SOUTH HOLLAND DISTRICT COUNCIL

Report of: **Development Manager**

To: **Planning Committee - 09 October 2019**

(Author: **Polly Harris-Gorf - Principal Planning Officer)**

Purpose: **To consider Planning Application H16-0734-19**

Application Number:	H16-0734-19	**Date Received:**	29 July 2019
Application Type:	FULL		
Description:	Siting of mobile home (retrospective) - re-submission of H16-0030-17		
Location:	Akita Place Clay Lake Spalding		
Applicant:	Ms S Street	**Agent:**	Moulton Land and Planning Ltd
Ward:	Spalding St Marys	**Ward Councillors:**	Lord Porter Cllr H T Drury

You can view this application on the Council's web site at
http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H16-0734-19

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 Policy issues merit Committee consideration.

2.0 PROPOSAL

2.1 Siting of a single mobile home (retrospective) - re-submission of H16-0030-17.

2.2 This is a Full retrospective application for the siting of a mobile home. The unit sits approximately 6.3 metres from the front site boundary, 12.3 metres from the rear boundary and 6.5 and 4.3 metres from the north and south boundaries respectively. The mobile home is currently set above the ground level of the site and, if acceptable, would need to be raised further for flood safety reasons.

2.3 Plans have been submitted indicating that the mobile home would be placed upon a concrete slab supported by brick walls on strip concrete foundations. The mobile home would be securely fastened to the foundations. The brick walls would include matching brickwork planters. Steps would lead from the front and back doors to the ground level.

2.4 Additional information has been submitted to support this application, relating the occupation of the site to the definition of "gypsies and travellers", within the definitions set out in DCLG document Planning Policy for Traveller Sites, published August 2015.

3.0 SITE DESCRIPTION

3.1 The mobile home is located on land at Spalding Drove, Clay Lake, Spalding. The surroundings are characterised by agricultural land, caravans, detached dwellings and some ancillary land.

3.2 The site is located in a countryside area out of the settlement boundary of Spalding as outlined in the South East Lincolnshire Local Plan, 2019.

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.

4.2 **National Guidance**

National Planning Policy Framework (NPPF), 2019

2. Achieving sustainable development
4. Decision-making
5. Delivering a sufficient supply of homes
8. Promoting healthy and safe communities
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

DCLG Planning Policy for Traveller Sites (August 2015)

Policy A: Using evidence to plan positively and manage development
Policy B: Planning for traveller sites
Policy C: Sites in rural areas and the countryside
Policy D: Rural exception sites
Policy H: Determining planning applications for traveller sites
Policy I: Implementation
Annex 1

4.3 The Housing and Planning Act 2016

4.4 Caravan Sites and Control of Development Act 1960 - Section 5

4.5 Planning Practice Guidance (PPG)

5.0 RELEVANT PLANNING HISTORY

5.1 H16-0030-17. Siting of mobile home (retrospective). Refused - 7 September 2018 - for the following reasons:

5.2 *The site is situated in the open countryside where applications for residential developments such as the siting of a mobile home, are only permitted where an essential need exists, particularly in relation to agriculture or some other local need. In the opinion of the Local Planning Authority the applicant has failed to demonstrate that such a need exists for the proposed dwelling and the development is contrary, therefore, to Policies SG4 and HS7 of the South Holland Local Plan 2006. These policies are consistent with the advice contained in Paragraph 79 of the National Planning Policy Framework 2018 which states that Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work.*

The application site lies within Flood Zone 3 defined by the National Planning Policy Framework as having a high probability of flooding. A permanent residential mobile home is classified as highly vulnerable development in Table 3 of the Planning Practice Guidance to the NPPF and

such development should not be permitted in areas of Flood Zone 3. Further, the Hazard Mapping contained within South Holland District Council's Strategic Flood Risk Assessment (SFRA) affects the site. This hazard mapping shows the consequences should a failure of the existing defences occur and shows that there would be flood depths greater than 1.6m for the 2115 0.5% event. In the opinion of the Local Planning Authority a permission given to this development would be contrary to the National Planning Policy Framework.

As a result of the height and layout of the mobile home, it is considered that the development gives rise to an unacceptable level of overlooking, and the perception of overlooking, to the neighbouring properties of Tomar Lodge, The Wheels, and to Milestone Cottage to the east, contrary to Policy SG17 of the South Holland Local Plan, 2006. This policy is in accordance with advice within the NPPF 2018. Paragraph 130 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Paragraph 122 stipulates that development make efficient use of land taking in to account, inter alia, the desire of maintaining an area's prevailing character and setting, and the importance of securing well designed and healthy places.

5.3 An Enforcement Notice was issued on 28 January 2016 and subsequent appeal dismissed 3 November 2016.

5.4 The enforcement appeal dealt with whether there had been a breach of planning control and whether the land had been occupied since the 1970s. The appeal was dismissed on the basis that neither of these points were proven. The appeal did not deal with the planning merits of the use of the land as a site for a residential caravan.

6.0 REPRESENTATIONS

6.1 LCC Head of Development (Highways and SUDS)

No objections.

6.2 Environment Agency

No objection subject to a condition regarding the development being carried out in accordance with the Flood Risk Assessment.

6.3 SHDC Environmental Protection Officer

Requests the full land contamination condition at this location. As this is retrospective, please could the condition be time limited - the desk study information needs to be received within 6 months, and the condition discharged in full within two years.

Please advise the applicant that former scrap yards generally need remediation to make them suitable for residential use, and that this can have significant cost implications. In order to meet this deadline the applicant will need to commence works fairly rapidly once permission is granted, as it is not unusual for sites to take 12-15 months to complete.

6.4 South Holland Internal Drainage Board

Set out that licencing and consent would be required for waters discharging in to watercourses managed by the IDB.

6.5 Third Parties

One objection has been received, raising the following matters:

- Loss of views
- Overlooking
- Potential for land contamination from the previous use of the site as a scrap yard.

7.0 CONSIDERATIONS

7.1 **Planning Considerations**

7.2 The matters to be considered regarding this application are the principle of the retention of the mobile home on the land, given the additional evidence that has now been submitted, and a view is to be taken as to whether the previous reasons for refusal have been overcome, specifically the principle of development, location within a flood plain and impact on neighbouring dwellings.

7.3 The servicing of the site, land contamination as well as sustainability are also addressed below.

7.4 Principle of Development

7.5 Given the new evidence that has been submitted to support this application, the principle of this proposal is to be considered in the light of the NPPF, the Government's Planning Policy for Traveller Sites (August 2015, published by DCLG) and the policies of the South East Lincolnshire Local Plan, 2019.

7.6 The DCLG document, Planning Policy for Traveller Sites, sets out that in determining planning applications for such sites, applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework and this planning policy for traveller sites.

7.7 Policy C of the DCLG document sets out that:

When assessing the suitability of sites in rural or semi-rural settings, Local Planning Authorities should ensure that the scale of such sites does not dominate the nearest settled community.

Policy H sets criteria for determining planning applications for traveller sites and, in particular, paragraph 24 states:

Local Planning Authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

a) the existing level of local provision and need for sites
b) the availability (or lack) of alternative accommodation for the applicants
c) other personal circumstances of the applicant
d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites
e) that they should determine applications for sites from any travellers and not just those with local connections

7.8 The South Lincolnshire Local Plan, 2019 (SELLP) acknowledges there is both a 'known' and 'unknown' unmet need for additional Gypsy/Traveller residential accommodation within its district between the period 2011-36.

7.9 At 3.2.17, the SELLP states *Housing needs may also, by exception, be justified in the Countryside; for example, for Gypsy, Traveller and Travelling Showpeople accommodation (Policy 20: Accommodation for Gypsies, Travellers and Travelling Showpeople)...*

7.10 Below, Policy 20, Accommodation for Gypsies, Travellers and Travelling Showpeople, is set out in full.

7.11 *The redevelopment or change of use of an Existing Residential Gypsy/Traveller Site or Existing Residential Travelling Showperson's Site (as identified on the Policies Map) will be permitted only if an assessment has been undertaken which has clearly shown that the site is no longer required to meet the accommodation needs of the Gypsy/Traveller or Travelling Showpersons communities.*

Between 2011 and 2036, evidence suggests that, in South East Lincolnshire, there will be a need for the provision of:

4 new permanent residential pitches for gypsies and travellers; and 1 new permanent residential plot for travelling showpeople.

This need will be met through the development of the sites identified on the Policies Map and listed below:

Land at The Stables, Baulkins Drove, Sutton St James allocated as a 'Proposed Residential Travelling Showperson's Site', to provide accommodation for one additional household; and

Land at Bleu Raye Farm, Mill Gate, Whaplode Fen, allocated as a 'Proposed Residential Gypsy/Traveller Site', to provide accommodation for four households.

Planning permission will be granted for the development of these sites, provided that proposals:

1. will be adequately provided with appropriate infrastructure such as electricity, drinking-water, waste-water treatment and recycling/waste management;
2. will not have a significant adverse effect on the amenities of existing local residents or adjoining land users (and proposals must, therefore, give careful consideration to layout, landscaping, external lighting schemes, and the type of business uses that would be appropriate (if mixed residential and business use is proposed); and
3. will be successfully assimilated into both their immediate environs and the wider landscape. the SELLP identifies 4 new permanent residential pitches for gypsies and travellers; and 1 new permanent residential plot for travelling showpeople, subject to criteria relating to appropriate infrastructure, such as electricity, drinking-water, waste-water treatment and recycling/waste management; no significant adverse effect on the amenities of existing local residents or adjoining land users; and will be successfully assimilated into both their immediate environs and the wider landscape.

Additional needs which may arise during the Local Plan period will be met through the determination of planning applications on other, unallocated sites. Planning permission will be granted for proposals on such sites, provided that they meet criteria 1 to 3 above, and they:

a. provide occupants with an acceptable standard of amenity;

b. are not located adjacent to uses likely to endanger the health of occupants, such as a refuse tip, water recycling centres or contaminated land;

c. respect the scale of the nearest settled community;

d. will not place undue pressure on local infrastructure;

e. will not adversely affect heritage assets or areas of importance to nature conservation;

f. will not prejudice highway safety or give rise to problems of parking or highway access;

g. for sites for permanent residential use they:

i. provide occupants with access to education, health care and recreational facilities, shops and employment within reasonable travelling distances, preferably by walking, cycling or public transport;

ii. are suitable (or capable of being made suitable) for mixed residential and business use;

iii. are not located within Flood Zone 3a or 3b and, if located in Flood Zone 2, the Sequential and Exception Tests have been passed; and

h. for sites for transit or stopping place use, are not located within Flood Zone 3b and, if located within Flood Zone 3a, the Sequential and Exception Tests have been passed.

7.12 It is considered that this application proposal meets all points of this policy and is, therefore, acceptable in principle. The matters of flooding and impact on neighbouring properties is addressed further below.

7.13 Identifiable Need for this Development

7.14 As part of the SELLP work, an independent Gypsy and Traveller Accommodation Assessment

was undertaken on behalf of the Joint Planning Unit, and the report published in November 2016. At the time of the report, in South Holland there were no public sites; 10 private sites with a total of 57 pitches; 1 unauthorised site with 10 pitches; and 3 Travelling Showpeople yards with 14 plots. There was no other provision for Gypsies, Travellers or Travelling Showpeople.

7.15 This report concluded that at the time of publication there are 5 Gypsy or Traveller households identified in South Holland that meet the government definition and 37 'unknown' households that may meet the definition. This approach is consistent with the outcomes of a recent Planning Appeal where access to a site was not possible but basic information was known about the number of households residing there. (Planning Inspectorate Ref: APP/Z6950/A/14/2212012).

7.16 The components of future need are as follows:
- Older teenage children in need of a pitch of their own.
- Households living on sites with temporary planning permissions.
- New household formation.
- In-migration.

7.17 The need for 4 additional pitches for the household that meets the definition is made up of new household formation based on the demographics of household members - this allocation has been set as the land at Bleu Raye Farm.

7.18 In addition, the report goes on to set out that there may be a need across the plan period for up to 13 additional pitches for 'unknown' households.

7.19 It is considered that the provision of a site to retain this mobile home for the applicant on this site would contribute to the future need for pitches within the local plan period, in accordance with the polices set out above.

7.20 Sustainability

7.21 The application site is located adjacent to existing residential accommodation, and although within the open countryside, is part of a small enclave of development and reads as part of the ribbon development that has taken place in Clay Lake over a number of years.

7.22 Clay Lake has direct road link to Spalding and the facilities within the town.

7.23 The site is located within 0.5 miles of local schools and less than a mile from local shopping facilities.

7.24 For the purposes of the policies above it is considered that this site is within a sustainable location.

7.25 Location within a Flood Plain

7.26 The site is located within Flood Zone 3, and steps have been taken regarding the siting and raising up of the mobile home to factor flooding in to the development. The Environment Agency now raise no objection to the retention of this mobile home, provided the provisions of the Flood Risk Assessment are accorded with, to raise the mobile home further, and this is recommended by condition below.

7.27 It is also to be noted, for the sake of consistency, that there are other mobile homes and caravans within the Clay Lake area that are both established and recently approved, to which the Environment Agency have not raised objection.

7.28 Impact on Neighbouring Dwellings

7.29 The gable elevation of the mobile home that faces towards 'Tomar Lodge' to the south has no

openings and so does not to give rise to overlooking of that property. The windows in the rear elevation enable some overlooking of the garden areas, but this is the usual arrangement within residential areas.

7.30 The northern side elevation of the mobile home does incorporate windows, but there is now existing screening in the form of fencing and landscaping, and relative relationship of the mobile home to the bungalow next door means that the rear garden of the adjacent bungalow is not overlooked.

7.31 It is also relevant to note that the adjacent bungalow 'The Wheels' is in the ownership of the Applicant's family.

7.32 The other property referred to in the previous reason for refusal is 'Milestone Cottage'. That building is approximately 30 metres away from the mobile home, separated by two boundary fences, the public highway and various screen trees and shrubs within both gardens. The vehicular access and driveway to that property is located between the house and Clay Lake, with any private garden areas concealed from any view from the application site.

7.33 A condition is recommended below to seek approval and retention of the soft landscaping to the boundaries, in order to maintain the privacy of the adjoining occupiers.

7.34 Servicing of the Site

7.35 The site is accessed via Clay Lake, and domestic refuse is collected in the usual way. The vehicular access to the land is considered to be acceptable.

7.36 Land Contamination

7.37 The potential for land contamination as a result of the previous use of the site as a scrap yard has been considered, and a condition is proposed below, which accords with the recommendations of the Council's Environmental Health Service.

7.38 **Additional Considerations**

Public Sector Equality Duty

7.39 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.

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

7.41 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.

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

7.43 Human Rights

7.44 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).

7.45 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.

7.46 **Other Considerations**

7.47 Objection has been raised regarding loss of views, however, this is not a planning concern and can be given no weight.

7.48 **Conclusion**

7.49 Given the above, it is considered that the previous matters raised by the reasons for refusal have been overcome and that other matters relating to the development can be addressed or have arrangements in place.

8.0 RECOMMENDATIONS

8.1 **Grant planning permission, subject to the conditions listed in Section 9.0 of this report.**

9.0 CONDITIONS

1. The development hereby permitted shall be retained in accordance with the following approved plans and documents:
Application form
Planning Statement July 2019
Flood Risk Assessment Revision A 20/03/2019 prepared by S M Hemmings B Sc C Eng MICE MIWEM
Location Plan SSt/pl/LP01
Site Layout SSt/pl/SL01
Elevations SSt/pl/elev01

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

2. The development hereby permitted shall be carried out in accordance with the measures set out in the Flood Risk Assessment (FRA) forming part of this planning application, unless otherwise agreed in writing by the Local Planning Authority, and the following mitigation methods detailed in the FRA.

1. Finished floor levels to be set no lower than 3.70mAOD, 1.25m above the level of the road outside the mobile home.
2. The mobile home will be placed on a concrete slab, with traditional strip concrete foundations and fastened down.
3. Flood resistant/ resistant measures shall be incorporated in to the design.

These measures shall be put in place within 3 months of the date of this permission.

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, 2019.

3. Occupation of the development hereby permitted shall be limited to a person or persons who meet the definition of a gypsy or traveller as defined by national guidance set out in 'Planning policy for traveller sites'(August 2015)(or as may be amended) and any resident dependants.

Reason: Permission has only been granted for this development in the open countryside on the basis of an identified need for gypsy/traveller pitches. Occupation of this site by non-gypsy/traveller individuals or families would be contrary to established national and local policies of rural restraint.
This Condition is imposed in accordance with Policies 1, 2 and 20 of the South East Lincolnshire Local Plan, March 2019 which reflect national guidance contained in both the National Planning Policy Framework 2019 and 'Planning policy for traveller sites, March 2015'.

4. Notwithstanding the submitted details, within 6 months of the date of this permission, details of the screen planting to the boundaries of the site, shall be submitted in writing to the Local Planning Authority, and the details approved shall be implemented in full within 6 months of approval. All trees, shrubs and bushes shall be maintained by the owner or owners of the land on which they are situated for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.

Reason: In the interests of protecting nearby residential amenity.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

5. Within six months of the date of this permission a scheme to deal with any contamination of land or pollution of controlled waters shall be submitted to the Local Planning Authority (LPA). Once the submitted details have been approved in writing by the LPA, the measures approved in that scheme shall be implemented within two years of the date of that approval.

The scheme shall include all of the following measures:

i) a desk-top study carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desk-top study shall establish a 'conceptual site model' and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation works/Quantitative Risk Assessment (or state if none required). Two full copies of the desk- top study and a non-technical summary shall be submitted to the LPA without delay upon completion.
ii) if identified as being required following the completion of the desk-top study, a 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 new use. Two full copies of the site investigation and findings shall be forwarded to the LPA without delay upon completion.
iii) thereafter, a written method statement detailing the remediation requirements for land contamination and/or pollution of controlled waters affecting the site shall be submitted to and approved in writing by the LPA, and all requirements shall be implemented and completed to the satisfaction of the LPA. No deviation shall be made from this scheme. 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 suspect contamination has been submitted to and agreed in writing by the LPA.
iv) two full copies of a full closure report shall be submitted to and approved in writing by the LPA. 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 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.
The applicant's attention is also drawn to the document entitled "Developing Land Within Lincolnshire - A guide to submitting planning applications to develop land that may be contaminated", which can be obtained through the Local Environmental Health Department.

The applicant is advised that former scrap yards generally need remediation to make them suitable for residential use, and that this can have significant cost implications. In order to meet this deadline the applicant will need to commence works fairly rapidly once permission is granted, as it is not unusual for sites to take 12-15 months to complete.

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.

6. No storage or sales of materials, machinery, vehicles, waste or other commercial uses or processes, shall take place on the site.

Reason: In the interests of the appearance of the development, levels of residential amenity and the visual amenity of the area in which it is set.

This Condition is imposed in accordance with Policies 1 and 2 of the South East Lincolnshire Local Plan, March 2019 which reflect national guidance contained in both the National Planning Policy Framework 2019 and 'Planning policy for traveller sites, March 2015'.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order or Statutory Instrument revoking and re-enacting that Order), none of the following developments or alterations shall be carried out.
i) the erection of freestanding curtilage buildings or structures including car ports, garages, sheds, greenhouses, pergolas or raised decks;
ii) the erection of walls, fences or other means of enclosure.

Reason: To ensure that the Local Planning Authority retains control over the future extension and alteration of the development, in the interests of its architectural and visual integrity, levels of residential amenity, and the visual amenity and character of the area within which it is set. This Condition is imposed in accordance with Policies 2 and 20 of the South East Lincolnshire Local Plan, March 2019 which reflect national guidance contained in both the National Planning Policy Framework 2019 and 'Planning policy for traveller sites, March 2015'.

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

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

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Background papers:- Planning Application Working File

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



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