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| APPLICATION NO | PA/2018/1063 |
| APPLICANT | Mr Paul Batho, St Modwen Properties PLC & Lidl UK GmbH |
| DEVELOPMENT | Planning permission to erect a foodstore (Use Class A1) and a non-food retail unit (Use Class A1) along with servicing, access, car parking, landscaping and other associated works |
| LOCATION | former site of Yorkshire Electricity Group PLC, Dudley Road, Scunthorpe, DN16 1BA |
| PARISH | Scunthorpe |
| WARD | Frodingham |
| CASE OFFICER | Andrew Law |
| SUMMARY RECOMMENDATION | Grant permission subject to conditions |
| REASONS FOR REFERENCE TO COMMITTEE | Departure from policy SCUH-17 (Land off Queensway and Dudley Road) of the Housing and Employment Land Allocations DPD |

POLICIES

National Planning Policy Framework: Paragraph 7 explains that the purpose of the planning system is to contribute to the achievement of sustainable development and that *“At a very high level... sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.”*

Paragraph 8 identifies the three overarching objectives in achieving sustainable development through the planning system. These objectives are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- a) ***“an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;***
- b) ***a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being; and***
- c) ***an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.”***

Paragraph 9 states that *“Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.”* It also explains that it the three overarching objectives are not criteria against which every decision can or should be judged.

Paragraph 10 states that at the heart of the Framework is a presumption in favour of sustainable development.

Paragraph 11 sets out the presumption in favour of sustainable development and confirms that, for decision-taking this means:

- c) *“approving development proposals that accord with an up-to-date development plan without delay; or*
- d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting planning permission unless:*
 - i) *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
 - ii) *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.”*

Paragraph 12 states that *“The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan... permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.”*

Decision-making

Paragraph 38 states that *“Local planning authorities should approach decisions on proposed development in a positive and creative way... Decision-makers at every level should seek to approve applications for sustainable development where possible.”*

Paragraph 47 explains the requirement in planning law that applications for planning permission must be determined in accordance with the local plan, unless material considerations indicate otherwise. It also requires decisions to be made as quickly as possible and within statutory timescales unless a longer period has been agreed by the applicant in writing.

Paragraph 54 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.”*

Paragraph 55 explains 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.

Paragraph 56 states that planning obligations must only be sought where they meet all of the following tests:

- 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.”*

Building a strong competitive economy

Paragraph 80 states that *“Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future.”*

Paragraph 82 explains that planning policies and decisions should recognise and address the specific locational requirements of different sectors.

Ensuring the vitality of town centres

Paragraph 85 states that *“Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation”.*

Paragraph 86 requires local planning authorities to apply a sequential test to planning applications for main town centre uses outside of allocated town centres and not in accordance with an up-to-date plan. It goes on to explain that *“Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to be available within a reasonable period) should out of centre sites be considered”.*

Paragraph 87 explains that a preference should be given to accessible sites which are well connected to the town centre when considering out of centre proposals. It also requires local authorities to *“demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored”.*

Paragraph 89 requires an impact assessment to be provided for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan and where the development exceeds locally set floorspace thresholds, It explains that if there is no locally set floorspace threshold, the default threshold is 2,500 square metres of gross floorspace. The assessment should include:

- a) *the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*

- b) *the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre.*

Paragraph 90 states that *“Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 89, it should be refused”.*

Promoting healthy and safe communities

Paragraph 91 states that planning policies and decisions should aim to achieve healthy, inclusive and safe places, which promote social interaction; are safe and accessible; and enable and support healthy lifestyles.

Promoting sustainable transport

Paragraph 102 states that *“Transport issues should be considered from the earliest stages of plan-making and development proposals, so that:*

- a) *the potential impacts of development on transport network can be addressed;*
- b) *opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location and density of development that can be accommodated;*
- c) *opportunities to promote walking, cycling and public transport use are identified and pursued;*
- d) *the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and*
- e) *patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.”*

Paragraph 103 requires significant developments to be focussed in locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes... However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-taking.

Paragraph 108 requires that when assessing specific applications for development, it should be ensured that:

- a) *“appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
- b) *safe and suitable access to the site can be achieved for all users; and*

c) *any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety can be cost effectively mitigated to an acceptable degree.*”

Paragraph 109 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.”*

Paragraph 100 goes on to explain that within this context, applications for development should:

- a) *“give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;*
- b) *address the needs of people with disabilities and reduced mobility in relation to all modes of transport;*
- c) *create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;*
- d) *allow for the efficient delivery of goods, and access by service and emergency vehicles; and*
- e) *be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.”*

Paragraph 111 requires all developments that will generate significant amounts of movement to be provided with a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

Making effective use of land

Paragraph 117 requires planning policies and decisions to promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.

Paragraph 118 requires planning policies and decisions to:

- a) *“encourage multiple benefits from both urban and rural land, including through mixed use schemes and taking opportunities to achieve net environmental gains – such as developments that would enable new habitat creation or improve public access to the countryside;*
- b) *recognise that some undeveloped land can perform many functions, such as for wildlife, recreation, flood risk mitigation, cooling/shading, carbon storage or food production;*

- c) *give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land;*
- d) *promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively (for example converting space above shops, and building on or above service yards, car parks, lock-ups and railway infrastructure); and*
- e) *support opportunities to use the airspace above existing residential and commercial premises for new homes. In particular, they should allow upward extensions where the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene, is well-designed (including complying with any local design policies and standards), and can maintain safe access and egress for occupiers.”*

Paragraph 121 states that *“Local planning authorities should take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help meet identified development needs.”*

Achieving well-designed places

Paragraph 124 states that *“Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”*

Paragraph 127 goes on to explain that planning policies and decisions should ensure that developments:

- a) *“will function well and add to the overall quality of the area, not just for the short term but over lifetime of the development;*
- b) *are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) *are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) *establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- e) *optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) *create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and where*

crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”

Paragraph 130 explains that permission should be refused 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, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development.

Meeting the challenge of climate change, flooding and coastal change

Paragraph 148 states that *“The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change.”*

Paragraph 153 states that *“In determining planning applications, local planning authorities should expect new development to:*

- a) comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and*
- b) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.”*

Paragraph 155 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 163 states that *“when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. 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) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
- b) the development is appropriately flood resistant and resilient;*
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
- d) any residual risk can be safely managed; and*
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.”*

Paragraph 165 requires major developments to incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.

Conserving and enhancing the natural environment

Paragraph 170 explains that “*Planning policies and decisions should contribute to and enhance the natural and local environment by:*

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;*
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and*
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.”*

Paragraph 175 explains that when determining planning applications, local planning authorities should apply the following principles:

- a) “If significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.*
- b) Development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest.*
- c) Development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.*
- d) Development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.”*

Paragraph 176 identifies that potential SPAs and SACs, listed or proposed RAMSAR sites and sites identified or required as compensation for adverse effects on habitat sites should be given the same protection as habitat sites.

Paragraph 177 explains that the presumption in favour of sustainable development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined.

Paragraph 178 states that planning policies and decisions should ensure that:

- a) *“a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);*
- b) *after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*
- c) *adequate site investigation information, prepared by a competent person, is available to inform these assessments.”*

Paragraph 179 makes it clear that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

Paragraph 180 states that *“Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:*

- a) *mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;*
- b) *identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and*
- c) *limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.”*

Paragraph 181 states that *“Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified... Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.”*

Paragraph 183 makes it clear that *“The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.”*

Conserving and enhancing the historic environment

Paragraph 187 requires local planning authorities to maintain or have access to a historic environment record, which should be used to assess the significance of heritage assets and predict the likelihood that currently unidentified heritage assets will be discovered in the future.

Paragraph 189 requires applicants to *“describe the significance of any heritage assets affected, including any contribution made by their setting.”*

Paragraph 190 states that *“Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal.”*

Annex 1: Implementation

Paragraph 212 explains that the policies in the NPPF are material considerations, which should be taken into consideration when determining planning applications.

Paragraph 213 goes on to explain that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the NPPF. Weight should be given to these policies according to their consistency with the Framework.

North Lincolnshire Local Plan:

Policy S8 (Out-of-centre Retail and Leisure Development)

States that *“planning permission will only be permitted for out-of-centre retail and leisure development where:*

- *a clear need for the development has been demonstrated;*
- *a developer can demonstrate that there are no sites for the proposed use within or at the edge of the town or district centre that are suitable, viable for the proposed use and likely to be available within a reasonable time period;*
- *the proposal, in addition to the cumulative effects of recently completed developments and outstanding planning permissions, will have no adverse impact on the vitality and viability of existing district centres and the rural economy. In all cases applications shall be accompanied by a retail impact assessment;*

- *the site is or can be made accessible by a choice of means of transport, including public transport, walking and cycling.*

Where it is appropriate, conditions will be imposed restricting the minimum unit size of the development, and the type and range of goods sold, so as to prevent the operators directly competing with the existing town or district centres. The developer will be expected to support the proposal with evidence submitted as an impartial retail impact assessment.”

Policy T1 (Location of Development)

This policy requires developments that generate significant volumes of traffic to be *“located in urban areas and where there is good access to transport networks and foot, cycle and public transport provision.”*

Policy T2 (Access to Development)

This policy requires all new developments to be provided with a satisfactory access and continues to state that *“larger developments should be served by a range of transport modes.”*

Policy T4 (Developer Contributions)

This policy requires developers to demonstrate that their developments are adequately served by a variety of modes of transport and will not have an effect on transport near the site. It explains that the council will require developers to contribute towards the provision of additional transport facilities or highway improvements where their need is directly generated by the development.

Policy T6 (Pedestrian Routes and Footpaths)

This policy requires major developments to include links to nearby existing or proposed pedestrian routes.

Policy T8 (Cyclists and Development)

This policy requires new developments to provide links to existing or proposed cycle links where possible and to provide cycle parking facilities in accordance with set standards.

Policy T9 (Promoting Buses and Trains)

Advocates the promotion of bus and train usage as an alternative to the private car.

Policy T14 (The North Lincolnshire Strategic Road Network)

This policy seeks to concentrate traffic onto the Strategic Road Network (SNR) and prevent development that would compromise the function of the SNR.

Policy T19 (Car Parking Provision and Standards)

This policy states that *“provision will be made for car parking where it would:*

(i) meet the operational needs of business;

- (ii) be essential to the viability of the new development;*
- (iii) improve the environment or safety of streets;*
- (iv) meet the needs of people with disabilities;*
- (v) be needed by visitors to the countryside and comply with Appendix 2, Parking Provision Guidelines.”*

Policy DS1 (General Requirements)

This policy seeks a high standard of design in all new developments and states “*proposals for poorly designed development will be refused*”. Policy DS1 identifies criteria against which all new proposals will be considered as set out below:

- *Quality of design*
 - i) The design and external appearance should reflect or enhance the character, appearance and setting of the immediate area; and*
 - ii) the design and layout should respect, and where possible retain and/or enhance, the existing landform.*
- *Amenity*
 - iii) No unacceptable loss of amenity to neighbouring land uses should result in terms of noise, smell, fumes, dust or other nuisance, or through the effects of overlooking or overshadowing; and*
 - iv) amenity open space in the area should be retained, wherever possible; and*
 - v) no pollution of water, air or land should result.*
- *Conservation*
 - vi) There should be no adverse effect on features of acknowledged importance on or surrounding the site, including species of plants and animals of nature conservation value; and*
 - vii) the development must retain existing features that make an important contribution to the character or amenity of the site or the surrounding area; and*
 - viii) development proposals should include results of archaeological assessment, where appropriate, and adequate measures to ensure that there would be no unacceptable impacts on archaeological remains.*
- *Resources*
 - ix) There should be no conflict with an allocated or approved land-use nor should the reasonable potential for development of a neighbouring site be prejudiced; and*

- x) *the location and design of developments on urban fringes should take into account the need to minimise the impact of the development on adjoining agricultural land; and*
- xi) *measures to conserve energy will be expected in:*
 - a) *the design, orientation and layout of buildings; and*
 - b) *the location of development; and*
 - c) *improvements to the transport network and in the management of traffic.*
- **Utilities and Services**
 - xii) *there should be no reliance on public finances being available to provide infrastructure and services; and*
 - xiii) *suitable on-site drainage should be provided and where there are off-site drainage problems the developer will be expected to overcome them.*

Policy DS3 (Planning Out Crime)

States that “*new development should take into account personal safety and the security of people and property by:*

- (i) *ensuring that paths, play areas and open spaces are overlooked by inhabited buildings while maintaining the privacy of inhabitants; and*
- (ii) *avoiding the creation of spaces with ill-defined ownership and ensure there is a clear distinction between public open space and private open space; and*
- (iii) *ensuring the development is well integrated into the existing pattern of pedestrian and vehicular movement; and*
- (iv) *ensuring that dark or secluded areas are not created by landscaping, planting or building; and*
- (v) *ensuring that streets and paths are adequately lit.”*

Policy DS12 (Light Pollution)

States that “*planning applications which involve light-generating development, including floodlighting, will only be permitted where it can be demonstrated that there will be no adverse impact on local amenities.”*

Policy DS14 (Foul Sewage and Surface Water Drainage)

States that “*the council will require satisfactory provision to be made for the disposal of foul and surface water from new development, either by agreeing details before permission is granted or by imposing conditions.”*

Policy DS16 (Flood Risk)

States that “development will not be permitted within floodplains where it would:

- (i) *increase the number of people or buildings at risk;*
- (ii) *impede the flow of flood water;*
- (iii) *impede access for the future maintenance of watercourses;*
- (iv) *reduce the storage capacity of the floodplain;*
- (v) *increase the risk of flooding elsewhere;*
- (vi) *undermine the integrity of existing flood defences.”*

Policy R5 (Recreational Paths Network)

States that in determining planning applications where development may either have implications for the maintenance of the recreational paths network, or other opportunities to expand this network “the following factors will be taken into account:

- (i) *Favourable consideration will be given to development proposals which provide additional links to the recreational network.;*
- (ii) *The Council will seek to negotiate additional linkages to the recreational paths network, where appropriate.*
- (iii) *Favourable consideration will be given to development proposals which will improve the condition and appearance of existing links in the network.*
- (iv) *Existing rights of way will be protected from development that would remove or restrict the right of way.*
- (v) *Permission will not be granted for any development which would prejudice public access onto and through the recreational path network, unless specific arrangements are made for suitable alternative linkages.*
- (vi) *Where necessary, the diversion of footpaths will be required.”*

Policy LC5 (Species Protection)

States that “planning permission will not be granted for development which would have an adverse impact on protected species. Where development is granted that may impact on protected species, the use of conditions or planning agreements will be considered to mitigate this impact.”

North Lincolnshire Core Strategy:

Policy CS1 (Spatial Strategy for North Lincolnshire)

This policy sets out the spatial strategy for future development in North Lincolnshire. It identifies areas of specific focus including, amongst others:

“(b) supporting the market towns of Barton-upon-Humber, Brigg, Crowle, Epworth, Kirton-in-Lindsey and Winterton as thriving places to live, work and visit, and as important service centres serving the needs of local communities across North Lincolnshire;”

It goes on to state that *“All future growth regardless of location should contribute to sustainable development”* and that where development has an environmental impact *“mitigation measures should be used for the development to be acceptable”*.

Policy CS2 (Delivering More Sustainable Development)

This policy sets out how the spatial strategy for North Lincolnshire will be implemented using a sequential approach to the location of new development based on the settlement hierarchy and taking into account other sustainability criteria. The primary focus for new development is identified as that within the Scunthorpe urban area, with the secondary focus being:

“2. previously developed land and buildings within the defined development limits of North Lincolnshire’s Market Towns, followed by other suitable infill opportunities then appropriate small scale greenfield extensions to meet identified local needs.”

It goes on to state that *“All future development will be required to contribute towards achieving sustainable development”* and sets out sustainable development principles which new developments should comply with. These sustainable development principles include, amongst others, a requirement to:

- be located to minimise the need to travel and to encourage any journeys that remain necessary to be possible by walking, cycling and public transport;*
- be located where it can make the best use of existing transport infrastructure and capacity, as well as taking account of capacity constraints and deliverable transport improvements particularly in relation to junctions on the Strategic Road Network;...*
- contribute towards the creation of locally distinctive, sustainable, inclusive, healthy and vibrant communities;*
- contribute to achieving sustainable economic development to support a competitive business and industrial sector;*
- ensure that everyone has access to health, education, jobs, shops, leisure and other community and cultural facilities that they need for their daily lives;*
- ensure the appropriate provision of services, facilities and infrastructure to meet the needs of the development;...*
- be designed to a high standard, consistent with policy CS5, and use sustainable construction and design techniques.*

The policy also states that *“Environmental Impacts to or from development that cannot be avoided should be adequately mitigated for it to be acceptable.”*

Policy CS5 (Delivering Quality Design in North Lincolnshire)

This policy sets out the key design principles for all new development in North Lincolnshire. Its aim is to ensure that development supports the creation of a high quality built environment which is attractive to residents, investors and visitors. It asserts that *“All new development... should be well designed and appropriate for their context.”* It goes on to state that *“The council will encourage contemporary design, provided that it is appropriate for its location and is informed by its surrounding context.”* It concludes that *“Design which is inappropriate to the local area or fails to maximise opportunities for improving the character and quality of the area will not be acceptable”.*

Policy CS14 (Retail Development)

This policy aims to support the sustainable development of a vibrant Scunthorpe town centre, Market Towns and other centres in the retail hierarchy at a scale and function proportionate to the retail standing of the centre. It sets out the retail hierarchy in North Lincolnshire as follows:

1. *Scunthorpe Town Centre*
2. *Market Town Centres of Barton upon Humber, Brigg, Crowle and Epworth:*

To fulfil their role as key shopping and service centres in North Lincolnshire, the market town centres will be supported as locations for further retail, leisure, cultural and tourism development. Development will only be permitted that is required to meet the needs of the area served by the centre in a sustainable way, is of a scale appropriate to the centre, and that will not adversely impact upon the vitality or viability of other nearby town and district centres. Within the district centres, any new development should respect their historic character.

3. *District Centres of Kirton in Lindsey and Winterton*
4. *District Centres of Ashby High Street and Frodingham Road*
5. *Local Centres and Corner Shops*

The policy goes on to set out key measures to support the vitality and viability of North Lincolnshire's network of town centres by ensuring that:

- *the existing retail character and function of centres is safeguarded. Development that detracts from the vitality and viability of the area's town centres will be resisted;*
- *new town centre development complies with the sequential approach to site selection, which prioritises development in existing centres, then edge-of-centre sites, and only then out of centre sites that are accessible by a choice of means of transport;*
- *the scale and type of development reflects the centre's existing and proposed function and its capacity for new development;*
- *the retail function of town centres are protected by way of restricting non-A1 uses particularly within the defined town centre boundaries;*
- *a balanced range of facilities and uses are encouraged within district and local centres in keeping with their size and function to meet the everyday needs of the local*

population. Local Shops located within smaller settlements, in particular in rural areas will be protected where they are important to the day-today needs of people;

- hopping facilities are accessible by a range of means including by car, walking, cycling and public transport;*
- new developments are of an appropriately high quality design, particularly in the town centre.*

Policy CS16 (North Lincolnshire's Landscape, Green Space and Waterscape)

This policy states that "The council will protect, enhance and support a diverse and multi-functional network of landscape, green space and waterscape.

Policy CS17 (Biodiversity)

This policy sets out a number of ways in which the council will seek to promote the effective stewardship of North Lincolnshire's wildlife. Amongst others these include:

- ensuring development retains, protects and enhances features of biological and geological interest and provides for the appropriate management of these features; and*
- ensuring development seeks to produce a net gain in biodiversity by designing in wildlife, and ensuring any unavoidable impacts are appropriately mitigated for.*

Policy CS18 (Sustainable Resource Use and Climate Change)

This policy seeks to actively promote development that utilises natural resources efficiently and sustainably by, amongst others:

- requiring the use of Sustainable Urban Drainage Systems (SuDS) where practicable;*
- requiring all industrial and commercial premises greater than 1000 square metres to provide 20% of their expected energy demand from on-site renewable energy until the code for such buildings is applied nationally;*
- ensuring building design reduces energy consumption by appropriate methods such as high standards of insulation, avoiding development in areas subject to significant effects from shadow, wind and frost, using natural lighting and ventilation, capturing the sun's heat where appropriate;*
- supporting development that seeks to reduce the need to travel for people using that development.*

Policy CS19 (Flood Risk)

States that "The council will support development proposals that avoid areas of current or future flood risk and which do not increase the risk of flooding elsewhere. This will involve a risk-based sequential approach to determine the suitability of land for development."

Policy CS22 (Community Facilities and Services)

States that *“The provision of new community facilities... which meet the needs of local residents will be supported in principle.”* It goes on to explain that good quality services and facilities will be provided that meet the needs of local communities and are accessible by public transport, cycling or on foot.

Policy CS25 (Promoting Sustainable Transport)

States that *“The council will support and promote a sustainable transport system in North Lincolnshire which offers a choice of transport modes and reduces the need to travel...”*

Housing and Employment Land Allocations Development Plan Document (HELADPD):

Policy SCUH-17 (Land off Queensway and Dudley Road)

The application site is allocated for housing (78 dwellings) subject to the following site specific criteria:

- *A mix of housing size and tenure should be provided on the site and developed at approximately 40 dwellings per hectare.*
- *Affordable housing provision will be negotiated at the time of planning application, having regard to any abnormal costs, economic viability and other requirements associated with the development and in accordance with Core Strategy Policy CS9.*
- *Vehicular access points to the site will need to be agreed with the Highway Authority.*
- *Good footpath and cycle provision should be provided throughout the site, linking the development with local services and employment areas.*
- *A Transport Assessment will be required.*
- *Off-site highway improvements will be required.*
- *A Flood Risk Assessment should be prepared as part of the application process to assess and mitigate the risk of flooding from surface water drainage. Where practical, Sustainable Urban Drainage Systems should be incorporated into the development.*
- *An Air Quality Assessment, Noise Impact Assessment and a Contaminated Land Assessment will be required.*
- *A comprehensive landscaping scheme, including biodiversity enhancement is required.*
- *An Ecology Survey is required, focussing on open mosaic habitats.*
- *Design must be in accordance with Core Strategy Policy CS5.*

Policy TC-1 (Development in North Lincolnshire’s Town Centres and District Centres)

Identifies that proposals for retail development will be permitted within the defined town centre boundaries of the market towns of Brigg, Barton Upon Humber, Crowle and Epworth and nonretail uses will only be permitted where they do not detract from the centres shopping function. It goes on to state that *“Proposals will be considered having regard to*

the existing character and function of the shopping street, the contribution which the proposal would make to the vitality and viability of the shopping street and the resulting proportion of non-shopping uses.”

Policy PS-1 (Presumption in favour of sustainable development)

Explains that the council will take a positive approach to new development that reflects the presumption in favour of sustainable development set out in the NPPF. Planning applications that accord with the Local Plan will be approved unless material considerations indicate otherwise. It goes on to state that where there are no relevant, up-to-date policies permission will be granted, unless material considerations indicate otherwise *“taking into account whether:*

- *any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or*
- *specific policies in that Framework indicate that development should be restricted.”*

National Planning Practice Guidance:

Air Quality

This section of the guidance provides guiding principles on how planning can take account of the impact of new development on air quality.

Paragraph 005 sets out that when deciding whether air quality is relevant to a planning application, considerations could include whether the development would (in summary): significantly affect traffic (through congestion, volumes, speed, or traffic composition on local roads); introduce new point sources of air pollution; expose people to existing sources of air pollutants; give rise to potentially unacceptable impact (such as dust) during construction; or affect biodiversity (due to pollutants).

Paragraph 008 states that mitigation measures will be *“locationally specific, will depend on the proposed development and should be proportionate to the likely impact”*. It further sets out that examples of mitigation could include: amendments to a site’s layout to increase distances between pollution sources and receptors; using green infrastructure; means of ventilation; promoting means of transport with low impact on air quality; control of dust and emissions from construction, operation and demolition; and contributing funding to measures designed to offset the impact on air quality.

Paragraph 009 explains, through the means of a flowchart, the considerations in respect of air quality in the development management process.

Design

This section of the guidance provides advice on the key points to take into account on design.

Paragraph 004 advises that development proposals should reflect the requirement for good design set out in national and local policy. It goes on to explain that local planning authorities are required to take design into consideration and should refuse permission for development of poor design.

Paragraph 006 explains that design can affect a range of economic, social and environmental objectives beyond the requirement for good design in its own right. It identifies that the following issues should be considered:

- local character (including landscape setting)
- safe, connected and efficient streets
- a network of greenspaces (including parks) and public places
- crime prevention
- security measures
- access and inclusion
- efficient use of natural resources
- cohesive and vibrant neighbourhoods.

Paragraph 023 identifies that planning can help achieve good design and connected objectives and that, where appropriate, the following should be considered:

- layout – the way in which buildings and spaces relate to each other
- form – the shape of buildings
- scale- the size of buildings
- detailing – the important smaller elements of building and spaces
- materials – what a building is made from.

Paragraph 037 explains that decisions on planning applications should clearly support the design objectives in the development plan. It goes on to state that *“If a local authority decides that an application should be refused on design grounds there should be a clear explanation of the decision.”*

Ensuring the vitality of town centres

Paragraph 001 identifies the two key tests set out in the NPPF that should be applied when planning for town centre uses outside of an existing town centre – the sequential test and impact test. It goes on to explain that the sequential test should be applied first and may identify preferable sites in town centres for accommodating proposed main town centre uses. The sequential test will identify development that cannot be located in town centres, and which would then be subject to the impact test. The impact test determines whether there would be likely significant adverse impacts of locating main town centre development outside of existing town centres.

Paragraph 008 explains the sequential test in more detail. This test guides main town centre uses towards town centre locations first, then, if no town centre locations are available, to edge of centre locations, and, if neither town centre or edge of centre locations

are available, to out of town centre locations, with preference for accessible sites which are well connected to the town centre.

Paragraph 010 confirms that it is for the applicant to demonstrate compliance with the sequential test and that *“the application of the test should be proportionate and appropriate to the given proposal.”*

Paragraph 011 identifies that certain town centre uses have particular market and locational requirements which means that they may only be accommodated in specific locations.

Paragraph 013 identifies that the purpose of the impact test is to ensure that the impact over time of certain out of centre and edge of centre proposals on existing town centres is not significantly adverse.

Paragraph 015 confirms that it is for the applicant to demonstrate compliance with the impact test and that *“The impact test should be undertaken in a proportionate and locally appropriate way.”*

Paragraph 016 explains that impact should be assessed on a like-for-like basis in respect of that particular sector (eg it may not be appropriate to compare the impact of an out of centre DIY store with small scale town centre stores as they would not normally compete directly).

Paragraph 017 sets out a checklist for applying the impact test as follows:

- establish the state of existing centres and the nature of current shopping patterns (base year)
- determine the appropriate time frame for assessing impact, focusing on impact in the first five years, as this is when most of the impact will occur
- examine the ‘no development’ scenario (which should not necessarily be based on the assumption that all centres are likely to benefit from expenditure growth in convenience and comparison goods and reflect both changes in the market or role of centres, as well as changes in the environment such as new infrastructure)
- assess the proposal’s turnover and trade draw (drawing on information from comparable schemes, the operator’s benchmark turnover of convenience and comparison goods, and carefully considering likely catchments and trade draw)
- consider a range of plausible scenarios in assessing the impact of the proposal on existing centres and facilities (which may require breaking the study area down into a series of zones to gain a finer-grain analysis of anticipated impact)
- set out the likely impact of that proposal clearly, along with any associated assumptions or reasoning, including in respect of quantitative and qualitative issues
- any conclusions should be proportionate: for example, it may be sufficient to give a broad indication of the proportion of the proposal’s trade draw likely to be derived from different centres and facilities in the catchment area and the likely consequences to the viability and vitality of existing town centres

It goes on to state that *“A judgement as to whether the likely adverse impacts are significant can only be reached in light of local circumstances.”* In areas where there are high levels of vacancy and limited retailer demand, even very modest trade diversion may have a significant adverse impact.

Paragraph 018 explains, through the means of a flowchart, the key steps which should be taken when carrying out an impact test in decision-taking.

Health and wellbeing

This section of the guidance advises on the role of health and wellbeing in planning.

Paragraph 001 states that local authorities *“should ensure that health and wellbeing, and health infrastructure are considered in...planning decision-making”*.

Paragraph 002 declares the built and natural environments to be *“major determinants of health and wellbeing”* and goes on to list, amongst others, that planning authorities should, in considering new development proposals, ensure that *“potential pollution and other environmental hazards, which might lead to an adverse impact on human health, are accounted for”*.

Light pollution

This part of the guidance advises on how to consider light within the planning system.

Paragraph 001 explains that artificial light *“can be a source of annoyance to people, harmful to wildlife, undermine enjoyment of the countryside or detract from enjoyment of the night sky”* and advises that appropriately designed lighting schemes are key.

Paragraph 002 advises local planning authorities, when assessing whether a development proposal might have implications for light pollution, to consider whether they will *“materially alter light levels outside and/or have the potential to adversely affect the use or enjoyment of nearby buildings or open spaces...protected site or species...or protected area of dark sky”*.

Paragraph 003 explains that when light spills onto areas outside the immediate area of a proposed development it *“can impair sleeping, cause annoyance to people, compromise an existing dark landscape and/or affect natural systems (e.g. plants, animals, insects, aquatic life)”*. It goes on to advise that light intrusion can usually be avoided with careful lamp design selection and positioning.

Paragraph 004 advises that *“lighting only when the light is required can have a number of benefits, including minimising light pollution, reducing harm to wildlife and improving people’s ability to enjoy the night sky”*.

Paragraph 005 states that *“the character of the area and the surrounding environment may affect what will be considered an appropriate level of lighting for a development. In particular, lighting schemes for developments in...intrinsically dark landscapes should be carefully assessed as to their necessity and degree”*. Glare should be avoided for safety reasons.

Natural environment

This section of the guidance explains key issues in implementing policy to protect and enhance the natural environment.

Paragraph 007 explains the statutory responsibilities of planning authorities in determining applications and, at its core, a duty to *“contribute to conserving and enhancing the natural environment and reducing pollution”*.

Paragraph 008 requires local planning authorities to *“consider the opportunities that individual development proposals may provide to enhance biodiversity and contribute to wildlife and habitat connectivity in the wider area”*.

Paragraph 016 advises that where there is *“reasonable likelihood of a protected species being present and affected by development”* then ecological surveys may be warranted and these surveys should be *“proportionate to the nature and scale of development proposed and the likely impact on biodiversity”*. Planning conditions and/or legal agreements may be appropriate for monitoring and/or biodiversity management plans where these are needed.

Paragraph 017 seeks to encourage bio-diversity enhancement through planning decisions.

Paragraph 018 explains the *‘mitigation hierarchy’* of information, avoidance, mitigation and compensation to facilitate decision-taking.

Paragraph 020 requires the securing of mitigation and/or compensation measures such as off-setting, in instances where *“significant harm to biodiversity is unavoidable”*.

Paragraph 026 expects local planning authorities to *“take into account the economic and other benefits of the best and most versatile agricultural land...and...should seek to use poorer quality land in preference to that of a higher quality”*.

Noise

This section of the guidance advises on how planning can manage potential noise impacts in new development.

Paragraph 001 states that *“noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment”*.

Paragraph 002 advises that whilst noise can override other planning concerns, neither the Noise Policy Statement for England nor the NPPF expects noise to be considered in isolation, separate from the economic, social and other environmental dimensions of the proposed development.

Paragraph 003 advises planning authorities to consider:

- *whether or not a significant adverse effect is occurring or likely to occur;*
- *whether or not an adverse effect is occurring or likely to occur;*
- *whether or not a good standard of amenity can be achieved; and*

- *whether the overall effect of the noise exposure is, or would be, above or below the significant observed adverse effect level”.*

Paragraph 006 identifies a number of factors that are likely to give rise to noise being a concern and these include the following:

- the source of the noise
- absolute level
- time of the day
- number, frequency and pattern of noise events, and
- the duration and/or character of the noise.

Planning authorities are also advised to consider the cumulative impacts of noise that can arise and also their effects upon wildlife and ecosystems, particularly upon designated sites, as well as those living in the vicinity of proposed developments.

Paragraph 008 explores possibilities for mitigation against the adverse noise impacts that can arise from proposed developments.

Travel plans, transport assessments and statements in decision-taking

This section of the guidance provides advice on when transport assessments and transport statements are required, and what they should contain.

Paragraph 002 explains that Travel Plans, Transport Assessments and Statements are all ways of assessing and mitigating the negative transport impacts of a development in order to promote sustainable development. It goes on to state that they are required for all developments which generate significant amounts of movement.

Paragraph 003 explains that *“Travel Plans are long-term management strategies for integrating proposals for sustainable travel into the planning process”.*

Paragraph 004 explains that Transport Assessments and Statements are ways of assessing the potential transport impacts of developments.

Paragraph 005 states that *“The Transport Assessment or Transport Statement may propose mitigation measures where these are necessary to avoid unacceptable or “severe” impacts.”* It goes on to explain that Travel Plans can play an effective role in taking forward those mitigation measures which relate to the long term occupation and operation of developments.

Use of planning conditions

This section of the guidance provides advice on the use of conditions on planning decisions.

Paragraph 001 explains that when used properly, conditions can enhance the quality of development and enable development proposals to proceed where it would otherwise have

been necessary to refuse planning permission, by mitigating any adverse impacts of the development. The use of planning conditions should be exercised in a way that is *“clearly seen to be fair, reasonable and practicable.”* It goes on to state that *“It is important to ensure that conditions are tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary controls.”*

Paragraph 003 highlights the 6 tests that must be passed for conditions to be imposed, it confirms that conditions should only be imposed where they are:

1. necessary;
2. relevant to planning; and
3. to the development to be permitted;
4. enforceable;
5. precise; and
6. reasonable in all other respects.

Paragraph 006 states that *“the ability to impose conditions requiring submission and approval of further details extends to aspects of the development that are not fully described in the application (eg provision of parking spaces)”*.

Paragraph 007 explains that care should be taken when using conditions that prevent development beginning until the condition has been complied with. It states that *“Such conditions should only be used where the local planning authority is satisfied that the requirements of the condition (including the timing of compliance) are so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.”*

Paragraph 008 advises that conditions requiring works on land not controlled by the applicant should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission. *“Where the land or specified action in question is within the control of the local authority determining the application (for example, as highway authority where supporting infrastructure is required) the authority should be able to present clear evidence that this test will be met before the condition is imposed.”*

Paragraph 012 advises that it is possible to impose a condition making minor modification to the development permitted where a detail in a proposed development, or lack of it, is unacceptable. However a condition that modifies the development in such a way as to make it substantially different from that set out in the application should not be used.

CONSULTATIONS

Highways: No objection subject to conditions. Public Transport request a new bus shelter and stop on Dudley Road and for the developer to explore the potential for offering free taster bus tickets; they also state that electric vehicle charging points should be added to the car park as a matter of course.

Drainage: No objection subject to a condition to secure a detailed surface water drainage scheme. Also make informative comments.

HER (Archaeology): Records show that this area was quarried for ironstone 1908-1936, then built over. Archaeological remains would not be expected to survive on the site. No further comments.

Ecology: Originally objected to the application on the grounds that the survey work was undertaken at the incorrect time of year and that there is a lack of biodiversity enhancement. Following the submission of updated landscape proposals, the ecologist has now removed their initial objection and now raises no objection subject to conditions to protect nesting birds and to secure appropriate biodiversity enhancement on the site.

Environmental Health: No objection subject to conditions in respect of noise, air quality, contamination and construction operations.

Spatial Planning: Approval of this application would be a departure from the development plan. The council currently does not have a five-year land supply, the approval of this application would remove approximately 50 dwellings on land within housing allocation SCUH-17.

Section 106 Officer: It is unlikely that a section 106 agreement is required for this development.

Director of Public Health: No objection.

Environment Agency: The previous use of the site presents a potential risk of contamination that could be mobilised during construction to pollute controlled waters. The EA raises no objection to the proposal subject to conditions to secure appropriate assessment and mitigation of potential contamination on site.

Humberside Fire & Rescue Service: No objection. Make informative comments.

Scunthorpe Renaissance Town Team Management Committee: Does not object to the proposal but makes the following comments:

- (1) The Town Team is concerned about the impact this out-of-centre application may have on the town centre.
- (2) The Town Team is concerned that the application site is currently allocated for housing in the recently approved Housing and Employment Land Allocations DPD and the change of designation will lead to increased pressure for additional housing development on much needed green spaces on the town.
- (3) The Town Team is concerned about additional traffic levels on the Queensway and the Ashby Ville roundabout.

PUBLICITY

Under the provisions of the Town and Country Planning (Development Management Procedure) Order 2015, this application has been advertised by means of site notice being displayed close to the site and a notice being published in the Scunthorpe Telegraph.

At the time of writing this report two letters of objection have been received on behalf of Limes Developments Ltd and Scunthorpe Parish Assets Limited and Scunthorpe Parish Assets (No 2) Limited.

The letter submitted by Q+A Planning Ltd on behalf of Limes Development Limited raises the following objections to the proposed development:

1) The submitted sequential test is flawed and based on an out-dated approach which fails to consider recent case law, as well as the revised 2018 National Planning Policy Framework (NPPF):

- The assessment of the scheme's compliance with the sequential test (Section 4 of the Retail Statement) does not take account of the guidance in the revised NPP, which makes clear that sites becoming available '*within a reasonable period of time*' should be considered. A 'reasonable period of time' in this context could be construed to be not less than 18-24 months.
- The assessment does not take account of recent judgements in relation to 'suitability', such as 'Aldergate Properties'. In his judgement in this case, Ouseley J held that:

"... 'suitable' and 'available' generally mean 'suitable' and 'available' for the broad type of development which is proposed in the application by approximate size, type and range of goods. This incorporates the requirement for flexibility in (24) NPPF (2018), and excludes, generally, the identity and personal or corporate attitudes of an individual retailer. The area and sites covered by the sequential test search should not vary from applicant to applicant according to their identity, but from application to application based on their content'.

- The PPG provides further assistance on how the sequential approach should be applied; and also clarifies matters around operator requirements:

"Use of the sequential test should recognise that certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations. Robust justification must be provided where this is the case, and land ownership does not provide such a justification"

- In Section 4 of the RS, BW set out the parameters of their assessment. At paragraphs 4.21 - 4.22 they identify three reasons why the identified need to be addressed is 'site specific' and can only be met at the Yorkshire Electricity site. None of the reasons identified constitute a credible and reasonable justification as to why the application scheme cannot be accommodated on other sites. In particular:

- The need to 'ease pressure' on Lakeside Retail Park is not explained, but there is no evidence provided to suggest that Park is 'under pressure' or if it was, how this 'pressure' is manifested in issues of concern to customers and residents. Indeed, floorspace is currently vacant at the Park;
- If there is a 'need' for further discount food retail in East Scunthorpe, this need can be met on existing sites, including at the Lakeside Retail Park where a Certificate of Lawfulness has confirmed that significant additional convenience goods sales are permitted;

- 'complementing' an existing out of centre retail unit is not in itself justification for further out of centre retail, and is certainly not a meaningful argument as to why other locations cannot be considered; and
 - Alternative uses would also bring back into use the vacant brownfield site – which is why the council has allocated the site for residential development.
- BW continue, at 4.29, to provide a range of site criteria used in the sequential assessment. These criteria specifically reference the requirements of Lidl and other operator restrictions. It appears that the applicant has been too guided by the requirements of operators, and not by the content of the scheme itself; had they followed up to date requirements of policy in undertaking their sequential search, one or more of the sites dismissed (or other sites not even assessed by BW) could be found to be both suitable for the type of development proposed, and available within a reasonable period of time.
 - Attention is drawn to the recent Certificate of Lawfulness granted in relation to the ability to sell convenience goods from the Lakeside Retail Park. This Certificate makes clear that a further 3,579 sq. m of floorspace is available at the Park for the sale of convenience goods, which is anticipated to lead to a significant increase in the level of convenience goods retailing that takes place at Lakeside. Not only will this new representation address the issue, identified by the applicant, that there is a need *'for discount food retail for residents in east Scunthorpe'*, but it can also be provided on a sequentially-preferable site.
 - The Framework makes clear, at paragraph 87, that *'when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre'*. The Lakeside Retail Park is served by multiple bus routes with frequent services, including several which link the site to the town centre. By contrast, the Dudley Road site does not appear to be served by any bus stops at all. On this basis, the Lakeside Retail Park needs to be considered in BW's sequential assessment – and the Park can provide clearly sequentially-preferable opportunities both suitable and viable for the application scheme.
- 2) The applicant's impact assessment is flawed, understates the likely impact of the scheme, overstates the health of affected centres, and fails to take into account the potential for significant further sales of convenience goods at the Lakeside Retail Park:
- The BW assessment uses benchmark turnovers of centres to provide the denominator of the impact assessment – i.e. the centre and store turnovers against which impact is calculated. BW place inappropriate reliance on the use of these averages; actual store performance can vary widely from one location to another, and it is local performance that is relevant in the assessment of impact, not national averages of stores.
 - BW state, at paragraph 5.30, that for the purposes of estimating actual centre turnovers to compare to their 'benchmark' averages, they *'have not commissioned a new household survey for the assessment, instead we have used information within the Lincolnshire Lakes application'* (paragraph 5.30). This survey data – which is not provided with the applicant's assessment – dates from 2013, according to BW. It is clearly outdated.

- Because the survey-derived turnover is in any event outdated, it doesn't take into account recent changes in the catchment, nor the effect of recently completed or committed development. Accordingly, BW's 'survey-derived' figures cannot reliably be used as either a check on 'benchmark' turnover, or as a denominator in the impact forecast.
- It appears that the survey data utilised by BW is so out-dated that it excludes the effects of the North Lincolnshire Shopping Park, where large stores are occupied by Marks & Spencer, Debenhams and others. It is quite obvious that the Park will have had an impact on Scunthorpe town centre. This Park constitutes significant retail development that must be included in the assessment, if the results are to provide a robust and reliable guide to the current state of trading in Scunthorpe town centre, and thus to the application scheme's effects.
- In its failure to assess cumulative impact, BW has ignored the effect of other potential developments. We have noted above the currently-unused capacity at the Lakeside Retail Park for additional convenience goods sales. This capacity, which is intended to be taken up shortly, and when considered together with the application scheme, will generate significant additional trade impact on Scunthorpe and Ashby, substantially above the level forecast by BW.
- The additional consented convenience goods floorspace at Lakeside equates to almost the entire requirement for Scunthorpe at 2015, as identified in the Core Strategy at Table 10.1; and this 'need' assessment did not take account of other recently completed developments. Once all other recently completed schemes are taken into account, it is clear that convenience floorspace provision could substantially outstrip need, and in these circumstances, the risk of significant adverse impact on existing centres is heightened – which is why an up to date cumulative impact assessment of the application scheme is so important.
- We note BW's comment, at paragraph 5.1 of the RS, that *'there is no mention (in the development plan) of cumulative impact assessments having to be carried out by applicants'*. However, inclusion of cumulative 'impacting' schemes is a well-established part of good practice in undertaken retail impact appraisals, and the absence of such an assessment is a surprising omission from the applicant's submission.
- BW's health check appraisal over-states the health of existing centres. Specifically, in relation to Scunthorpe town centre, it is evident that a vacancy rate of 15.1 percent, which is more than four percentage points above the national average and includes vacancies in prime shopping frontages, is a clear indication of a vulnerable centre.
- Scunthorpe clearly exhibits the signs identified in the PPG of a potentially vulnerable centre – vacancy rates are high (and increasing), and demand is limited. It is quite clear that even a modest trade diversion will threaten significant adverse impact.
- Insofar as Ashby is concerned, the forecast level of impact is already higher than that of Scunthorpe; when more accurate existing turnover data is used, and the effects of committed development elsewhere including significantly increased convenience sales at Lakeside Retail Park are taken into account, there is a risk of a

significantly higher impact and accordingly, a clear risk of significant adverse impact on this centre too.

- 3) The scheme would result in the loss of an allocated housing site, at a time when the council is already experiencing a significant shortfall in housing land.
- The application site is allocated for residential development in the recently-adopted North Lincolnshire 'Housing and Employment Land Allocations' DPD. The Housing and Employment Land Allocations DPD is only recently adopted (March 2016). It is therefore reasonably up to date, and significant weight should be attached to the importance of delivering the identified allocations.
 - Safeguarding of the application site's ability to deliver housing is particularly important in the context of the current housing land supply position in North Lincolnshire. At present, according to its latest supply assessment, the council has a supply of only 3.9 years. The council has placed great weight on the importance of the DPD in bringing forward sufficient land for new housing, and clearly the loss of an allocated site to another use will harm the council's ability to maintain housing delivery and will increase the pressure to release greenfield land elsewhere.

The letter submitted by Scunthorpe Parish Assets Limited and Scunthorpe Parish Assets (No 2) Limited raises the following objections to the proposed development:

- 1) Failure to properly consider alternative, in-centre locations within the sequential test having regard to flexibility:
- In setting out the scope of the sequential test, Barton Wilmore state that "*NPPF policy no longer requires disaggregation*", referring to the *Rushden* appeal decision. This interpretation is disputed. Although disaggregation was not required in that particular case, it cannot be extrapolated that disaggregation is not required to demonstrate flexibility in every case. The council is referred to the *Tollgate* decision, which determined that disaggregation would be justified in the particular circumstances presented – an outline, mixed use development comprising leisure and retail uses with associated parking, public realm improvements and landscaping.
 - In this case, where Unit 1 is a speculative development in outline at this stage, with no end user attached to the scheme, disaggregation is highly relevant to the sequential test. Where no end use is identified, there is no reason why adjacent surface level parking is strictly necessary if the floorspace could be accommodated within an in-centre location.
 - There are a number of units available within the Parishes Shopping Centre. None of these units are included in the sequential assessment. Although the floor area of these units may not be large enough to accommodate Unit 1, which extends to 1,851 square metres GEA, these sites should still be included in the sequential assessment.
 - There is potential for the non-food unit to be disaggregated into smaller units, and this floorspace could therefore be considered capable of accommodation within the vacant units identified.

- The search for alternative sites has been carried out on the basis of the total floorspace proposed, making it a relatively easy task to 'dismiss' sites on the basis they cannot accommodate the quantum of floorspace proposed across two retail units. The applicants have not explained why the supermarket cannot be developed in isolation to the ancillary retail unit.

2) Suitability of the former TJ Hughes unit to accommodate Lidl:

- Lidl have previously shown serious interest in the TJ Hughes unit. The unit remains vacant and is available for immediate occupation. The TJ Hughes unit would suit Lidl' operational requirements.

3) Likely significant adverse impact on Scunthorpe Town Centre:

- The most recent Retail Study for North Lincolnshire Council is out of date, as is the health check carried out in 2015. Vacancy levels in Scunthorpe town centre exceed the national average and demonstrate that vacancy remains a significant concern in Scunthorpe.
- Unit 1 is proposed on a speculative basis but is expected to be occupied by a retailer such as Home Bargains, B&M, Poundland, or Poundstretcher. All of these retailers have an existing presence within Scunthorpe town centre. It is reasonable that if any of these stores decided to open a store at the former Yorkshire Electricity site, this could lead directly to the closure of the town centre store, adding to vacancy levels within Scunthorpe town centre.
- There is also substantial risk that the new site would lead to the closure of the Doncaster Road store, further adding to vacancy levels in Scunthorpe.
- The data in the Retail Assessment does not include the North Lincolnshire Shopping Park, which has most certainly impacted on Scunthorpe town centre, nor convenience goods capacity at the Lakeside Retail Park.
- The low level of impact identified on Scunthorpe town centre is questioned in the context of high vacancy rates. Even at a low level of 1.9% the application is likely to lead to a significant adverse impact on the town centre.
- The rationale that the proposed development at the site is needed to "ease pressure on Lakeside Retail Park" is also questioned. There are vacant units within Lakeside Retail Park therefore it is unclear how the development would ease pressure on the park.

4) The loss of a site allocated for residential use:

- The site is allocated for residential use and the site's importance for contributing to the supply of housing is reflected in the current housing land supply position, which indicates North Lincolnshire has a 3.9 year supply of housing land, significantly below the five years' housing land supply the council is required to demonstrate.
- The government places great importance on significantly boosting the supply of homes, particularly where supply can be brought forward on brownfield sites, in order to reduce pressure on greenfield sites.

- This allocation for housing further demonstrates that the proposed retail use at the site is contrary to the Development Plan, which is up to date and therefore carries significant weight.

STATEMENT OF COMMUNITY INVOLVEMENT

A Community Consultation Statement (CCS) has been submitted in support of the planning application. This statement explains the extent of community engagement undertaken by the applicant pre-submission and considers the feedback received and demonstrates how this process has informed the final proposed development.

As part of the planning process for the site, the applicant undertook a pre-application engagement programme, involving members of North Lincolnshire Council, relevant stakeholder groups, surrounding residents and well as the wider local community. This involved a one-day public exhibition held at Grange Farm Hobbies Centre on 20 March 2018, followed by a two-week consultation on the proposals.

A range of consultation methods and techniques were utilised by the applicant and its consultant team to engage with key stakeholders, and the local community, as outlined below:

- **Leaflet to local residents and letter to local councillors:** A leaflet advising residents of the public exhibition and inviting them to attend was issued to circa 360 properties located within close proximity to the site. Local ward councillors were also invited to attend.
- **Public exhibition:** A public exhibition was hosted by the appellant on Tuesday 20 March 2018 at Hobbies Community Centre, Scunthorpe. A members only preview session was held between 2.15pm and 3pm, and the exhibition was then open to the local community to attend between 3pm and 8pm to allow members of the local community to view and discuss the proposed development with the applicant and members of the consultant team. This exhibition was originally scheduled to be held on 28 February 2018. However, the exhibition was cancelled due to adverse weather conditions. This was advertised on the applicant's website, on the premises and councillors were re-notified. The location was selected due to its accessibility, proximity to the site and its convenience for attendees.
- **Questionnaire and comments form:** A comments form was made available to attendees at the exhibition to provide them with an opportunity to express their views about the proposed development, and any suggested amendments.
- **Newspaper articles:** An article was published in the Scunthorpe Telegraph on 19 February 2018 regarding the proposals and provided details of the exhibition.

Approximately 45 people attended the public exhibition. In total, 18 comments forms were completed and returned by attendees on the day, with a further 6 responses submitted to the applicant after the exhibition. Of those who provided a response, 83% supported the proposal, 4% did not support the proposal and the remaining 13% were unsure.

A number of additional comments/views were offered verbally at the exhibition, most notably in relation to highways and air quality. A summary of the main comments received is set out below:

- supportive of the proposed scheme
- will create jobs and provide added value to the town
- will help regenerate the area
- potential for increased traffic on Bellingham Road
- would like to see a crossing at Bellingham Road junction
- barrier across site to prevent “boy racers”
- more disabled car parking and toilets
- acoustic barrier around HGV turning area
- previous application refused on air quality grounds.

The applicant and its consultant team have considered and addressed as many of the comments raised where possible, and the scheme has been amended accordingly to reflect the comments raised. Subsequently, the proposed layout has been amended to reflect the comments received and incorporates additional disabled car parking bays. Other issues raised during the consultation process have been considered and addressed in the accompanying suite of technical reports which support this planning application.

ASSESSMENT

Site and surrounds

The application site is the former Yorkshire Electricity depot. It is located approximately 2.5km to the south-east of Scunthorpe town centre and is situated to the immediate north of the A18 (Queensway). The site is rectangular-shaped and extends to 3.88 acres (1.57 hectares). It has comprised vacant unused previously developed land since its previous use as the former Yorkshire Electricity depot (FYED). All the existing buildings on site have been demolished with only remnants of the previous buildings and hardstanding remaining on site.

The site is currently accessed from Dudley Road, which takes access from Queensway (A18). Dudley Road also serves the retail unit to the immediate north of the site (currently occupied by Go Outdoors) and the neighbouring residential estate.

The application site is located in an established urban area containing residential, industrial and commercial uses. The site is bound to the south by Queensway (A18), beyond which lie residential properties. The west of the site is bound by Dudley Road, beyond which is an area of amenity grassland and a residential estate. Queensway Industrial Estate which comprises both industrial and employment land is located to the north and east. Go Outdoors is located immediately to the north, separated by a tree belt and the land immediately to the east of the site is vacant and has been cleared. This land to the east also benefits from a separate residential allocation as part of the Housing and Employment Land Allocations DPD.

Constraints

The application site is located within the development boundary for Scunthorpe as defined in the Housing and Employment Land Allocations Development Plan Document (HELADPD) 2016 and is allocated for residential development under policy SCUH-17.

The application site is located outside of any designated town or district centre within the Scunthorpe and Bottesford urban area as defined in the HELADPD and is considered to be an out of centre (not edge of centre) location for the purpose of planning policy due to its distance from the defined town and district centres.

The site lies entirely within Flood Zone 1 (Low Risk) as indicated on the Environment Agency flood map. In addition, the site does not contain any statutorily listed buildings or structures and there are no conservation areas situated in the vicinity of the site.

In addition, the site does not include any public rights of way (PROW) or any trees of hedgerows subject to tree preservation orders (TPO). Furthermore, the site is not subject to any national or local landscape or ecological designation.

Planning history

The relevant planning history for the application site over recent years comprises two outline planning applications for residential development, which were submitted in 2009 and 2011.

The 2009 application (PA/2009/0904) sought outline planning permission for up to 81 new homes on the application site. This application was refused by North Lincolnshire Council for the following reasons:

- "1. In the absence of substantial evidence from the applicant the council is unable to make an informed decision on the application. The applicant has failed to provide evidence in relation to contributions that would be required on a proposal of this type specifically: affordable housing and education contributions. The proposal is therefore contrary to policy SPG8 of the North Lincolnshire Local Plan and policy H4 of the RSS for Yorkshire and Humber";*
- 2. The applicant has provided no evidence in relation to affordable housing contributions either in the form of on-site provision or a commuted sum, additionally the applicant has not provided any evidence in support of education contributions. Therefore, the proposal is contrary to policy SPG8 of the North Lincolnshire Local Plan and policy H4 of the RSS for Yorkshire and Humber;*
- 3. The applicant has failed to demonstrate in the form of an updated environmental statement in accordance with details requested by the council's Environmental Health department, that the proposed development would not be harmed by potential odours or air quality. The information currently submitted by the applicant fails to demonstrate sufficiently that the proposed development will not be adversely affected by odours attributed to nearby industrial facilities or air quality in the declared Air Quality Management Area (AQMA). The proposal is therefore considered contrary to policies DS1, H5, H8."*

Following refusal of the 2009 scheme, a resubmission application (PA/2011/0236) for 77 dwellings was submitted in 2011. The application received a positive officer

recommendation but the scheme was refused planning permission by the Planning Committee in October 2012. The application was refused for the following reason:

“1. The site is not considered suitable for residential development on environmental health grounds linked to past and present industrial activity. In particular, it is considered that poor air quality, odour and noise from nearby industrial processes would be likely to create unacceptable living conditions for future residents. Insufficient evidence has been presented to demonstrate that prospective residents can be protected from undesirable levels of PM10 pollutants detected within the Air Quality Management Area and unacceptable levels of odour. Insufficient evidence has been presented to demonstrate that contamination of the site can be adequately ameliorated. Due to the cumulative environmental concerns, the proposal is considered to be contrary to policies DS7 and IN2 (ii) of the North Lincolnshire Local Plan, policy CS18 (10) of the North Lincolnshire Core Strategy and guidance laid out in paragraphs 109 and 124 of the National Planning Policy Framework.”

Proposed development

This application seeks full planning permission for the construction of one Use Class A1 foodstore and one Use Class A1 non-food retail unit with servicing, access, car parking, landscaping and associated works.

The proposed foodstore comprises 2,204 square metres gross external floorspace. The store would have a gross internal area of 2,123 square metres and a net floorspace of 1,763 square metres. The unit is proposed to be occupied by Lidl.

The non-food unit proposed to the north of the site will have a gross external area of 2,314 square metres. This unit will have a gross internal area of 2,222 square metres and a net floorspace of 1,851 square metres. The non-food unit is designed to be occupied by a general non-food discount retailer, such as Home Bargains, B&M, Poundland, Poundstretcher, etc.

The foodstore is proposed to be positioned adjacent to the eastern boundary of the site, with the non-food retail unit proposed to be situated along the northern perimeter of the site. In total 218 car parking spaces will be provided on site, including 11 disabled spaces and 8 parent and child spaces. There will be cycle parking outside each unit and private staff car parking will be provided within the servicing area for the non-food retail unit.

Both retail units are proposed to be of a contemporary design. The foodstore is to be clad in silver composite and white rendered panels with dark grey aluminium shop fronts and flashings. The design of the non-food retail unit also incorporates silver composite cladding panels at high level with a predominantly brick plinth up to 3 metres. The building will have a large glazed area to the entrance and lobby.

Vehicular and pedestrian access to the site will be gained from Dudley Road via a new junction arrangement, with an additional pedestrian and cycle access off Queensway, adjacent to the Lidl unit. Service vehicles will also access the site via Dudley Road. The service yard area to the non-food retail unit will be enclosed by an acoustic screen along its eastern boundary. Part of the proposal includes the signalling of the current priority junction at Queensway/Dudley Road. As part of these junction proposals, right-turn movement from Dudley Road to the A18 Queensway will be permitted and pedestrian crossing facilities will be provided across all approaches.

The proposed landscape scheme will comprise ornamental planting and trees to form a buffer along the western boundary of the site adjacent to Dudley Road, with a grassed verge area to the rear of the Lidl unit. For security and safety purposes, a 2 metre high Paladine wire fence is proposed along the northern and eastern boundaries of the site.

It is stated that the new Lidl store at Queensway will not replace the company's existing facility at Doncaster Road in Scunthorpe town centre. Subject to the grant of planning permission, Lidl intend to trade from both the existing store at Doncaster Road and proposed scheme at Queensway.

The principal issues to consider in the determination of this application are assessed below and comprise the following:

- **the principle of development**
- **highway safety and access to development**
- **design and visual impact**
- **impact on residential amenity**
- **ecological impact**
- **contamination**
- **drainage.**

Principle

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise. In this instance the development plan consists of the North Lincolnshire Local Plan (NLLP) which was adopted in May 2003, the North Lincolnshire Core Strategy (NLCS) which was adopted in June 2011 and the Housing and Employment Land Allocations (HELA) DPD which was adopted in March 2016. Material considerations exist in the form of national planning policy and guidance contained within the National Planning Policy Framework (NPPF) and the suite of documents comprising of the Planning Practice Guidance (PPG).

Amongst the aims of the North Lincolnshire Local Plan are those ensuring a buoyant local economy whilst preserving the vitality and viability of the existing network of town centres and supporting a defined retail hierarchy within the area. It advocates a sequential approach designed to direct new retail development to appropriate locations. Scunthorpe town centre is identified as the largest retailing centre standing atop the shopping hierarchy of North Lincolnshire (Chapter 5 of the NLLP relates).

Chapter 10 of the Core Strategy sets out North Lincolnshire's strategic policies aimed at supporting thriving settlements, including policies for future retail development in the area. The role of the policies in this chapter is to set a proactive planning policy framework to deliver the vision of the area and support the sustainable delivery of new and improved shopping, cultural, leisure and tourism facilities across North Lincolnshire. In doing so it aims to ensure that new retail development is directed to appropriate locations, existing retail facilities are improved, and any deficiencies in the retail hierarchy are addressed.

Among the aims of the Core Strategy are those to promote the vitality and viability of the area's shopping hierarchy, encouraging a wide range of services that promote genuine choice in a good quality environment with a vibrant mix of activity which is accessible to all.

Saved policy S8 of the North Lincolnshire Local Plan is relevant in the determination of this application in that it sets out the council's approach to proposals for out-of-centre retail and leisure development. Policy S8 states that "*Planning permission will only be permitted for out-of-centre retail and leisure development where:*

- i) a clear need for the development has been demonstrated;*
- ii) the developer can demonstrate that there are no sites for the proposed use within or at the edge of the town centre that are suitable, viable for the proposed use and likely to become available within a reasonable time period;*
- iii) the proposal, in addition to the cumulative effects of recently completed developments and outstanding planning permissions, will have no adverse impact on the vitality and viability of existing town or district centres and the rural economy. In all cases, applications shall be accompanied by a retail impact assessment; and*
- iv) the site is, or can be made, accessible by a choice of means of transport, including public transport, walking and cycling."*

Notwithstanding the above, policy S8 should be read in the context of more recent policy within the NPPF (Chapter 7), which also sets out a need for sequential and impact tests but no longer includes a need test for proposed new development. The first criteria set out in policy S8 is therefore in conflict with and has effectively been superseded by the NPPF.

Policy CS14 of the Core Strategy is also relevant to establishing the principle of the proposed development. This policy sets out the council's approach to protecting and enhancing the shopping centres in North Lincolnshire. It confirms that Scunthorpe town centre will be the main location for all new retail, leisure, cultural and office development. In order to support the vitality and viability of town centres in North Lincolnshire, policy CS14 sets out a number of criteria to "*ensure that:*

- the existing retail character and function of centres is safeguarded. Development that detracts from the vitality and viability of the area's town centres will be resisted;*
- new town centre development complies with the sequential approach to site selection, which prioritises development in existing centres, the edge-of-centre sites, and only then out of centre sites that are accessible by a choice of means of transport;*
- the scale and type of development reflects the centre's existing and proposed function and its capacity for new development;*
- the retail function of town centres are protected by way of restricting non-A1 uses particularly within the defined town centre boundaries;*
- a balanced range of facilities and uses are encouraged within district and local centres, in keeping with their size and function, to meet the everyday needs of the local population. Local shops located within smaller settlements, in particular in rural areas, will be protected where they are important to the day-to-day needs of people;*

- *shopping facilities are accessible by a range of means including by car, walking, cycling and public transport;*
- *new developments are of an appropriately high quality design, particularly in the town centre.”*

With regard to other material considerations, Chapter 6 of the NPPF confirms that the Government is committed to securing economic growth and productivity, and that planning should operate to create conditions in which businesses can invest, expand and adapt. Chapter 7 sets out the Government's approach to securing the vitality of town centres. It sets out at paragraph 86 that applications for main town centre uses (such as retail and food and drink), which are not in a defined centre and do not accord with an up-to-date development plan, should be subject to a sequential test. Only if suitable sites are not available in town centre or edge of centre locations should out of centre sites be considered. Paragraph 87 goes on to confirm that when considering out of centre proposals *“preference should be given to accessible sites that are well connected to the town centre.”* Paragraph 89 requires an assessment of the impact of the proposal on town centre vitality and viability to be undertaken where retail development above 2,500 square metres is proposed outside of town centres. Paragraph 90 confirms that applications should be refused if they fail to satisfy the sequential test or are likely to have significant adverse impacts upon the vitality or viability of a town centre. Chapter 9 of the NPPF seeks to promote sustainable transport and states at paragraph 103 that plans and decisions should ensure *“significant development should be focussed on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.”*

Guidance set out in the *“Ensuring the vitality of town centres”* section of the NPPG identifies and provides guidance in relation to the 2 key tests set out in the NPPF that should be applied to proposals for town centre uses outside of an existing town centre – the sequential test and the impact test. In relation to the sequential test it advises authorities to consider the suitability, availability and viability of sites, with particular regard to the nature of the need that is to be addressed. It also recognises that certain town centre uses have particular market and locational requirements, that development on town centre locations can be more expensive and complicated, and advises that local planning authorities should be realistic and flexible in their expectations. The guidance also sets out steps that should be followed in application of the impact test including establishing the state of the centre and current shopping patterns, determining a timeframe for assessing impact, and considering a range of plausible scenarios.

From the above it is clear that both local and national planning policies, as well as relevant national planning guidance, seek to support the vitality and viability of existing town centres. Two key methods for achieving this goal, as set out in the policies, is by directing new town centre uses to appropriate locations and by assessing the impacts of proposed developments on existing centres via the application of sequential and impact tests.

The applicant has submitted a Retail Statement, prepared by Barton Willmore, in support of the planning application, which assesses the impact of the proposals on the vitality and viability of Scunthorpe town centre and Ashby High Street. This document incorporates sequential and impact tests as required by local and national planning policy and provides an assessment of the proposals against these policies.

Sequential test

The application site is located within the defined development boundary for Scunthorpe and is allocated for residential (non-retail) use in the Housing and Employment Land Allocations DPD. The site is located approximately 3.8 kilometres driving distance from the defined Scunthorpe town centre and approximately 1.75 kilometres from the Ashby district centre and as such is identified as an out of centre location in relation to retail planning policy. For these reasons, as set out in local and national policy, it is necessary to consider potential alternative sites both within and on the edge of the existing centre, in terms of their suitability and availability to accommodate the proposed uses. The application proposes a new food store comprising 2,204 square metres of gross floor space and a non-food retail unit comprising 2,314 square metres gross floor space, both with associated access, parking, servicing and landscaping. Any potential alternative sites would need to be able to accommodate stores of a similar scale and nature.

In the context of site suitability the submitted Retail Statement (RS) makes reference to the Tesco Stores Limited v Dundee City Council Supreme Court judgment which considered the meaning of 'suitable' when determining whether alternative sites are suitable for the proposed development in accordance with the sequential test. Specific reference is made to paragraph 38 of the judgement which states that:

“The issue of suitability is directed to the developer’s proposals, not some alternative scheme which might be suggested by the planning authority. I do not think that this is in the least surprising, as developments of this kind are generated by the developer’s assessment of the market that he seeks to serve. If they do not meet the sequential approach criteria, bearing in mind the need for flexibility and realism...they will be rejected. But these criteria are designed for use in the real world in which developers wish to operate, not some artificial world in which they have no interest in doing so.”

It also makes reference to more recent appeal decisions that have made reference to this decision, including APP/J4423/A/13/2189893, where the inspector’s decision states:

“...what needs to be established is whether an alternative site is suitable for the development proposed, not whether the proposed development can be altered or reduced so that it can be made to fit an alternative site.”

The Retail Statement concludes that these cases demonstrate that in considering suitability as part of any sequential assessment that the specific requirements of the proposed operator (if secured) needs to be taken into account, and that any potential alternative sites are required to be considered in terms of whether they are suitable for the development as proposed by the applicant. It asserts that case law clearly confirms that developers should not be required to fundamentally reconfigure their development scheme when undertaking an assessment of alternative sites in locations that local planning authorities may deem to be sequentially preferable. The RS also states that recent appeal decisions, including Rushden (APP/G2815/V/12/2190175) confirm that with or without named retailers, there is no requirement at all for a developer to consider the disaggregation of the individual elements of a scheme, nor for a retailer to disaggregate elements of their business model. The sequential test relates entirely to the application proposal as a whole; it is not a question of whether a materially reduced or otherwise different scheme can in theory be pursued on another site.

In respect of the availability of sites, the RS makes reference to the draft NPPF which, subsequent to the submission of the application, has now been adopted and the reference to sites that may become available in a “*reasonable period of time*”. In this regard the RS states that there is no clarity provided to define what a reasonable time period is. On this basis it is concluded that in considering site availability, it is appropriate to consider sites which could be available in the short term, within the next year as due to the nature of leases on the site and land ownership, development could commence promptly once full planning consent for alterations is secured.

The RS considers that there is a need for additional retail floorspace in the vicinity of the site to ease pressure on Lakeside Retail Park, provide discount food retail for residents in east Scunthorpe and complement the surrounding uses which includes the Go Outdoors retail unit. Delivery of the proposed development will have the added benefit of bringing a vacant brownfield site that is known to be contaminated back into beneficial use. For these reasons it is stated that the identified need is by definition site specific and cannot be met in any other location. Consequently, Barton Willmore confirm that it is their view that no other site is suitable and consequently the sequential test is passed. Notwithstanding this view, following pre-application discussions with officers at the council other sites have been considered in the RS as part of a robust sequential test.

In determining the area of search for sites to be considered as part of the sequential test, the applicant has defined a catchment area (CA) for the proposed development. The starting point for drawing the catchment area was a five-minute drive from the site. Knowledge of the retail market and proposed operators (Lidl in particular) identified that this would be the core catchment for the retail development. Following pre-application discussions the CA was altered to the west to draw it away from existing discount food retail facilities in Brigg to the east and the drive-time was extended to the north to include Scunthorpe town centre. Scunthorpe town centre had previously been excluded from the CA due to the existing presence of both an Aldi and a Lidl store which already serve the residential area adjoining the town centre.

The following site search criteria was adopted within the CA:

- located within designated town centre or within 300 metres of designated centre
- capable of accommodating the floorspace of the proposed development (4,274 square metres) with a 10% margin for flexibility, together with car parking and servicing requirements (equates to approximately 1.6 hectares in size)
- regular shape to allow retail floorspace to be laid out with rectangular floorplates
- 214 car parking spaces required directly adjacent to retail floorspace and must be level and suitable for trolley use
- must have secure dedicated servicing arrangements allowing HGV access without obstruction; one of the proposed occupiers requires a servicing dock and the other does not, which means they cannot share a service yard
- floorspace must be capable of being accommodated over maximum of two levels (ground floor and mezzanine for non-food unit and ground floor only for foodstore)
- floorspace provided must be without obstruction such as columns

- viable property cost
- be available for development in next 12 months.

Bearing the above in mind and following pre-application consultation with the local planning authority, seven potential alternative sites were identified for consideration as detailed below:

Former TJ Hughes, 10 Cole Street, Scunthorpe

The site is a single retail unit, formerly used by TJ Hughes, with a total gross floor area of 3,901 square metres, and has been vacant since 2011. The unit is single-storey in height but split over two levels with an internal mezzanine. The unit is accessed via entrances onto Cole Street and the Robert Street car park. There is a small service yard to the rear accessed from Robert Street.

The assessment identifies that this unit is currently vacant and being actively marketed. At 3,901 square metres the site is large enough to accommodate the proposed development providing a degree of flexibility is employed. However, the site is considered to be unsuitable for development of two retail units as proposed. Reconfiguration and/or extension would require the inclusion of additional adjacent units or land. Furthermore, due to the floorspace being split over two floors, either both units would have to operate over two floors, which would not suit Lidl due to their operating requirements; or the non-food unit would have to be located entirely at first floor, which would also not be suitable due to a lack of street level presence.

In addition to the above, the car park adjacent to the unit is considered to be too small to accommodate the quantum of parking spaces required, even if a degree of flexibility is employed. Furthermore, the car park is not large enough to be suitably altered to provide the additional disabled and parent and child parking bays and trolley bay that would be required. The service yard is also too small to accommodate the requirements of both Lidl and the non-food operator.

It is also noted that the adjacent car park is a public car park serving the town centre and is currently owned and operated by the local authority. This car park performs an important role in catering for both car-borne shoppers and employees of local businesses, therefore aiding the vitality and viability of the town centre.

Former BHS, 29 Jubilee Way, The Parishes Shopping Centre, Scunthorpe

The site is a single retail unit formerly occupied by BHS and has a gross floor area of 4,931 square metres over three floors. There is no vehicular access to the site for customers. There is a service yard to the north which is accessed from Carlton Street. Pedestrian access is via Jubilee Way to the west. The site is also adjacent to the Scunthorpe town centre bus interchange.

The unit would accommodate the proposed development; however the floorspace is split over three floors with none of the three floorplates large enough to accommodate either unit in its entirety; this would make the unit unsuitable for the foodstore.

The lack of adjacent car parking would make the movement of goods from store to car difficult and against Lidl's business model. The servicing arrangements for the unit are also constrained as the service yard is shared with adjacent retail units.

For these reasons the assessment considers the site to be unsuitable. Furthermore, the site is currently being brought forward by North Lincolnshire Council as the new location for the Scunthorpe Markets and is considered to be unavailable.

Church Square, Scunthorpe

Situated within Scunthorpe town centre, the site is a parcel of land between Home Street, Cross Street, Trafford Street and High Street but also extending to the south of High Street to include the former Church of St John extending to circa 2 hectares in size.

The northern part of the site, adjacent to Cross Street is occupied by a surface level car park and North Lincolnshire Council office building – Church Square House. There is also a terrace of small commercial properties that front Trafford Street, the majority of which are occupied. In the centre of the site, at the junction of Trafford Street and High Street is land which is being developed by the Humber University Technical College. Directly to the south of High Street the site is hard paved open space and the former Church of St John which is now in use as an arts centre.

The site is part of the allocation of land at Church Square (SCHU-9) in the Housing and Employment Land Allocations DPD which allocates land for 300 dwellings.

Vehicular access to the site can be gained from Trafford Street via lockable gates or from Cross Street where the commercial units have their principal access and the council's car park's entrance and egress points are located. There are also some parking bays on Church Square to the east of the former Church of St John. Due to the site's town centre location there is also ready access for pedestrians or by bus.

The site is in a combination of active use and being redeveloped. The council announced a £60 million regeneration of the Church Square area some time ago and the plans have started to be developed. The proposals include an extension to Church Square House, Ongo Homes headquarters, a 200 unit facility for NHS employees, A University Centre and refurbishment of the Central Library. These projects are currently being delivered (Church Square House extension, Ongo headquarters and library works all have planning permission) and development will take place over the next two years.

At circa 2 hectares the site could accommodate the proposed development. However, the site already has proposals via planning consents and site allocations in the development plan for a combination of civic, office, community and education uses. It is considered that the site is not available due to it being brought forward for mixed-use development by the council. Furthermore, the site is not considered to be suitable because development of the type proposed would compromise the overarching regeneration plans for the site.

Glebe Pit, Scunthorpe

The site is a parcel of vacant land measuring approximately 2 hectares in area and is located approximately 280 metres north of the designated town centre. There are no buildings on the site, but there are remnants of hard standing and some scrub vegetation. The site has a sizeable frontage onto Glebe Road and is currently secured with temporary metal hoardings.

To the east of the site is a car garage, opposite the site to the south are retail uses (Glebe Retail Park) including Farm Foods and The Bath Store, to the west is a car wash at the

junction of Glebe Road and Normanby Road. Also, to the west fronting Normanby Road are a car dealership and residential properties.

The site is part of the allocation SCUH-3 Land at Glebe Road within the Housing Land and Employment Designation DPD. The allocation is for 302 dwellings, there is no mention of retail uses on the site. Planning permission was refused in 2005 for the erection of an Asda foodstore, non-food retail, leisure and office accommodation.

Vehicular and pedestrian access for the site is via Glebe Road. However, there are no bus or rail links near to the site.

The site is currently vacant and available for development. The site is part of a wider allocation, so could potentially be made a suitable size for development of the type proposed. However, due to the scale of the wider site, a masterplan would be needed to ensure that developing the site did not compromise the potential for the rest of the site to come forward for residential uses. Therefore, the assessment concludes that the site is not suitable for development in isolation or available for development within the required timescales.

West Street Car Park, Scunthorpe

The site measures approximately 0.6 hectares in area and is located on the south side of West Street, to the north of Chapel Street and adjoining Scunthorpe town centre. The site is a council-run surface car park.

The site is white land within the Housing Land and Employment Designation DPD. It adjoins the designated town centre boundary which runs to the south of the site on Chapel Street. In the previous local plan the site was allocated for retail development.

Vehicular and pedestrian access for the site is via West Street and Chapel Street. At present vehicles enter from West Street and egress via Chapel Street.

The site is not being marketed for sale by the local authority and it does not form part of any development brief or masterplan. As such it is considered that there is no evidence of the council having aspirations for its development or a change of use from being a car park. The assessment concludes that the site is not available due to it being in active use as a car park. Furthermore, the site is concluded to be unsuitable as it is too small to accommodate the proposed development even allowing for a degree of flexibility. The site is also deemed to be unsuitable because it had its previous retail designation rescinded within the local plan.

Winterton Road, former Landfill, Scunthorpe

The site measures circa 1.1 hectares and is located to the east of Winterton Road, just north of its junction with Brigg Road and Glebe Road. The site is vacant scrub land that is known to formerly have been a landfill site that fronts Winterton Road. There is mature vegetation around the periphery of the site and grass/scrubland across the bulk of the site.

Vehicular and pedestrian access for the site is via Winterton Road; it would be possible for the site to share an access point with the adjacent Gala Bingo. Access by bus is good; there are bus stops directly to the south-west of the site on Winterton Road.

The site is white land within the Housing Land and Employment Designation DPD. It was also white land in the previous local plan. It is to the north of the designated town centre boundary which starts at the Winterton/Glebe Road/Brigg Road junction.

The site is currently vacant; therefore, it is likely to be available, although it is not being actively marketed. The site is physically capable of accommodating the proposed development if a degree of flexibility is employed. The site is 0.5 hectares less than the application site. The site previously had planning consent for retail development, which was granted at appeal in 2011. However, that consent was never implemented, despite the retail market being more buoyant at that time than now.

The assessment states that, following discussions with the previous agents for the site, it was being offered for sale for £800,000 and that it has been vacant for at least 20 years. It is concluded that the combination of having to reduce the amount of floorspace or car parking that could be accommodated on the site and the known asking price mean that the site would not be viable for development of the nature proposed.

It is further asserted that if the site were viable as a location for retail then the previous planning consent on the site would have been implemented.

Former Kwik Save Unit, Ashby High Street

The unit is located on the southern side of Ashby High Street, to the east of its junction with Bottesford Road and has a gross floorspace of 2,023 square metres. The unit was occupied by Kwik Save until they ceased trading in 2007. The unit has no dedicated car park and it is serviced from the rear via the Bottesford Car Park, which is council-owned/run.

Vehicular access for the unit is via Bottesford Car Park to the rear, where the council's car park can be used by customers and the entrance to the unit's service yard is located. Pedestrians can only access the unit from Ashby High Street. There are a number of bus stops located on Ashby High Street, therefore access by bus is good.

The unit is located within the boundary of Ashby town centre, as identified by policy CS14 on the Housing and Employment Land Allocations DPD Proposals Map.

The unit is currently vacant, it is being advertised for sale with an asking price of £350,000 and is being marketed by PPH Commercial. Therefore, it is considered to be available. However, the assessment concludes that the unit is considerably too small to accommodate the development proposed, even allowing for a degree of flexibility. The unit could potentially accommodate one of the retail units being proposed but this would mean disaggregation of the proposals and there is no requirement for this within planning policy. It is also considered unsuitable for the proposed form of retail development because it has inadequate parking and servicing facilities.

The RS concludes that there are no sites or retail units which are both available and suitable for the proposed development, even when applying a degree of flexibility. The sites that were identified for assessment were pre-agreed with local authority spatial planning officers and as such the RS states that the sequential test has been passed.

Notwithstanding the assessment provided within the submitted RS, objections have been received on behalf of Limes Developments Limited, who own the Lakeside Retail Park, and Scunthorpe Parishes Assets Limited, who own the Parishes Shopping Centre. Both of

these objections raise concerns with the submitted sequential test and state that there are sequentially preferable sites that are both available and suitable for the proposed development. The full content of the objections is outlined in the Publicity section of this report above. A letter has been submitted on behalf of the applicants in response to these objections.

Q+A Planning, who have written in on behalf of Limes Developments Ltd, state that the sequential test does not take account of the new NPPF (July 2018) and in particular does not give regard to the need to consider sites that are *'expected to become available within a reasonable period'*. When the planning application was submitted the new NPPF had not yet been published, which is why it was not considered within the supporting documentation. However, it is noted that a consideration of the Draft NPPF (March 2018) was provided as part of the application. This consideration specifically mentions the requirement to assess sites that are expected to become available in a reasonable time-period; however, as the submitted RS notes, there is no indication provided of what a reasonable time period may be. This situation has not altered with the publication of the July 2018 version of NPPF. Q+A Planning assert that a reasonable time period would be 18-24 months. However, Barton Willmore, who have responded on behalf of the applicants, assert that this is an abstract claim without justification. They state that *'on the basis that deals with potential occupiers would not remain in place for such a timeframe and the application site is cleared of structures and available now for redevelopment we would counter that no more than 1 year from the date of submission of the planning application would be reasonable.'* It is considered appropriate for consideration to be given to the timescales of the development proposed and as such that it would be proportionate to expect the assessment to consider sites likely to become available within 12 months; and that, without justification, a longer period of time would be considered unreasonable in this instance.

Q+A Planning also make reference to paragraphs 4.21–4.22 of the RS where three reasons why the identified need to be addressed by the scheme is 'site specific' and can only be met at the Yorkshire Electricity site. Q+A Planning assert that none of the reasons identified constitute a reasonable justification as to why the application scheme cannot be accommodated on other sites. Barton Willmore have responded with further justification as to why they believe that the proposals are site specific. Notwithstanding the points made both for and against the argument that the identified needs that the proposal seeks to meet are site specific, it is noted that the applicants have provided a sequential test which provides an assessment of potential alternative sites as agreed with the council's Spatial Planning officers; none of these sites are discounted on the grounds that the identified need is site specific. Indeed the catchment area for the sequential test was extended at the request of Spatial Planning officers to include town centre sites that were initially proposed to be excluded from the catchment area. Furthermore, none of the sites were discounted purely on the basis that they would conflict with existing Lidl stores.

Q+A Planning further assert that the site selection criteria is too focused on Lidl as the end operator. Whilst it is acknowledged that the site selection criteria is influenced by the operational requirements of the end user (Lidl) as a deep discount operator, it is not considered that site selection has been purely or overly influenced by the end operator. It is considered appropriate to consider the suitability of sites in the context of the type of retail development proposed, as certain types of retailers have specific operational requirements; this view is reinforced by case law referred to earlier in this report. The sites selected for assessment as part of the sequential test were agreed at the pre-application stage with the

council's Spatial Planning team and Spatial Planning officers have raised no objection to the scope and nature of the assessment undertaken.

In addition to the above, Q+A Planning highlight a recent Certificate of Lawfulness in relation to the ability to sell convenience goods from the Lakeside Retail Park. This Certificate makes it clear that a further 3,579 square metres of retail floorspace is available at the park for sale of convenience goods. It is stated that this additional representation at Lakeside Retail Park will address the issue identified by the applicant and would also be provided on a sequentially preferable site as it is considered that the Lakeside Retail Park is better connected to the town centre. Barton Willmore do not agree with this position stating that *"Lakeside Retail Park is an out of centre location which is in fact further from a designated retail centre and public transport than the application site."* It is considered that the application site is an accessible site, which is well connected to the town centre in accordance with paragraph 87 of the Framework. Furthermore, following recommendations put forward by the council's Public Transport team, it has been agreed that a new bus stop and shelter will be provided on Dudley Road, adjacent to the site to improve its connectivity to the existing public transport network. On this basis, and given the fact that the application site lies closer to the town centre, it is considered that the sites are comparable in their accessibility and that Lakeside Retail Park would not be a sequentially preferable site for the proposed development as suggested and does not need to be included in the sequential test.

Scunthorpe Parish Assets Limited & Scunthorpe Parish Assets (No 2) Limited (SPA), in their letter of objection, refer to the 'Tollgate' decision which they assert justifies the consideration of disaggregation of proposals for retail floorspace. Barton Willmore disagree with this assessment on the basis that the development proposed at Tollgate was entirely speculative and not based on any recognised business model or 'type' of retail floorspace. In contrast, the proposed development is stated to be designed to meet an identified need for discount retail floorspace and Lidl are one of the named operators. On this basis it is agreed, as stated by Barton Willmore, that the proposals are materially different to those assessed in the Tollgate case. It is considered that in this instance, based on the nature of the proposed development, there is no requirement for disaggregation for the purpose of the sequential assessment. Having considered both arguments and the case law referred to, and given the nature of the proposed development in this instance, it is agreed that there is no requirement for the sequential test to consider the disaggregation of the proposed development.

SPA detail all of the vacant units within the Parishes Shopping Centre, asserting that they should have been included within the sequential assessment. However, it is acknowledged in their letter that the units mentioned are not large enough to accommodate the proposed development. Barton Willmore, in their response confirm that the obviously unsuitable size of these units is why they were not, and should not have been, included in the sequential test. This view accords with national planning policy and guidance which makes it clear that the sequential test should be *'proportionate and appropriate for the given proposal'*.

One of the key points made in the SPA letter is the assertion that Unit 10 (former TJ Hughes) is available and would be suitable for the proposed Lidl store, stating that Lidl had previously shown 'serious interest' in occupying the unit. A feasibility study plan has been provided to show how the unit could be reconfigured to accommodate Lidl. Confirmation has been provided by Lidl that Unit 10 has never been considered suitable to meet their requirements and that contact with the agents or owners of this unit has not taken place for at least four years (whilst the current property manager has been in position). Lidl have also

confirmed that the proposed development at the former Yorkshire Electricity depot is not a replacement for their existing Scunthorpe store and that they are actively searching for another site in the east of Scunthorpe as well as the relocation for the town centre site (the lease of which has in excess of five years left to run). It is stated that the need for two stores is representative of the relatively small catchment area that deep discount format foodstores operate within and the need they seek to serve. Lidl have provided further clarification on why Unit 10 would not be suitable for their operations and confirmed that this would apply to any deep discount food operator (such as Aldi and Jaks) and is why the site was dismissed as part of the sequential test. It is concluded that the site is too small to provide a store and car parking for the proposed development even if the individual units are disaggregated in an attempt to demonstrate flexibility and that a regular sized floorplate of a sufficient size, servicing arrangements and sufficient car parking could not be achieved at Unit 10.

Having reviewed the sequential test provided by the applicants and giving due regard to the objections raised on behalf of Limes Developments Limited and Scunthorpe Parish Assets Limited & Scunthorpe Parish Assets (No 2) Limited, it is considered that the site selection is appropriate and that the applicant's argument that the application site is the most appropriate location to accommodate the proposed food store, when compared with the other sites is acceptable. In summary it is considered that the applicant has adequately justified the sequential approach taken and that the sequential test has been passed.

Impact test

The NPPF requires that proposals for new retail and leisure uses in excess of 2,500 square metres, which are not located within an existing centre, and are not in accordance with an up-to-date development plan, should include an assessment of:

- *the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*
- *the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider retail catchment.*

Paragraph 90 of the NPPF indicates that proposals for retail, leisure and office development may be refused planning permission where a significant adverse impact is likely to arise. It is important to appreciate that any new development involving town centre uses will lead to some impact on existing facilities. The key consideration, as set out in paragraph 90, is the extent of the impact and whether it is considered to be 'significantly adverse'.

The proposed development consists of two retail units, the total gross floor 4,418 square metres. The proposed floorspace is clearly above the national threshold. In this context, and taking into account the requirements of saved policy S8 of the NLLP, an assessment of the application proposals against the above issues is considered to be necessary and has been provided by the applicant.

There are several designated retail centres within the catchment area and they are:

- Scunthorpe Town Centre
- Ashby High Street (District Centre)

- Enderby Road (Neighbourhood Centre)
- Willoughby Road (Neighbourhood Centre)
- Ogily Drive/Park Avenue (Neighbourhood Centre)
- Andern Road (Neighbourhood Centre)
- Holme Hall Avenue (Neighbourhood Centre)
- Westerdale Road (Neighbourhood Centre).

However, due to the nature of the scale and nature of the proposed development, and in line with national guidance, the impact assessment concentrates on the larger centres of Scunthorpe and Ashby.

To establish the health of the centres, the impact assessment makes reference to the health checks undertaken as part of the 2005 North Lincolnshire Retail Study, the 2011 Trent Valley Garden Centre Retail Statement, the 2013 Lincolnshire Lakes Retail Assessment, and the more recent North Lincolnshire Retail Study 2015. The former are more than five years old, therefore, potentially out of date (although it is assumed that little will have altered since the Lincolnshire Lakes Assessment) and the latter, whilst considerably more recent, is still three years old and it is acknowledged that there could be differences in occupiers since they were carried out. Barton Willmore have also undertaken their own visits to ascertain the health of the retail centres in order to identify where centres have experienced a change in fortunes.

Scunthorpe town centre

The assessment summarises Scunthorpe town centre as a popular retail destination serving the town and the surrounding areas. There is a good range of comparison national multiples and independent retailers present. Convenience floorspace is also well represented within the town centre include Lidl and Asda, with Sainsbury's, Aldi, and Farmfoods on the edge of the centre.

It is identified that vacancy levels have marginally increased since June 2017, which is considered to be as a result of a national trend rather than due to any local issues. On the whole the vacancies are dispersed throughout the centre but they are most noticeable within the Parishes shopping centre because the units there are larger. However, the market is due to relocate to the Parishes so it is deemed possible that this may alter over the next few years as footfall increases.

Overall Scunthorpe town centre at present is concluded to be healthy, vital and viable and is stated to be benefiting from investment from the council which should serve to continue the general trend of improvement witnessed.

Ashby High Street

Ashby High Street is summarised as a traditional linear centre which has a strong representation by national multiple retailers for a district centre, including Tesco, Iceland, Heron Frozen Foods, Wilko, Home Bargains, Card Factory, Greggs. The centre is generally attractive and well maintained, although the road is busy and this is considered to act as a

barrier to movement. The new Markets are stated to provide improved public realm and are anticipated to lead to investment elsewhere as the old market site is sold for development.

The vacancy rate for Ashby is 8.9 which is well below the national average level even taking account of the vacant markets site. Overall Ashby is concluded to be a vital and viable centre which serves its local resident population well.

Impact on vitality and viability

In establishing the potential impact of the proposed floorspace the assessment estimates that the turnover will be drawn entirely from existing retailers. In reality, some of the turnover will be derived from an increase in available expenditure so the approach taken is a worst-case scenario and considered to be robust.

When drawing trade from existing retailers it has been assumed that like will impact like, and that location plays a large part in where people shop. The assessment asserts that it is known that convenience, i.e. proximity to home, is a key consideration for people when choosing where to shop, particularly for food and drink items. Therefore, the largest amount of trade has been drawn from those stores closest to the proposed development and with product lines broadly comparable. For non-food and drink a small amount of trade has been drawn from locations outside the catchment area as the household survey information identifies that there is some leakage for these goods in particular to the Gallagher Retail Park which is on the edge of the catchment area.

As the closest retail destination to the proposed development, the most trade (for both goods types) has been drawn from the Lakeside Retail Park. A high level of trade draw is also shown from floorspace located on the edge of Scunthorpe town centre. This is because there is an existing Lidl store on the edge of Scunthorpe town centre. It is envisaged that people who are loyal to Lidl but live within a five-minute drive of the application site will divert to the proposed development for their shopping. A similar amount of trade is drawn from Ashby and Scunthorpe town centre, in recognition of the former's proximity to the application site and the popularity and scale of the latter.

The impact assessment concludes that the resultant impact on centres as a whole, which is the test as outlined by NPPF and NPPG, is predicated to be 6.9% for Ashby and only 1.5% for Scunthorpe at both 2019 and 2021. These are impact levels on benchmark turnovers. Considering the respective health of the centres it is concluded that there will not be a significantly adverse impact on existing centres. It is stated that impacts of these amounts will not significantly alter the way that the retail centres operate or function and that there would not be enough trade drawn to cause existing operators to close in either Ashby or Scunthorpe.

Impact on investment

The impact assessment has not identified any extant planning permissions or planning applications currently under consideration which could be impacted upon by the proposed development. It makes reference to the publicised £60 million investment in Scunthorpe town centre, which has featured in local press and is ongoing. However, all of the existing planning consents associated with the regeneration efforts have been implemented (e.g. at Church Square).

It is concluded that the proposed development will not have a significantly adverse impact upon any committed or planned in-centre investment.

Overall the retail impact assessment submitted with the application concludes, for the above reasons, that the proposed development will have no significant adverse impact on designated town centres and as such complies with retail planning policy in this regard.

Notwithstanding the assessment provided within the submitted RS, objections have been received on behalf of Limes Developments Limited, who own the Lakeside Retail Park, and Scunthorpe Parishes Assets Limited, who the Parishes Shopping Centre. Both of these objections raise concerns with the submitted retail impact test for the following reasons:

- the use of benchmark turnovers, which are claimed to be 'irrelevant in the context of assessing impact'
- the assessment is based on out-of-date survey data
- it fails to take into account the cumulative impact of committed development elsewhere, and the scope of additional convenience sales at Lakeside Retail Park
- the health of centres is overstated in the face of evidence to the contrary
- under-estimation of the significance of forecast impacts.

Barton Willmore have responded to these points on behalf of the applicants. They have stated that benchmark turnover rates were used following agreement of this methodology at the pre-application stage. It is also noted that the benchmark turnover rates have not been used in isolation, these benchmark figures have been compared to survey derived turnovers in Table 5 of the Retail Statement to provide a context for the impact assessment.

It is further stated that the re-use of pre-existing survey information was also discussed and agreed upon as part of pre-application discussions with council officers. The survey data is five years old so on the cusp of being outdated; however, when the actual differences between the stores in the survey and the existing position are compared, the conclusion was drawn that it would form a robust base for the assessment. It is noted that the assumptions made within the Barton Willmore assessment and reasons for using existing survey data is explained within Section 5 of the RS. No evidence has been provided by the objectors to counter the conclusions of the submitted impact assessment and to demonstrate that the information used for the assessment is not appropriate.

Thirdly, reference is made to the impact that the Marks & Spencer and Debenhams stores at North Lincolnshire Retail Park will have had on Scunthorpe town centre as their construction was subsequent to the majority of the information used to undertake the impact assessment. However, it is noted that the closest competing stores to that North Lincolnshire Retail Park is at the adjacent Gallagher Retail Park. No evidence has been provided to justify the inferred impact on the town centre or to demonstrate that there would be an unacceptable cumulative impact. It is also noted that there is no requirement in retail planning policy for a cumulative impact assessment to be undertaken. The council's Spatial Planning officers have been consulted and provided advice in respect of compliance with the development plan and have not requested a cumulative impact assessment in this instance.

The additional floorspace referred to at Lakeside Retail Park relates to a recent Certificate of Lawfulness which was submitted and determined after the submission of the current

application. Barton Willmore have considered the scope of potential additional convenience sales at Lakeside Retail Park and state that *“it is our view that the occupation of in excess of 3,000 square metres of floorspace by a food retailer at Lakeside is unlikely when you take into consideration that the large foodstore operators are currently inactive and not opening new foodstores, Aldi are already present at Ashby and Lidl are committed to the Application Site.”* Other than confirmation that there is consent for additional unrestricted retail sales from Lakeside Retail Park, no evidence has been provided to justify that there is a plausible potential for the stated level of additional convenience floorspace (over 3000 square metres) to be occupied within the foreseeable future. It is considered that the submitted RS provides a robust assessment of the potential impact of the development on designated town centres as required by local and national policy despite no cumulative impact assessment being provided.

It is stated by the objectors that the health of the centres has been overstated and this is evidenced by reference to existing vacancy rates in the centres. However, there are other indicators of health which must be considered when making this assessment, in line with national guidance. These other indicators in this instance are referred to by Barton Willmore in their response to the objections and within the submitted retail impact assessment as the commitment of the local authority to invest heavily in revitalising the town’s markets and the proposed and built development around Church Square. The existence of vacant units at this current point in time, on its own is not sufficient to assess the health of the identified centres, nor to disprove the conclusions of the retail impact assessment provided by the applicants.

Barton Willmore state *“We have not denied or shied away from demonstrating an impact on existing centres but what we can say with certainty is that that impact would not be significantly adverse, which is the test that has to be met (in line with national planning policy and associated guidance). A view which we feel is shared by the local community as there have not been any objections to the proposed development by local residents, nor by the anchor stores in Ashby (i.e. Aldi).”*

In addition to the concerns outlined above, SPA also claim that if any of the retailers listed in their letter occupy the application site they would close their existing stores in Scunthorpe town centre. This claim is not supported with any evidence or justification and no further analysis is provided of their business models or likely catchment areas. Whilst the concerns of SPA are understood it is considered that this claim is unsubstantiated. The claim that the proposal would result in the closure of existing town centre stores is refuted by the applicants and is disproved by the submitted impact assessment. On this basis it cannot be given weight as a demonstration of significant adverse impact.

Whilst there are a number of variables that can be manipulated within impact assessments, and a number of assumptions are provided that are a matter of individual judgement, it is considered that the applicant has prepared a robust case and has demonstrated that the impact of the proposed development upon the vitality and viability of Scunthorpe town centre and Ashby High Street district shopping centre is within acceptable limits.

In summary, it is considered that the proposed development will not have a significantly adverse impact on the town centre and as such the impact test is passed.

Compliance with policy SCHU-17

Despite the previous refusals of applications for residential development on the site in 2009 and 2012, referred to in the Planning History section of this report above, the site was allocated for residential development in the 2016 Housing and Employment Land Allocations Development Plan Document (HELADPD). The site is allocated for up to 78 dwellings.

Policy SCHU-17 identifies the site as being currently available for development; situated in a sustainable location within walking distance to local services and employment opportunities; relatively free from physical and planning policy constraints to development; and can be accommodated by existing water infrastructure. The only constraint identified within policy SCHU-17 is the site's location within an Air Quality Management Area (AQMA).

The proposed use of the site for retail therefore represents a clear and obvious departure from the HELADPD.

It is acknowledged that North Lincolnshire Council does not currently have a five-year supply of deliverable housing sites and that the proposed development, if approved, would result in the loss of an allocated housing site that could deliver up to 78 dwellings towards meeting the council's housing targets. However, the landowner has appraised the site to establish if residential development can viably support the redevelopment of the site and the investment required to signalise the Queensway (A18)/Dudley Road junction. The viability assessment undertaken by Roger Hannah & Co concludes that the site is no longer viable for future residential use. The submitted viability assessment has been reviewed by the council's housing specialist who has agreed to the conclusions reached in the assessment and confirmed that residential development of the site is not considered to be viable. As such it is considered that the site cannot be delivered for housing, as allocated, and that it would be appropriate to consider alternative uses of the site.

Furthermore, despite the existing allocation for residential development on the site, its recent planning history calls into question the suitability of the site for residential development. The 2009 application was refused on the basis of a lack of information relating to air quality, land contamination, odour, noise and provision of affordable housing. After this, the 2011 resubmission application was supported by additional technical information and was recommended for approval by officers but refused at Planning Committee on air quality grounds. The reason for refusal related to the site's location within Zone 1 of the Air Quality Management Area (AQMA) and a concern regarding a potential breach of daily mean air quality objective for PM10. More specifically, planning permission was refused for residential developments due to concerns relating to implications that exposure of PM10 can have on health and the resultant implications and non-compliance with the European Directive.

On this basis, it is considered that the redevelopment of this site can only be achieved if an alternative (non-residential) development proposal is promoted. The applicants propose to bring forward a deliverable retail-led proposal (anchored by Lidl) that is appropriate for the site and would facilitate the sustainable redevelopment of this brownfield site in the short term.

For the reasons outlined in the paragraphs above, notwithstanding the identified conflict with adopted policy SCHU-17 of the Housing and Employment Land Allocations DPD, the proposed development is generally in accord with the relevant development plan policy and the material considerations set out in the NPPF and NPPG. Furthermore, giving due

consideration to the evidence provided to demonstrate that the site could not be viably delivered for residential development in accordance with policy SCHU-17, it is considered that the proposed development would constitute an acceptable and appropriate development in principle despite this policy conflict.

Highway safety and access

A Transport Assessment and Travel Plan have been prepared in support of the application. These documents consider the access to the development by a range of modes, including sustainable modes, and assesses the impact of additional vehicular traffic on the local highway network. These documents demonstrate that vehicular access to the site will be taken from Queensway and Dudley Road, and the existing entrance will be retained and enhanced where appropriate. Pedestrian access will also be taken from Queensway via the proposed access. A swept path analysis has been undertaken to demonstrate that the proposed site entrance is suitable for both delivery and customer vehicles.

As part of the proposals, highway improvement works are proposed which include a signalised junction (to replace the existing T-junction) at the intersection of Dudley Road and Queensway. These works will enhance the junction to facilitate all access movement across the junction. These works will also benefit the adjacent residential community. Furthermore, following discussions with the council's public transport officer, the applicants have agreed to provide a new bus stop and shelter on Dudley Road, adjacent to the site, to improve access to the public transport network.

The site is considered to be located within a sustainable location, well connected to the surrounding residential population, and provides opportunities for walking, cycling and public transport provision.

The Transport Assessment predicts 57 two-way trips in the AM peak, 202 two-way trips in the PM peak and 412 two-way trips in the Saturday peak. The TA considers that this additional trip generation is not significant in this location.

The council's Highways department has considered the supporting documents submitted with the application. The public transport officer has confirmed that the site is not as well served by public transport as claimed in the Travel Plan; however, this is proposed to be remedied via the provision of a new bus stop and shelter on Dudley Road. The public transport officer has also requested that electric vehicle charging points are provided within the development. Both the new bus shelter and the provision of electric charging points can be secured by condition.

Highways officers have raised no objection to the proposed development on highway safety grounds subject to number of conditions to secure the access, parking and servicing arrangements detailed within the application.

For these reasons it is considered that, subject to the conditions recommended by the Highways department, the proposed development is acceptable in respect of the proposed access arrangements and that the development will not have an unacceptable impact on highway safety.

Design and visual impact

The application site is currently vacant and has a negative impact on the visual amenity of the area due to the vegetation and remains of structures that are currently present. The

surrounding area exhibits a range of different uses, including residential, industrial and commercial and as such there is a wide mix of design and materials in the locality.

The proposed development has been designed in a contemporary modern style. The retail units have a clean, uncluttered appearance making use of large areas of cladding and glazing. Hard landscaping on the site will predominantly take the form of the parking and servicing areas located internally within the site, with landscaping areas provided along the southern and western boundaries which front Queensway and Dudley Road respectively.

The proposed development will represent a significant visual improvement of a prominent site within the urban area. The scale of the proposed buildings and associated development is considered to be appropriate given the context of the application site and the nature of existing developments in the wider area.

On this basis it is considered that the design of the proposal is appropriate for its context and would have no unacceptable impact on the amenity of the area. The proposal is therefore considered to comply with the design policies of the development plan.

Residential amenity

Air quality, noise and odour assessments have been prepared in support of the application. These reports have been assessed by the council's Environmental Health officers.

In respect of noise, noise sources considered are noise from deliveries/service yard movements, noise from externally-mounted plant and equipment, and noise from use of the car park. Baseline monitoring was undertaken on one occasion between the hours of 5pm and 6.32am in two locations close to residential properties in the vicinity of the proposed development. Monitoring alternated between the two sites. Minimal information with regard to wind conditions during monitoring has been provided.

The opening hours on the application form are for a 6am opening time, closing at 11pm, seven days a week. The hour from 6am to 7am falls within the night sensitive hours and there is therefore a greater potential for disturbance to local residents. Due to the minimal monitoring undertaken during the noise assessment this department recommends that the store is not open during the night sensitive hours. Environmental Health officers have recommended that, due to the minimal monitoring undertaken during the noise assessment, the store is not open during the night sensitive hours. However, it is noted that the aspect of the development most likely to give rise to excessive noise is the service yard located within the north-western corner of the site and that it is proposed to mitigate the impact of the service yard via the construction of an acoustic fence. It is considered that this mitigation is sufficient to prevent unacceptable noise and disturbance during the night sensitive hour proposed (6am to 6pm), particularly given the separation distance to residential properties, the nature of the surrounding area and the proximity to the A18.

With regard to the installation of externally mounted plant, maximum noise limits in accordance with BS4142:2014 have been determined; however, no plant has yet been selected so the noise emissions from plant to be installed is as yet unknown.

Subject to a number of conditions, including a condition to secure a service yard noise management plan, Environmental Health officers have raised no objection due to noise.

In respect of odour, the submitted report concludes that the odour effect of the nearby TSC Foods (Sauce Factory) on the proposed development is insignificant. This is based on a

risk assessment approach as described in the IAQM guidance on assessment of odours for planning (IAQM, 2014). No mitigation is therefore proposed in respect of odour. The Environmental Health officers agree with the methodology and conclusions drawn from this assessment.

In respect of air quality, it is noted that the site is situated in an Air Quality Management Area. The submitted Air Quality Assessment has assessed the operational impacts of the potential for increased emissions arising from the additional traffic on local roads, due to the proposed development. Concentrations have been modelled for 30 receptors, representing existing properties where impacts are expected to be greatest.

The assessment has concluded that concentrations of nitrogen dioxide, PM10 and PM2.5 will remain well below the objectives at all existing receptors in 2019, with or without the proposed development. This conclusion is consistent with the outcomes of the reviews and assessments prepared by North Lincolnshire Council, which show that exceedances of the PM10 objective are unlikely at any location in recent years. Overall, the operational air quality effects of the proposed development are stated to be 'not significant'.

The council's Environmental Health officer (EHO) has considered the submitted Air Quality Assessment and has made comments in respect of a lack of clarity over whether there have been any exceedances of the annual mean EU limit value for nitrogen dioxide in the study area and in respect of residential accommodation above the Ashby Lodge public house which has not been included in the assessment. Firstly, the EHO identifies in their response that the *Air Quality Plan for tackling roadside nitrogen dioxide concentrations in Yorkshire & Humberside (UK0034)* produced by DEFRA in July 2017 does not identify any exceedances of the EU Limit Value within North Lincolnshire; and paragraph 4.8 of the submitted AQA further confirms that Defra's roadside annual mean nitrogen dioxide concentrations (Defra, 2017b), which are used to report exceedances of the limit value to the EU, and which have been updated to support the 2017 Air Quality Plan, do not identify any exceedances within 1 kilometre of the development site in 2015. Secondly, whilst the Ashby Lodge site has not been included in the impact assessment, the impact on 30 residential receptors has been modelled, a number of which are much nearer the application site than Ashby Lodge. The impact assessment concludes that the impact on any of the residential receptors is negligible, with the percentage changes in concentrations, relative to the air quality objective (when rounded), predicted to be zero at all of the receptors in respect of both roadside nitrogen dioxide and PM₁₀. On this basis, notwithstanding the concerns raised by the EHO, it is considered that the submitted AQA provides a robust assessment of the potential impact of the proposed development on air quality in the area and provides assurance that concentrations of nitrogen dioxide, PM10 and PM2.5 will remain well below the objectives following development of the site. As such the proposed development is considered to result in no unacceptable potential impact on air quality in the area.

The council's EHO has also requested that, in line with the *Institute of Air Quality Management Land Use Planning and Development Control: Planning for Air Quality January 2017* document, electric vehicle charging points be provided on site to promote the use of low emission vehicles. It is considered that this condition is appropriate and would help to mitigate the impacts of the development in respect of air quality. A similar condition has been requested by the council's public transport officer and it is considered that a single condition can be used to secure a suitable number and design of electric vehicle charging points to secure benefits in respect of sustainable transport and air quality.

A condition is also suggested to secure the submission and implementation of an acceptable Construction Environmental Management Plan. This is a standard condition placed on most large-scale developments to ensure that there are no unacceptable impacts on amenity as a result of the construction phase of the development. Again this condition is considered to pass the relevant tests and is recommended for inclusion should planning permission be granted.

For the reasons set out in the preceding paragraphs it is considered that the proposed development would have no unacceptable impact upon residential amenity in respect of noise, air quality, odour or construction operations subject to the identified conditions. Therefore the proposed development is considered to comply with policies DS1 and DS11 of the North Lincolnshire Local Plan and policy CS5 of the Core Strategy.

Ecology

An Ecology Appraisal has been prepared in support of the application. The survey was undertaken in February 2018. It establishes that, because the site is brownfield in nature and comprises predominately hardstanding, with smaller areas of short perennial vegetation with shrub and habitat, the site is of low conservation value.

It concludes that the development of the site will not result in any negative impact on statutory or non-statutory designated sites, nor are there any ponds located within the site or within 500 metres. There are no great crested newts recorded in the area. All the buildings on site have been long since demolished and the site provides no roosting features for bats. The site has also been considered as being unsuitable for reptiles.

The council's ecologist has reviewed the submitted Ecology Appraisal and originally objected to the application due to concerns that the survey work was undertaken at the incorrect time of year and that there was a lack of biodiversity enhancement incorporated within the submitted landscaping scheme. Following the submission of updated landscape proposals to include improved biodiversity enhancement on site, the ecologist has removed their initial objection and now raises no objection subject to conditions to protect nesting birds and to secure appropriate biodiversity enhancement on the site.

Giving due consideration to the technical information submitted in support of the application and the lack of objection from the council's own ecological expert, it is considered that the proposed development will have no unacceptable ecological impact and will provide suitable biodiversity gain. As such the proposal is considered to comply with policy CS17 of the Core Strategy.

Contamination

A Desk Study Ground Geo-Environmental Assessment and Remediation Strategy has been prepared to inform this application and the future redevelopment of the site. These technical studies acknowledge that the site was previously registered as a waste transfer site which was authorised to handle waste, including ferrous and non-ferrous metals, non-hazardous construction and demolition waste, non-hazardous fly-tipped waste removed (from Yorkshire Electricity substations) as well as tins containing residues of Mdi (Methylenediphenyl Di-isocyanate).

The technical work undertaken identifies a number of potentially contaminative historical uses of the site and outlines work carried out in a previous ground investigation (by Joynes

Pike Associates, 2007) which identified elevated concentrations of arsenic, nickel, TPH and PAH within Made Ground deposits and elevated levels of arsenic and nickel in the natural deposits. Elevated levels of TPH have also been recorded surrounding the location of an underground diesel tank and an oil sump within the north-west corner of the site. A Human Health Risk Assessment has also been undertaken (by Joynes Pike Associates and reviewed by Halcrow in 2007). This identified concentrations of hydrocarbons within Made Ground and the underlying Sutton Sand Formation which pose a risk to future site occupants and neighbouring occupants.

Remediation/mitigation measures have been set out in the submitted document and these can be incorporated into the scheme. The remediation strategy (prepared by Atkins) also confirms the procedures should any additional risks arise during the construction stage of the project. It confirms that these can be adequately managed by adopting appropriate control measures and working methods during construction.

The council's Environmental Health Officer (EHO) has reviewed the submitted Desk Study Ground Geo-Environmental Assessment and Remediation Strategy and whilst they find the proposals for remediation acceptable in principle they do raise some concerns with two specific elements of the remediation scheme. Firstly, the remediation scheme is unclear in respect of the gas protection measures being proposed for the site. Secondly, no proposals for the removal of the asbestos materials from site has been provided and the EHO has confirmed that they would expect that an assessment and method for the safe removal of the ACMs be provided by the applicant prior to any works taking place. As there are no objections to the remediation scheme in principle, the EHO has suggested a condition to deal with the outstanding concerns; this condition would require the submission and implementation of an updated remediation scheme, which would include the clarification and additional information set out above. Subject to this condition the EHO raises no objection in respect of land contamination.

The Environment Agency has also made representations in respect of contamination. The EA comments that the previous use of the site as a former Yorkshire Electricity depot presents a potential risk of contamination that could be mobilised during construction to pollute controlled waters. The site is located on a Secondary aquifer A comprising superficial blown sand which is underlain by solid geology of the Frodingham Ironstone.

Having reviewed the submitted documentation, the EA has confirmed that there are several omissions from the remediation strategy and verification plan. Specifically, there is no risk assessment or remediation criteria to establish if remediation has been successful. Where underground storage tanks are removed, the EA would expect verification samples to be taken from the base and sides of the excavation and it is not clear whether this will be carried out or not. Furthermore, the proposed import criterion is not considered to be protective of controlled waters and the verification report does not include the results from any verification samples taken. Notwithstanding these comments, the EA raises no objection to the proposed development in respect of contamination and considers that the identified deficiencies with the submitted remediation strategy and verification plan can be addressed via a condition. The proposed condition duplicates that recommended by the council's EHO and it is considered that this condition will adequately protect against the potential for land and groundwater contamination.

On this basis it is considered that, subject to the identified condition, the proposed development poses no unacceptable risk in respect of contamination. Therefore, the proposal is considered to comply with policy DS11 of the North Lincolnshire Local Plan.

Drainage

The accompanying Flood Risk Assessment and Drainage Strategy concludes that the proposed development site is located wholly within Flood Zone 1, according to the Environment Agency Flood Map and hence is at low risk of fluvial flooding. Similarly, the site is at low to negligible risk of flooding from tidal waters, surface water run-off, ground water and artificial sources. Furthermore, following assessment and liaison with Severn Trent, the risk associated with sewer flooding is concluded to be low.

The proposed surface water drainage system will incorporate SuDS. The Drainage Strategy considers subsurface storage and permeable paving to be suitable SuDS techniques, given the characteristics of the site and the development proposals. Details of the SuDS configuration will be determined during detailed design and secured via condition. It is anticipated that two storage structures, one on each development, will be distributed throughout the proposed development.

No objections have been received in respect of flood risk or drainage from the Environment Agency, Severn Trent Water or the council's Drainage team. The council's drainage officer has requested a condition be attached to any approval of planning permission to secure the provision and implementation of a detailed surface water drainage scheme based upon the submitted Drainage Strategy. Subject to this condition, and given the lack of objection from the relevant consultees, it is considered that the proposed development will have no unacceptable impact in respect of flood risk or drainage. As such the proposal is considered to be compliant with policies DS14 and DS16 of the North Lincolnshire Local Plan and policy CS19 of the Core Strategy.

Miscellaneous matters

Benefits of the scheme

As part of their application the applicant has indicated that the proposed development will bring benefits to the local area in terms of additional investment and local employment. The key benefits to the scheme are identified as:

- multi-million pound investment in a site that is a priority for regeneration;
- linked trips to support other shops and services in the area;
- improvements to the public realm and pedestrian accessibility;
- job creation;
- improvements to the junction of the A18 (Queensway) and Dudley Road;
- increase in the local availability of accessible car parking; and
- improvement to the local retail offer, choice and shopping environment.

It is stated that the proposed retail units will provide employment for 40 full-time equivalent members of staff. Given the nature of the development, it is anticipated that a significant percentage of the jobs created would be local in nature.

Furthermore, the proposed development would provide for the redevelopment of a prominent brownfield site, which has a negative impact on the visual amenity of the locale and has stood vacant for a significant length of time and has been proven to be unviable for its currently allocated (residential) use.

Conclusion

It is acknowledged that the proposed development constitutes a departure from adopted development plan policy, in that the site is currently allocated for residential development under policy SCHU-17 of the HELADPD. It is further acknowledged that the council does not currently have a demonstrable five-year supply of deliverable housing site and that the proposed development would have a negative impact on the council's ability to meet its housing targets. However, sufficient evidence has been provided to demonstrate that the site could not be viably developed in residential use and as such would unlikely be brought forward for housing whether the proposed development is approved or not. Therefore, it is considered appropriate to consider alternative uses for the site such as retail development as proposed rather than see a prominent brownfield site remain vacant and undeveloped.

Local and national planning policy along with guidance set out in the NPPG are clear and consistent in requiring local planning authorities, when considering proposals for town centre uses in out of centre locations, to apply a sequential approach and consider the impacts on the existing centre. The applicants have provided evidence to demonstrate that both the sequential and impact tests have been carried out, and that the proposed development passes these tests. As such the development of the site for retail purposes is considered to accord with the relevant policies that deal with the location of such uses and to be acceptable in principle.

The issues relating to highway safety, including the requirement to provide safe and suitable access, have been fully considered, as have those relating to the accessibility of the site by sustainable modes of transport. It has been concluded, subject to suitable conditions, that the proposed development will have no unacceptable impact to the local highway network and that safe access and egress can be provided subject to the improvement and signalisation of the Dudley Road/Queensway junction.

The design and visual appearance of the buildings are considered to be acceptable given the context of the site. No existing trees and landscaping will be lost as a result of the development and the appearance of the site will be further enhanced via the implementation of a scheme of soft landscaping, which will also provide biodiversity enhancement. The scheme is therefore considered to have no unacceptable impacts with regard to visual amenity or ecology.

A number of conditions have been recommended to control activities on site during construction and operation as well as securing suitable management plans. It is considered that these conditions will reasonably and effectively protect the amenity of neighbouring residential properties.

Conditions will be used to secure an acceptable drainage scheme for the disposal of surface water and this will be agreed with the council's Drainage team, prior to development commencing.

Other material considerations to be attributed weight in the planning balance, in accordance with the NPPF, are the economic benefits of the scheme, including the

provisions of short-term (construction) and long-term (operation) employment, stimulation of the local economy and the redevelopment of a prominent brownfield site that has remained vacant for a significant length of time.

In conclusion, it is considered that any negative impacts of the scheme have been appropriately identified and are either not significant, or have been adequately mitigated through the design of the scheme or the use of conditions. The benefits of the scheme are considered to outweigh any residual adverse impacts.

RECOMMENDATION Grant permission subject to the following conditions:

1.

The development must be begun before the expiration of three years from the date of this permission.

Reason

To comply with section 91 of the Town and Country Planning Act 1990.

2.

The development hereby permitted shall be carried out in accordance with the following approved plans: 14-042 P001, 14-042 P002 rev C, 14-042 P010 rev A, 14-042 P101, 14-042 P102 rev A, 14-042 P103, 14-042 P200 rev A, 14-042 P201.

Reason

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

3.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) the net sales area of the foodstore hereby approved shall not exceed 1,763 square metres, of which no more than 20% of the net sales area shall be used for the sale of comparison goods. The net sales area of the non-food retail unit shall not exceed 1,851 square metres, of which no more than 20% shall be used for the sale of food and drink.

Reason

To protect the vitality and viability of nearby centres in accordance with policy S8 of the North Lincolnshire Local Plan.

4.

No development shall take place until details showing:

- (i) all within-highway works required to provide a signalised all-ways junction at Dudley Road/Queensway which shall be designed to operate on a stand-alone MOVA system;
- (ii) the method of improving the existing carriageway and footways on Dudley Road from the junction of Queensway up to and including the vehicular access to the site;
- (iii) the provision of suitable bus stop facilities on Dudley Road;
- (iv) the provision of on-site electric vehicle charging points;

have been submitted to and approved in writing by the local planning authority.

Reason

In the interests of highway safety and to comply with policies T2 and T19 of the North Lincolnshire Local Plan.

5.

The development shall not be brought into use until:

- (i) all within-highway works approved under condition 4 above;
- (ii) the pedestrian and vehicular access points to the site;
- (iii) the access roads to the service and customer parking area;
- (iv) the loading, off-loading and turning areas for all vehicles;
- (v) the parking spaces and access aisles (including surface markings);
- (vi) the cycle parking facilities; and
- (vii) appropriate on-site electric vehicle charging points;

have been provided in accordance with the approved details and all of these facilities shall thereafter be retained.

Reason

In the interests of highway safety and to comply with policies T2 and T19 of the North Lincolnshire Local Plan.

6.

The proposed development shall not be brought into use until a delivery/servicing management plan (including delivery times) has been submitted and approved in writing by the local planning authority. Once approved the delivery/servicing plan shall be implemented, reviewed and updated as necessary.

Reason

In the interests of highway safety and to comply with policies T2 and T19 of the North Lincolnshire Local Plan.

7.

The final travel plan shall be submitted to and approved in writing by the local planning authority within six months of the proposed development being brought into use and all conditions and requirements of the plan, once approved, shall be implemented and retained at all times.

Reason

To ensure that the proposed development operates in a safe and sustainable manner with minimal disruption to the highway network.

8.

The travel plan, once approved and in place, shall be subject to monitoring on an annual basis for a period of three years from the approval date. The monitoring report on the impact of the travel plan shall be submitted to the local planning authority on the first of January each year following the grant of planning permission. All amendments to the approved travel plan identified as a result of the monitoring process shall be implemented and retained.

Reason

To ensure that the proposed development operates in a safe and sustainable manner with minimal disruption to the highway network.

9.

No development shall take place until a construction phase traffic management plan showing details of all associated traffic movements, including delivery vehicles and staff/construction movements, any abnormal load movements, contractor parking and welfare facilities, storage of materials and traffic management requirements on the adjacent highway, has been submitted to and approved in writing by the local planning authority. Once approved the plan shall be implemented, reviewed and updated as necessary throughout the construction period.

Reason

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

10.

Unless otherwise agreed by the local planning authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts 1 to 2 below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the local planning authority in writing until part 3 has been complied with in relation to that contamination.

Part 1: Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Part 2: Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority.

Part 4: Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Part 1, which is subject to the approval in writing of the local planning authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority in accordance with Part 2.

Reason

To ensure that risks from land contamination to future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors in accordance with policy DS7 of the North Lincolnshire Local Plan.

11.

The retail units shall only be open to the public between the hours of 6am and 11pm.

Reason

To avoid the unacceptable loss of amenity to local residents through noise, which would be contrary to policy DS1 of the North Lincolnshire Local Plan.

12.

No development shall take place until the specification of the proposed acoustic barrier has been submitted to and approved in writing by the local planning authority. The specification shall include details of the location, size, and design of the barrier, with predicated noise reduction over the frequency spectrum. The approved acoustic barrier shall be installed prior to commencement of the use of the site and shall be maintained thereafter.

Reason

In the interest of minimising the impact of deliveries on the living conditions of nearby residents.

13.

No delivery or service yard activities shall take place outside the following hours:

- 6am to 11pm Monday to Saturday

- 9am to 5pm on Sundays

and no HGV movements shall take place on the site outside these hours.

Reason

To protect the amenity of neighbouring residential properties in accordance with policy DS1 of the North Lincolnshire Local Plan.

14.

Prior to commencement of the use of the site, a service yard noise management plan shall be submitted in writing to the local planning authority for approval. The service yard shall at all times be operated in accordance with the practices and procedures set out in the approved service yard noise management plan.

Reason

To protect the amenity of the area in accordance with policy DS1 of the North Lincolnshire Local Plan.

15.

No refrigerator lorries/trailer shall park overnight within the curtilage of the site.

Reason

To protect the amenity of the area in accordance with policy DS1 of the North Lincolnshire Local Plan.

16.

No fixed plant and/or machinery shall be installed until the details have been submitted to and approved in writing by the local planning authority. The details shall include an assessment of the likely impact of the plant on residential amenity, specifying noise output and any mitigation measures necessary. All plant shall be installed and maintained in accordance with the details approved by the local planning authority.

Reason

To protect the amenity of the area in accordance with policy DS1 of the North Lincolnshire Local Plan.

17.

No development shall commence until a construction environmental management plan (CEMP) has been submitted to and approved in writing by the local planning authority. This shall include details of mitigation measures for the control of pollution including noise, vibration, dust and light during construction. All construction work shall be carried out in accordance with the approved CEMP unless otherwise agreed in writing by the local planning authority.

Reason

To protect the amenity of neighbouring properties in accordance with policy DS1 of the North Lincolnshire Local Plan.

18.

Construction and site clearance operations shall be limited to the following days and hours:

- 7am to 7pm Monday to Friday

- 7am to 1pm on Saturdays.

No construction or site clearance operations shall take place on Sundays or public/bank holidays.

HGV movements shall not be permitted outside these hours during the construction phase without prior written approval from the local planning authority.

Installation of equipment on site shall not be permitted outside these hours without prior written approval from the local planning authority.

Reason

To protect the amenity of neighbouring properties in accordance with policy DS1 of the North Lincolnshire Local Plan.

19.

During vegetation clearance and construction works, measures to avoid harm to nesting birds shall be carried out in full in accordance with section 6 of the submitted Ecological Appraisal report.

Reason

To conserve and enhance biodiversity in accordance with policies CS5 and CS17 of the North Lincolnshire Core Strategy.

20.

Within six months of the commencement of development, a revised Landscaping Scheme and Biodiversity Management Plan shall be submitted to the local planning authority for approval in writing. The plan and landscaping scheme shall include:

- (a) details for the creation and ongoing management of areas of open mosaic habitat with stony bare ground, sheep's fescue (*Festuca ovina*) and locally native wildflowers;
- (b) prescriptions for the planting and aftercare of trees, shrubs and wildflowers of high biodiversity value to provide habitat connectivity across the application site, linking with adjacent habitats;
- (c) proposed timings for the installation of the above features in relation to the completion of each building.

Reason

To enhance features of recognised nature conservation importance in accordance with policy CS17 of the North Lincolnshire Core Strategy.

21.

The Biodiversity Management Plan shall be carried out in accordance with the approved details and timings, and the approved features shall be retained thereafter, unless otherwise approved in writing by the local planning authority. Prior to the operation of the new buildings, the applicant or their successor in title shall submit a report to the local planning authority, providing evidence of compliance with the Biodiversity Management Plan.

Reason

To conserve and enhance biodiversity in accordance with policies CS5 and CS17 of the North Lincolnshire Core Strategy.

22.

No development shall take place until a detailed surface water drainage scheme for the site (including calculations) has been submitted to and approved in writing by the local planning authority. The scheme shall be based on sustainable drainage principles, an assessment of the hydrological and hydrogeological context of the development and the principles outlined in the submitted Flood Risk Assessment prepared by Atkins dated 20 April 2018. It shall also include details of how the scheme is to be maintained and managed so that flood risk, both on and off site, is not increased. Reference should be made to North Lincolnshire Council's SuDS and Flood Risk Guidance document.

Reason

To prevent the increased risk of flooding to themselves and others, to improve and protect water quality, and to ensure the implementation and future maintenance of the sustainable drainage structures in accordance with policies DS16 of the North Lincolnshire Local Plan, and policies CS18 and CS19 of the North Lincolnshire Core Strategy.

23.

The surface water drainage scheme shall be implemented in accordance with the submitted details approved under condition 22 above, shall be completed prior to the occupation of either of the retail units, and shall thereafter be retained and maintained in accordance with the scheme for the life of the development, unless otherwise agreed in writing by the local planning authority.

Reason

To prevent the increased risk of flooding to themselves and others, to improve and protect water quality, and to ensure the implementation and future maintenance of the sustainable drainage structures in accordance with policies DS16 of the North Lincolnshire Local Plan, and policies CS18 and CS19 of the North Lincolnshire Core Strategy.

Informative 1

Further consideration should be given to the discharge rates into Severn Trent Water sewers, together with clarification of the brownfield betterment rates.

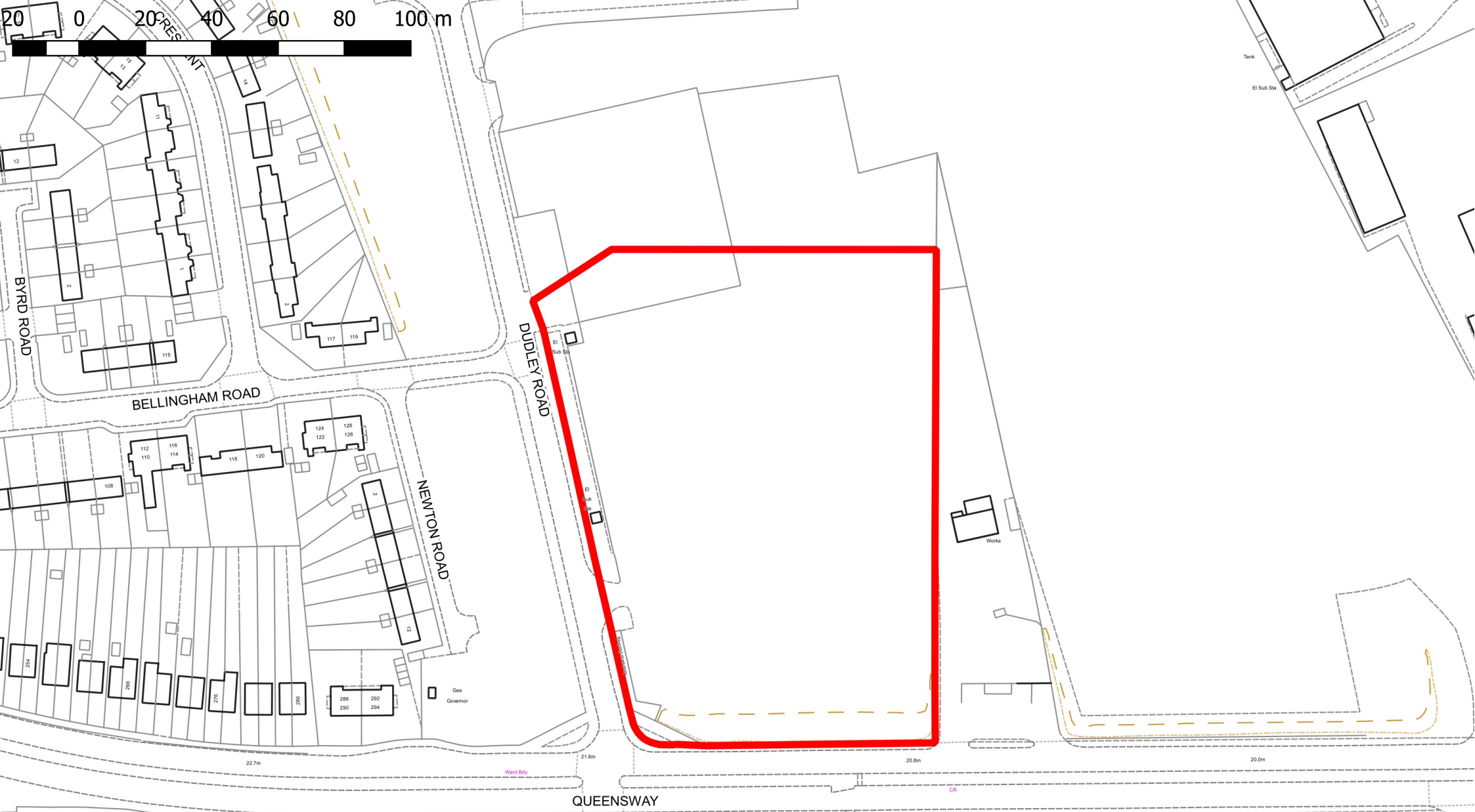
Informative 2

The development hereby granted planning permission requires works to be carried out within the limits of the adopted (public) highway. Therefore:

- before ANY construction works take place within the limits of the highway you **MUST** contact the highway authority on telephone number 01724 297000 to arrange for the relevant permissions/licenses to be issued;
- before ANY service (utility) connections take place within the limits of the highway you **MUST** contact the highway authority on telephone number 01724 297319 to arrange for the relevant permissions/licenses to be issued.

Informative 3

In determining this application, the council, as local planning authority, has taken account of the guidance in paragraph 38 of the National Planning Policy Framework in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the area.



PA/2018/1063

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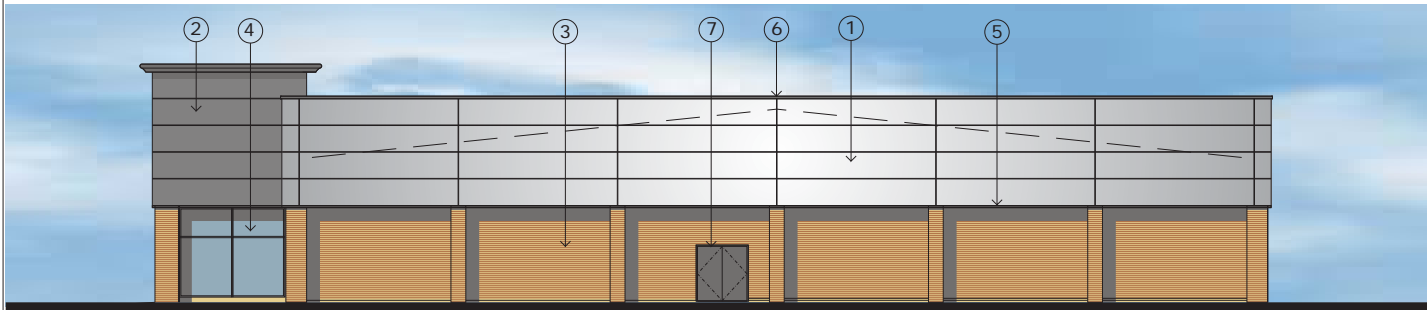
PA/2018/1063 Elevations - retail unit (not to scale)

Notes:
To be read in conjunction with relevant consultants drawings.

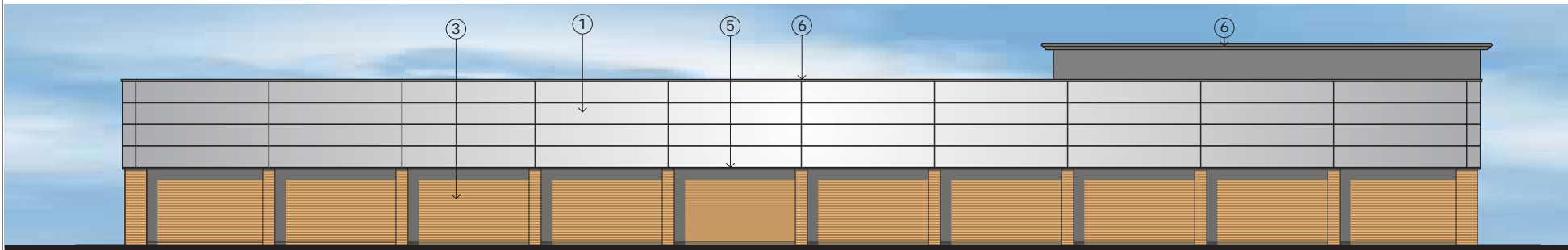
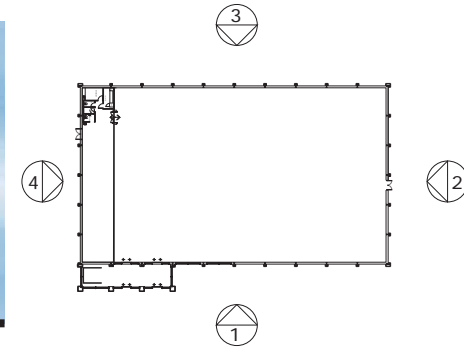
Revision:
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Title updated



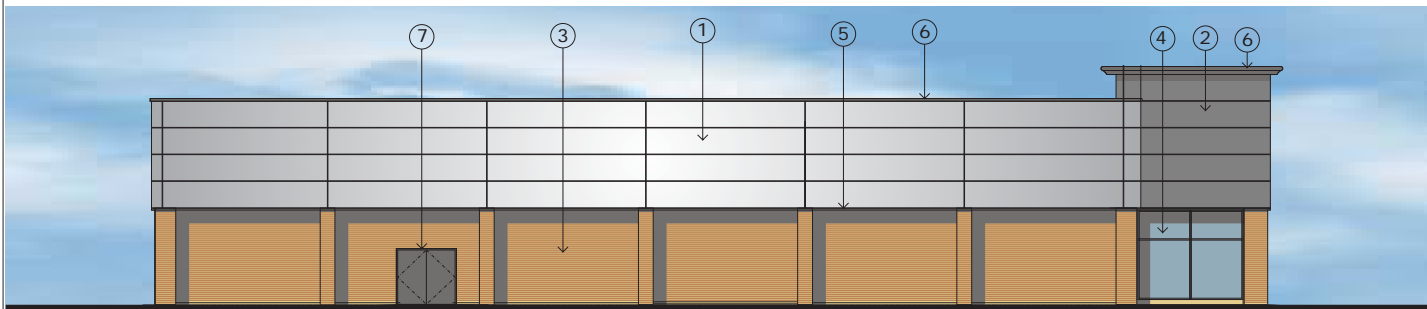
1. Front Elevation



2. Side Elevation



3. Rear Elevation



4. Side elevation

MATERIAL KEY

1. Micro rib composite cladding, Silver ral 9006
2. Micro rib composite cladding, Anthracite grey 7016 with Trepa surround.
3. Buff brickwork to be agreed
4. Powder coated aluminium shop front with glazing, Grey ral 7011
5. Powder coated Aluminium flashing, Grey ral 7011
6. Powder coated aluminium flashings, Anthracite grey ral 7016
7. Powder coated steel security doors, Grey ral 7011



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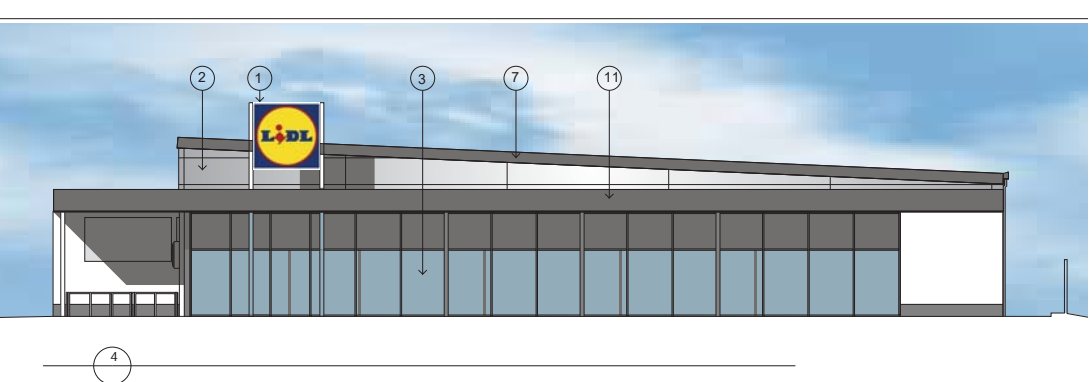
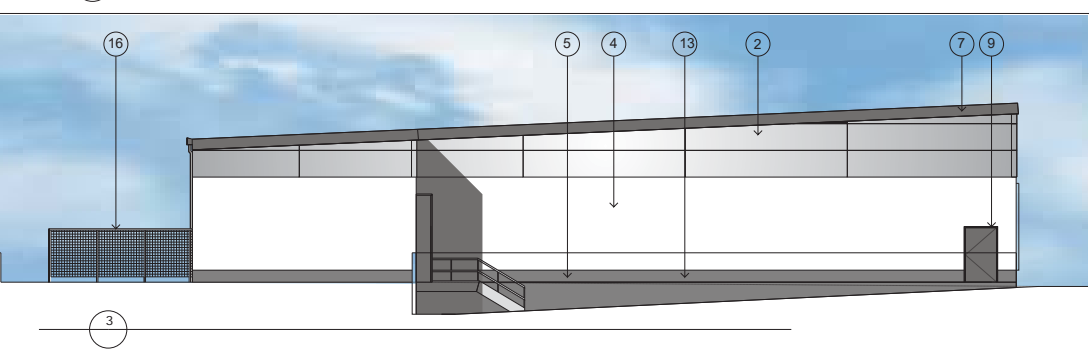
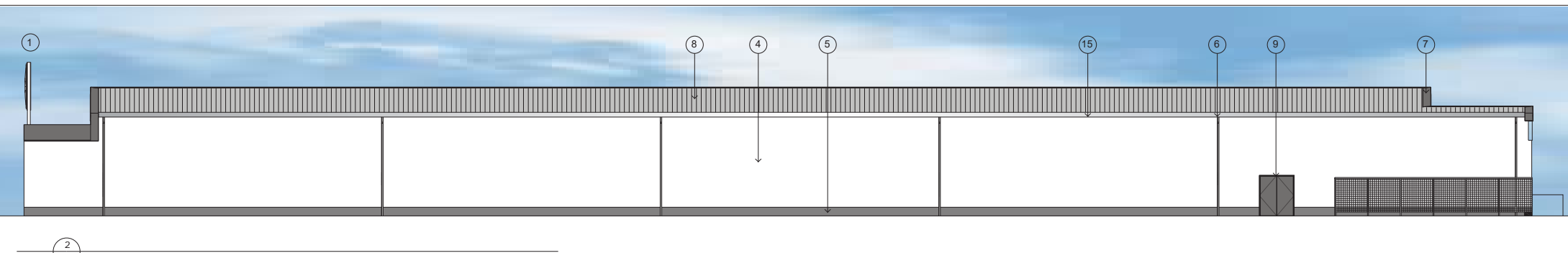
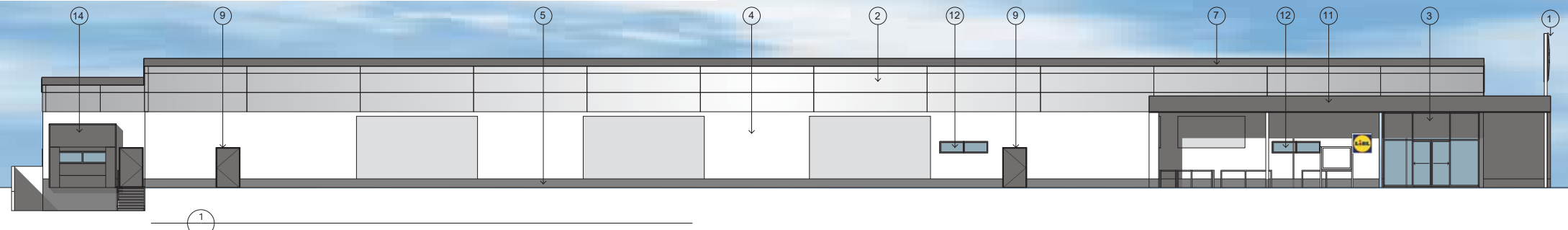
Queensway

Retail Unit
Elevations

Drawing status: Planning
CAD reference:
Drawn: LDJ
Team: Leeds
Date: 05.03.2018
Scale: 1:100@ A1

Project no: 14-042 Dwg no: P102 Rev: A

PA/2018/1063 Elevations - Lidl (not to scale)

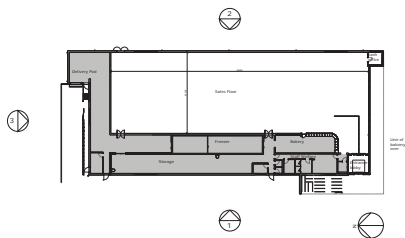


MATERIALS SCHEDULE

- ① COLUMN MOUNTED SIGNAGE ZONE
- ② INSULATED METAL PANELS OR SIMILAR APPROVED - COLOUR SILVER METALLIC 500 RAL 9006
- ③ CURTAIN WALLING AND ENTRANCE POD - DOUBLE GLAZED WITH POWDER COATED FRAMES. COLOUR RAL 7024
- ④ RENDERED EXTERNAL WALL TO BE FINISHED IN MASONRY PAINT - COLOUR WHITE RAL 9010
- ⑤ RENDERED PLINTH TO BE FINISHED IN MASONRY PAINT - COLOUR GREY RAL 7038
- ⑥ ALUMINIUM DOWNPIPES COLOUR RAL 7038
- ⑦ ROOF FLASHING - COLOUR SILVER METALLIC RAL 9006
- ⑧ COMPOSITE ROOF PANEL SYSTEM WITH SINGLE PLY MEMBRANE OR SIMILAR APPROVED
- ⑨ STEEL POWDER COATED DOOR COLOUR GREY RAL 7024
- ⑩ WALL MOUNTED SIGNAGE ZONES
- ⑪ METAL FASCIA FLASHING TO CANOPY - COLOUR RAL 9006
- ⑫ GLAZING TO STAFF AREAS
- ⑬ CONCRETE RETAINING WALL OMITTED FOR CLARITY TO SERVICE AREA. GROUND LINE SHOWN IN DASH LINE
- ⑭ ROLLER SHUTTER DOOR COLOUR RAL 7024
- ⑮ ALUMINIUM GUTTERING COLOUR RAL 9006
- ⑯ 2M HIGH PALADIN FENCE

ALL SIGNAGE ZONES INDICATED WILL BE SUBJECT TO A SEPARATE APPLICATION

ALL PROPOSED MATERIALS, FINISHES & COLOURS ARE SUBJECT TO APPROVAL BY THE LOCAL AUTHORITY



Notes:
This drawing reproduced from cad information on SMR drawing 7074-13-8100 Rev#1

Revision:



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Queensway, Scunthorpe
Lidl
Elevations

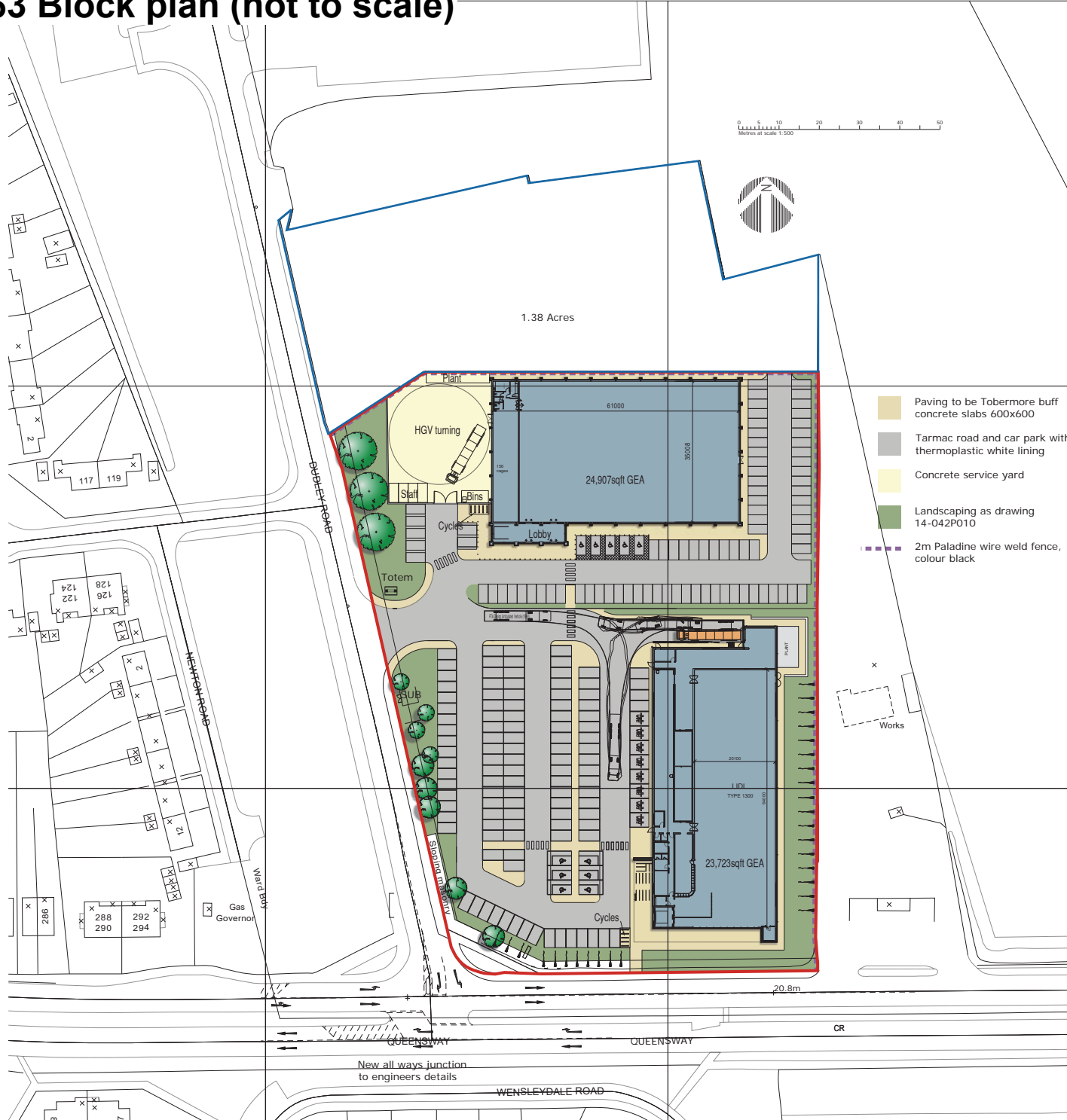
Drawing status: Planning
CAD reference:
Drawn: LDJ
Team: Leeds
Date: 22.02.2018
Scale: 1:100@ A1

Project no: 14-042 Dwg no: P201 Rev: -



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PA/2018/1063 Block plan (not to scale)



1.38 Acres



- Paving to be Tobermore buff concrete slabs 600x600
- Tarmac road and car park with thermoplastic white lining
- Concrete service yard
- Landscaping as drawing 14-042P010
- 2m Paladine wire weld fence, colour black

Notes:
To be read in conjunction with relevant consultants drawings.

Revision:
A LDJ 05.03.2018
Home Bargains updated to latest layout.
B LDJ 04.04.2018
Finishes added.
C LDJ 25.05.2018
Title of retail unit updated.



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Proposed Development
Queensway Scunthorpe
Proposed Site Plan

Drawing status: Planning
CAD reference:
Drawn: LDJ
Team: Leeds
Date: 09.02.2018
Scale: 1:500@ A1

Project no: 14-042
Dwg no: P002
Rev: C

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