildings B1 & B2, dusk emergence and dawn re-entry bat surveys have been undertaken on 12th and 28th September 2022 along with the proposed bat mitigation. Bat Mitigation Guidelines recommend that for buildings with high bat roost potential, three surveys be undertaken including two within the peak season for bats. Therefore, the submitted report is an interim report based on surveys undertaken so far, and further survey work will be undertaken in Summer 2023 to confirm the September findings.

7.63 The Lincolnshire Bat Group has no objection to the application based upon further surveys taking place, prior to the commencement of any works.

7.64 Lincolnshire Wildlife Trust provided an initial response to the application by way of a holding objection, with regards to the further information required on impacts to protected or priority habitats and species as well as details as to how the mandatory 10% Biodiversity Net Gain and subsequent monitoring and management will be achieved.

7.65 Following the response from the Wildlife Trust, the Applicant was asked to provide the further information required. This has been received and includes:

-Biodiversity Metric Assessment;
-Biodiversity Calculations - RT-MME-158436 DEFRA BIOMETRIC 3.1 Fleet Street Holbeach (17.01.2023) - Rev B - FINAL; and
-Detailed Soft Landscaping Plan 1:250 at A0.

The Biodiversity Metric Assessment identified the change in biodiversity value for the site as a result from the proposed change in use of the land and establishes if a net gain for biodiversity can be achieved. As shown within the Biodiversity Calculations the proposed development is expected to result in a net gain of 0.18 BU (Habitats) which is equivalent to an increase of 12.21% on the existing baseline habitat values. The projected gains in habitat are to be achieved through the creation of native scrub habitats in the landscaped areas of the site, as detailed within the submitted Detailed Soft Landscaping Plan. The projected increase in habitat values is based on the assumption that an appropriate management plan will be implemented to ensure that the habitat and hedgerow features will be established and maintained to fulfil their intended biodiversity value.

7.66 The Wildlife Trust were reconsulted for further comment but did not respond, however the calculated figure of a 12.21% net gain is above the target of at least 10% net gain as advocated by the Environment Act 2021. It is considered that a Landscape and Ecology Management Plan could be covered by a condition of consent and therefore overall, it is deemed that the concerns as previously raised by the Wildlife Trust have been addressed and complies with Policy 28 of the SELLP as well as the NPPF.

7.67 The Council Tree Officer was consulted and did not respond, however the site layout retains the majority of the existing trees around the site, including the TPOs along the eastern boundary. Trees to be removed are due to their existing poor condition and to enable the site's access. The scheme introduces additional planting along the remaining boundaries and within the car park to add visual interest, soften the development and break up expanses of hard surfacing. Low-level planting, shrubs and trees are introduced towards the site's borders to help define the boundary between the store and neighbouring developments. Overall, the scheme will make a

positive contribution to the general street scene and improve the biodiversity value of the site post-development. A Landscaping Plan produced by Middlemarch was submitted in support of the application and provides further detail on the proposed landscaping which includes a mix of hard and soft boundary treatments to tie the scheme in with the wider area.

7.68 In the case of the proposed development, it has been demonstrated that a biodiversity net gain can be achieved and therefore the site is considered to be acceptable in line with Policies 3 and 28 of the SELLP and paragraph 179 of the NPPF.

7.69 Planning Conditions and Obligations

7.70 The NPPF at paragraph 55 states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Additionally, paragraph 56 of the NPPF states that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision-making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.

7.71 All of the pre commencement conditions presented in the following section of this report have been agreed with the Applicant prior to this committee presentation. A draft schedule of conditions has been sent to the Applicant.

7.72 Regarding planning obligations, paragraph 57 of the NPPF states that planning obligations must only be sought where they meet all of the following in line with Regulation 122(2) of the Community Infrastructure Levy Regulations 2010:

a)Necessary to make the development acceptable in planning terms;
b)Directly related to the development; and
c)Fairly and reasonably related in scale and kind to the development.

7.73 Whilst it is noted that LCC Highways have requested a Section 106 Legal Agreement for the financial contribution of £75,000.00 towards the cost of delivering initiates set-out within the Holbeach Cycling and Walking Network Plan, it is not considered this request meets the test of regulation 122 of the Community Infrastructure Levy Regulations (2010) as it is not necessary to make the development acceptable in planning terms and therefore has not been considered as an obligation that would be recommended by officers.

7.74 Other Material Considerations

7.75 This report has taken into considerations the representations received by members of the public.

7.76 The Applicant engaged with residents, stakeholders and elected representatives as part of their public consultation.

7.77 Initially a community newsletter was issued to addresses within a local area, this invited comments and feedback as well as attendance to a virtual or public exhibition. The Applicants state that the newsletter was posted to 2,003 households and businesses surrounding the proposal site. A public exhibition was held in Holbeach on 28th September 2022 to display the site proposals, in total 144 individuals attended with feedback forms handed out. Additionally, a virtual exhibition was held, on a dedicated project website and was open to comments between 21st September 2022 and 5th October 2022. As part of the community engagement process, a press release was also issued to the local media outlets (media coverage by Spalding Today, Lincolnshire Live, The Lincolnite is noted on 21st September 2022). Further media coverage was released to Spalding Today between 23rd September 2022 and 5th October 2022.

7.78 The summary of responses states that a 97% level of support was received from the total of

325 representations received by telephone, website, email and post. The overall level and method of engagement is considered acceptable and in compliance with the adopted Statement of Community Involvement (2012) SPD.

7.79 A Construction Management Statement (CMS) was provided in support of the application however the details of the construction management remain to be resolved as a condition of decision rather than prior to determination.

7.80 Planning Balance

7.81 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.

7.82 The location is within the defined settlement boundary of Holbeach but outside of the town centre boundary. Following the submission and consideration of a Retail Impact Assessment, the proposed development is for a use which is considered appropriate when assessed against the relevant policies in the SELLP and the NPPF and therefore is in principle considered acceptable.

7.83 It is not considered that the proposal would harm the character or appearance of the locality or amenity of nearby residents. The highway arrangements would be acceptable and accord with the provisions of the outline consent. The development would not have such an impact on highway safety in and around the site or the wider locale. Flood risk and developer contribution matters are considered to have been appropriately addressed.

7.84 Landscaping, biodiversity and impacts upon trees, heritage impacts, and contaminated land have been appropriately addressed. Notwithstanding the concerns that have been raised set out above, it is not considered that there is a justifiable reason to withhold permission on these grounds.

7.85 In light of the above considerations, the proposal is considered to be in accordance with Policies 1, 2, 3, 4, 6, 24, 28, 29, 31, 32, 33, 36 and Appendix 6 of the South East Lincolnshire Local Plan (2019), as well as guidance in the National Planning Policy Framework (2021).

7.86 Overall, it is considered that the planning balance is in favour of the proposal and that the proposal conforms with the development plan when read as a whole.

7.87 Conclusion

7.88 As set out above, in light of the above considerations, the proposal is considered to be in accordance with Policies 1, 2, 3, 4, 6, 24, 28, 29, 31, 32, 33, 36 and Appendix 6 of the South East Lincolnshire Local Plan (2019) and thus accords with the development plan when read as a whole, as well as guidance in the National Planning Policy Framework (2021).

7.89 Overall, it is considered that the planning balance is in favour of the proposal.

7.90 **Additional Considerations**

7.91 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.

7.92 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 planning permission subject to those conditions listed at 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 and/or documents:

Documents
-Application Form
-Design and Access Statement
-Environmental Noise Impact Assessment Acoustic Consultancy Report
-Planning & Retail Statement
-Flood Risk Assessment & Drainage Strategy
-R3 Lighting Assessment
-Statement of Community Involvement
-Travel Plan
-Transport Assessment
-Construction Method Statement
-Geo-Environmental Appraisal
-Preliminary Arboricultural Assessment
-Arboricultural Impact Assessment
-Preliminary Ecology Appraisal
-Preliminary Bat Roost Survey
-Dusk Emergence Surveys
-Biodiversity metric assessment

Plans
-Electrical Engineering Services External Lighting
-0001 Rev P01 Site Location Plan
-0003 Rev P02 Proposed Site Plan
-0004 Rev P01 Proposed Floor Plan
-0005 Rev P01 Proposed Roof Plan
-0006 Rev P01 Proposed Site Plan Boundary Treatments
-2000 Rev P01 Proposed Elevations
-5000 Rev C01 Visual 01
-5001 Rev C01 Visual 02/03
-MEL-535-001 Rev P3 Detailed Soft Landscaping

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

3. The proposed store will not be first occupied until the access, parking and turning facilities shown on drawing as shown on 0003 Rev P02 Proposed Site Plan has been provided.

Reason: In the interests of highway safety and the amenity of nearby residents. This condition is imposed in accordance with paragraph 130 of the National Planning Policy Framework.

4. No development shall take place until a method statement for the demolition and/or construction of that part of the overall development hereby approved has been submitted to and approved in writing by the Local Planning Authority. The demolition and construction works shall be carried out in accordance with the approved method statement. The statement shall provide for:
· the routeing and management of construction traffic;
· the parking of vehicles of site operatives and visitors;
· the routeing and management of construction traffic;
· the parking of vehicles of site operatives and visitors;
· storage of plant and materials used in constructing the development;
· the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
· wheel cleaning facilities;
· measures to control the emission of dust and dirt during construction;
· protection of Public Rights of Way;
· details of noise reduction measures;
· a scheme for recycling/disposing of waste resulting from demolition and construction works;
· the hours during which machinery may be operated, vehicles may enter and leave, and works may be carried out on the site.

Reason: In the interests of highway safety and the amenity of nearby residents. This condition is imposed in accordance with paragraph 130 of the National Planning Policy Framework.

5. Notwithstanding the detail submitted in the Construction Method Statement dated 29/09/22, the development hereby permitted shall be undertaken in accordance with a Construction Management Plan and Method Statement that shall first be approved in writing by the Local Planning Authority before development commences. The Plan and Statement shall indicate measures to mitigate the adverse impacts of vehicle activity and the means to manage the drainage of the site during the construction stage of the permitted development. It shall include;

-the phasing of the development to include access construction;
-the on-site parking of all vehicles of site operatives and visitors;
-the on-site loading and unloading of all plant and materials;
-the on-site storage of all plant and materials used in constructing the development;
-wheel washing facilities;
-a strategy stating how surface water run off on and from the development will be managed during construction and protection measures for any sustainable drainage features. This should include drawings) showing how the drainage systems (temporary or permanent) connect to an outfall (temporary or permanent) during construction.

Reason: In the interests of the safety and free passage of those using the adjacent public highway and to ensure that the permitted development is adequately drained without creating or increasing flood risk to land or property adjacent to, or downstream of, the permitted development during construction.

6. Demolition/ground works/construction works/ deliveries and collections during the construction phase of the development, shall not take place outside the following hours:

-Monday to Friday 08.00 - 18.00hrs
-Saturday 08.00-13.00hrs
-There shall be no work on Sundays or Public Holidays

Reason: In the interests of highway safety and the amenity of nearby residents. This condition is imposed in accordance with paragraph 130 of the National Planning Policy Framework.

7. No development shall take place until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be completed before the development is used. The scheme shall:

-be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development;
-provide flood exceedance routing for storm event greater than 1 in 100 year;
-provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;
-provide attenuation details and discharge rates which shall be restricted to no more than what would be the greenfield run-off rate of the undeveloped land;
-provide details of the timetable for and any phasing of implementation for the drainage scheme and
-provide details of how the scheme shall be maintained and managed over the lifetime of the development, including any arrangements for adoption by any public body or Statutory Undertaker and any other arrangements required to secure the operation of the drainage system throughout its lifetime.
-Retailing from the permitted development shall not be commenced until the approved scheme has been completed or provided on the site in accordance with the approved phasing. The approved scheme shall be retained and maintained in full, in accordance with the approved details.

Reason: To ensure that the site can be adequately drained
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 15 of the National Planning Policy Framework, 2021.

8. No building hereby permitted shall be first occupied until details of the noise from fixed plant and machinery (which shall not exceed the background noise level by more than 5dB(A) when measured as a 15-minute L(A)eq on any residential boundary not within the applicant's ownership) have been submitted to and approved in writing by the local planning authority.

Reason: To ensure development would not result in unacceptable impact on residential amenity
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 15 of the National Planning Policy Framework, 2021.

9. 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.

Reason: To ensure development would not result in unacceptable risk of pollution or harm to the environment or landscape
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.

10. The development hereby permitted shall not be commenced until a scheme to deal with any contamination of land or pollution of controlled waters as identified in the Geo-Environmental Appraisal as undertaken by Groundtech Consulting (dated 25th April 2022) has been submitted to and approved in writing by the Local Planning Authority (LPA).

The scheme shall include all of the following measures unless the LPA dispenses with any such requirement in writing:

i) As identified as being required following the completion of the desk-top study, an exploratory site investigation shall be carried out to fully and effectively characterise the nature and extent of any land contamination and/or pollution of controlled waters. It shall specifically include a risk assessment that adopts the Source-Pathway-Receptor principle, in order that any potential risks are adequately assessed taking into account the sites existing status and proposed end use. A full copy of the site investigation and findings shall be forwarded to the LPA without delay upon completion.
ii) Thereafter, a written method statement detailing the remediation strategy for land contamination and/or pollution of controlled waters affecting the site and a timetable for their completion shall be submitted to and approved in writing by the LPA. This shall include details of the proposed verification plan including compliance criteria and monitoring details.

No deviation shall be made from this scheme without the express written agreement of the LPA. If during redevelopment contamination not previously considered is identified, then the LPA shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspected contamination has been submitted to and agreed in writing by the LPA.

Reason: To assess whether the site is polluted and to address any pollution to ensure a satisfactory 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 Policy 30 of the South East Lincolnshire Local Plan, 2019.

11. If contamination of land and/or pollution of controlled waters has been identified as a result of investigation undertaken in accordance with Condition 10 above and remediation is required, a full copy of a verification report shall be submitted to, and approved in writing by, the Local Planning Authority prior to the first occupation of the development. The report shall provide verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement(s). Post-remediation sampling and monitoring results shall be included in the closure report to demonstrate that the required remediation objectives and criteria has been fully met.

Note: The applicant is advised that the phased risk assessment required by the Contaminated Land Scheme Condition should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part 11A.

Reason: To ensure the satisfactory remediation of contaminated land and/or waters.
This Condition is imposed in accordance with Condition 30 of the South East Lincolnshire Local Plan, 2019.

12. No development above ground floor slab level of any part of the development hereby permitted shall take place until samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):

b)samples of all brick, render and tiling (including details of the colour of render/paintwork to be used)
c)samples of all hard surfacing materials
d)Sample materials of boundary treatments

The development shall be carried out in accordance with the approved details.

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 and the provisions of the NPPF 2021.

13. 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.

Reason: To enhance biodiversity
This Condition is imposed in accordance with Policy 28 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 15 of the National Planning Policy Framework, 2021.

14. Unless an alternative landscaping scheme is first submitted to and agreed in writing with the Local Planning Authority all planting, seeding/turfing and hard landscaping comprised in the submitted landscape scheme shown on MEL-535-001 Rev P3, hereby approved, shall be carried out in the first planting season following the first occupation of the development. Once complete the developer shall submit written evidence to be agreed in writing with the Local Planning Authority which demonstrates that the soil cells installation has been completed. All planting shall be watered as necessary and competitive weed growth controlled to ensure successful establishment. Any trees or plants that die, or are removed; or become seriously damaged or diseased within a period of five years from the completion of the planting, shall be replaced in the next planting season with others of similar size and species.
Reason: To ensure the protection of trees on the site.
This Condition is imposed in accordance with Policy 28 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 15 of the National Planning Policy Framework, 2021.

15. 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 schedule shall include details of the arrangements for its implementation, long-term design objectives, management responsibilities and maintenance schedules for all landscape areas (excluding domestic gardens). The approved landscape maintenance schedule shall be fully implemented.

Reason: To ensure the proposed development does not have an adverse effect on the character and appearance of the area
This Condition is imposed in accordance with Policy 28 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 15 of the National Planning Policy Framework, 2021.

16. Where trees are shown to be retained on site they shall be protected during construction work as follows:
i)chestnut pale or similar fencing 1.5 metres in height shall be provided around the trees to be retained before development is commenced at a minimum distance from the trunks equal to the spread of the crowns of the trees. No materials, equipment, site huts, fuels or other items shall be placed or stored within the areas enclosed by the fencing so erected and the ground levels within those areas shall not be altered, nor shall any excavation be made;
ii)no burning of materials or other items shall take place within 3 metres of the crown spread of any of the trees to be retained;
iii)no services shall be routed under the spread of the crowns of the trees to be retained; iv)no retained tree shall be cut down, up-rooted, destroyed, topped or lopped unless first agreed in writing by the Local Planning Authority;
v)if any tree which is to be retained dies or is to be removed it shall be replaced within six months thereafter with a tree of such size and species which shall be first be agreed in writing by the Local Planning Authority.

Reason: To ensure the protection of trees on the site.
This Condition is imposed in accordance with Policy 28 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 15 of the National Planning Policy Framework, 2021.

17. No work shall commence on site until confirmation that a European Protected Species Licence is in place following further survey work that has been undertaken, unless otherwise agreed in writing with the Local Planning Authority.

Reason: Protected Species
This Condition is imposed in accordance with Policy 28 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 15 of the National Planning Policy Framework, 2021.

18. No work shall commence on site until an Employment, Skills and Local Procurement Strategy shall be submitted to and approved in writing by the Local Planning Authority. This strategy shall set out measures to provide local employment, skills and business opportunities during the construction phase of the development hereby approved. The development shall be carried out in accordance with the details so approved.

Within 12 months of the development hereby approved being first brought into use, a Statement of Conformity shall be submitted to the Local Planning Authority, setting out how the approved measures were implemented and shall include a review of Employment, Skills and Procurement outcomes arising from the approved Strategy.

Reason: To ensure that the development provides opportunities for local employment and training opportunities
This Condition is imposed in accordance with Policy 2 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in the National Planning Policy Framework, 2021.

19. No boundary treatments shall be erected until detailed scaled drawings (section) of the hard boundary treatments to be erected, as sown on drawing zeb1162_207 Rev D, have been submitted to and approved in writing by the Local Planning Authority. The approved boundary treatments shall be erected before the development is first brought into use and thereafter retained in that form, notwithstanding the provisions of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification).

Reason: In the interests of the character and appearance of the development and the amenity of the area in which it is set including the amenity and privacy of nearby occupiers, including impacts to daylight and sunlight.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and the provisions of the NPPF 2021.

20. 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 details shall include times when the external lighting will not be switched on. Only external lighting in accordance with approved details shall be provided on the application site. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) there shall be no other external lighting provided on the application site.

Reason: To ensure that the Local Planning Authority retains control over these matters, in the interests of the visual amenity of the overall development, to prevent light pollution and to ensure that the development is adequately lit.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and the provisions of the NPPF 2021.

21. The development hereby permitted shall be carried out in accordance with the measures set out in the Flood Risk Assessment by Craddys dated 27/09/22 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 level of all of the proposed buildings shall be raised at least 300mm above the existing ground level
-These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

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 (NPPF 2021).

22. No development shall take place until a programme of archaeological work, including a Written Scheme of Investigation, has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:

-The programme and methodology of site investigation and recording.
-The programme for post investigation assessment.
-Provision to be made for analysis of the site investigation and recording.
-Provision to be made for publication and dissemination of the analysis and records of the site investigation.
-Provision to be made for archive deposition of the analysis and records of the site investigation.
-Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To ensure that the development conserves any potential heritage assets.
This Condition is imposed in accordance with Policy 29 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 16 of the National Planning Policy Framework, 2021 (NPPF 2021).

23. 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 by identifying matters of concern within the application and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal.

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

24. All wild bird species are legally protected under the Wildlife and Countryside Act 1981 (as amended) from any form of disturbance between the onset of nest building and until such time as any dependent young have left the nest, principally from the beginning of March to the end of August.

25. All species of bats and their roosts (whether the bats are present or not) are protected from reckless killing, disturbance or destruction under both national and European legislation. Cracks, cavities and holes in trees and buildings can provide suitable places for bats to rest or hibernate; these should be carefully inspected prior to carrying out any works. If bats are discovered during work on trees or are suspected of being present, the relevant work should be halted and Natural England (formerly English Nature) notified and further advice sought (http://www.naturalengland.org.uk/).

For more information about bats and the law, please go to the Bat Conservation Trust website: http://www.bats.org.uk/ For information on surveying for bats in trees and woodland please go to the bsi website: http://shop.bsigroup.com/upload/273444/BSI-Bat-Microguide-UK-EN.pdf

26. 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. Any traffic management required to undertake works within the highway will be subject to agreement. The access must be constructed in accordance with a current specification issued by the Highway Authority. Any requirement to relocate existing apparatus, underground services, or street furniture because of the installation of an access will be the responsibility, and cost, of the applicant and must be agreed prior to a vehicle access application. The application form, costs and guidance documentation can be found on the highway authority's website, accessible via the following link: https://www.lincolnshire.gov.uk/licences-permits/apply-dropped-kerb.

27. Please contact the Lincolnshire County Council Streetworks and Permitting Team an 01522 782070 to discuss any proposed statutory utility connections, Section 50 licences 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.

28. In order to minimise any nuisance from noise, vibration and dust during the construction phase the applicant should refer to the WRS Demolition & Construction Guidance and ensure its recommendations are complied with.

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Background papers:- Planning Application Working File

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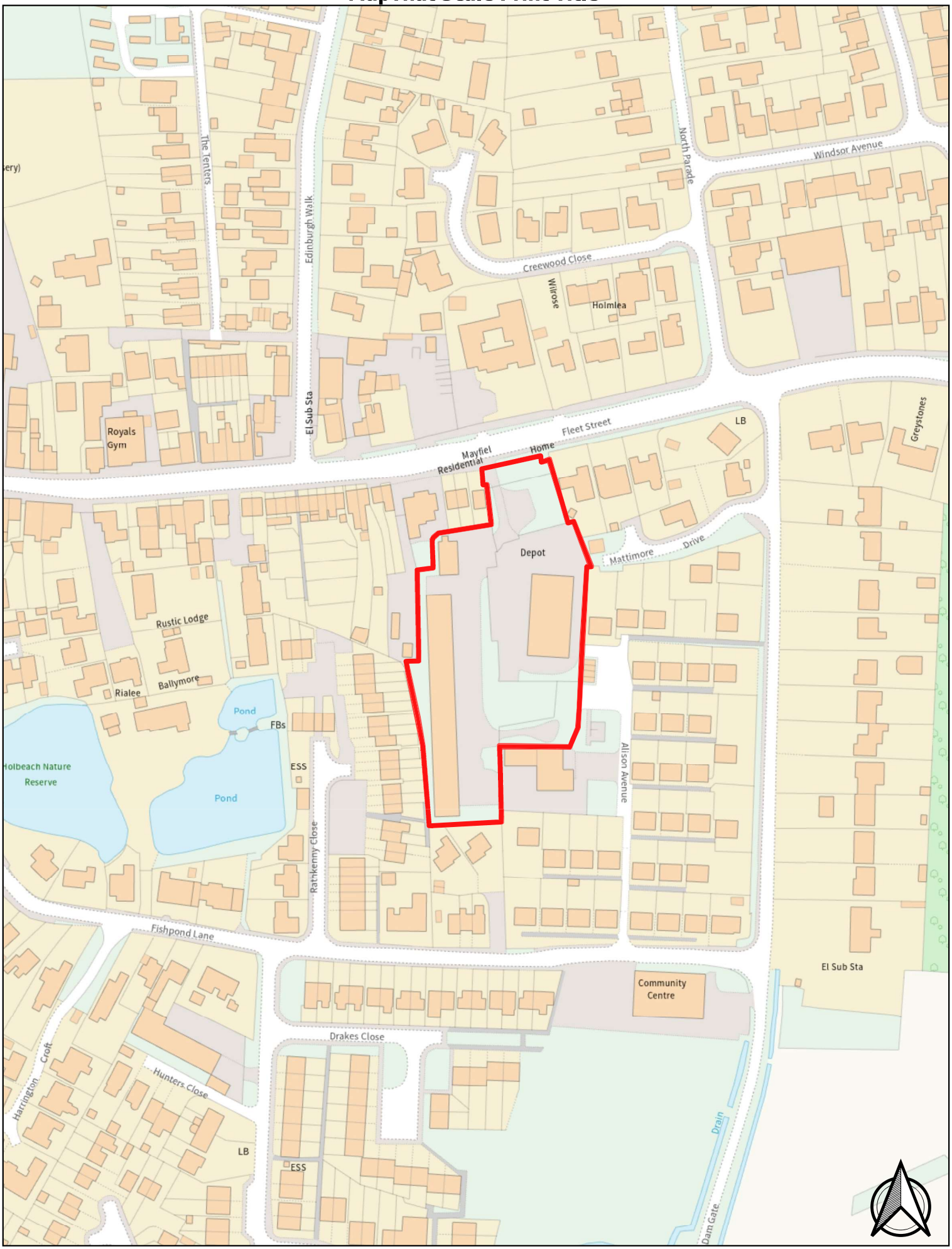
**Lead Contact Officer**


| | |
|---|---|
| Name and Post: | Richard Fidler , Development Manager |
| Telephone Number: | 01775 764428 |
| Email | rfidler@sholland.gov.uk |


**Appendices attached to this report:**

Appendix A Plan A

# MapThat Scale Print Title




SOUTH HOLLAND DISTRICT COUNCIL

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**MAP SCALE 1:**2000
**CREATED DATE:** 17/02/2023
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