

**BOSTON BOROUGH COUNCIL**

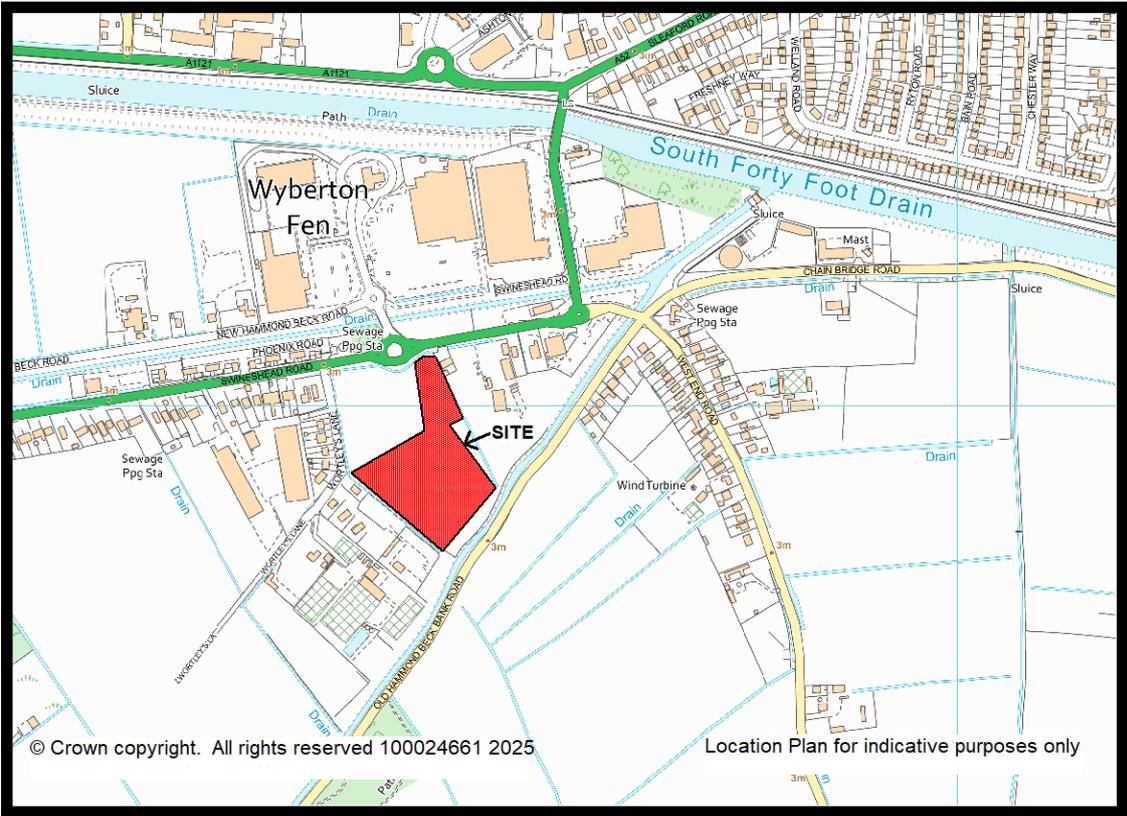
**Planning Committee - 09 Sept 2025**

Reference No: B/25/0042  
Expiry Date: 05-May-2025  
Extension of Time: TBC  
Application Type: Major - Full Planning Permission  
Proposal: Construction of a retail unit (Use Class E(a)) including car parking, landscaping and associated works  
Site: Land south of, Swineshead Road, Boston PE21 7JE  
Applicant: Carta Real Estate (Boston) Ltd  
Agent: Charlotte Perry, Planning Potential

Ward: Wyberton Parish: Wyberton Parish Council

Case Officer: Sam Dewar Third Party Reps: 5  
(Consultant Planning Officer)

**Recommendation: Approve subject to conditions and signing of a Section 106 agreement**



## **1.0 Reason for Report**

- 1.1 The proposal raises some policy issues that requires consideration by the members of the Planning Committee.

## **2.0 Application Site and Proposal**

- 2.1 The site is located to the south of Swineshead Road and east of Wortleys Lane, Boston. It consists of part of an agricultural field. The South East Lincolnshire Local Plan 2019 shows the site as being: within the Countryside (albeit close to Boston's Settlement Boundary); and within the Safeguarding Corridor. Land to its west (on the opposite side of Wortleys Lane) is identified as Housing Allocation Wyb013 where 85 dwellings are expected to be built. To the west of the application sites lies dwellings and a commercial yard, to the east agricultural land with farm buildings, public houses and a drive through coffee shop. To north lies an existing McDonalds restaurant, dwellings and out of town retail premises. The land to the south is further agricultural I fields. Access to the site is gained using the estate road leading from the A52/ Westbridge Road roundabout.
- 2.2 The application submitted describes the proposal as the construction of a retail unit (Use Class E(a)) including car parking, landscaping and associated works.
- 2.3 The full site area measures 10,425 square metres with the proposed new internal floorspace of the retail unit at 2,005 square metres (with a tradeable floor area of 1,604 square metres). The single storey building would have a maximum elevation of 8 metres and as detailed in the submitted Design and Access Statement, the proposed development will have a contemporary design consisting of large glazed areas and off-white cladding panels.
- 2.4 The application form details that 70 full time equivalent jobs are proposed with hours of opening 8am to 10pm Monday to Saturday and 10am to 5pm on Sundays/Bank Holidays. In total 160 car parking spaces are proposed (134 standards, 6 accessible, 6 parent and child, 7 EV and 7 staff spaces. Additionally, space for parking 16 bicycles is proposed.
- 2.5 Details of soft landscaping have been provided with the submitted landscaping plan which shows a mixture of native shrubs, hedges and trees are to be planted around the application site. Where possible existing boundary landscaping is to be reinforced with additional planting. Existing Willow trees to the south of the site (T8 and T9) are also to be retained.
- 2.6 The application is accompanied by the following documents and plans:
- Application Form;
  - Delivery and Servicing Plan;
  - Flood Risk and Drainage Assessment;
  - Appendix E - Proposed Drainage Calculations;
  - Phase II Geo-environmental Assessment;

- Sequential Assessment Proformas;
- Planning and Retail Statement;
- Environmental Noise Impact Assessment;
- MEL-549-003 Rev P4 Detailed Soft Landscaping - Plot 4 M&S;
- Transport Assessment Rev B;
- Travel Plan Rev B;
- P18-006-ZZ-XX-HYD-RP-C-9000 Drainage Strategy;
- Biodiversity Statement & Metric Assessment;
- 5813-2r2 Air Quality Assessment;
- PM\_40\_50\_21-0006 Rev P01 Proposed Elevations;
- Design and Access Statement;
- PM\_40\_50\_21-0007 Rev P01 Proposed Roof Plan;
- PM\_40\_50\_21-0005 Rev P01 Proposed Ground Floor Plan;
- RT-MME-180260-01 Preliminary Ecological Appraisal;
- PM\_40\_50\_21\_0004 Rev P04 Proposed Site plan;
- PM\_40\_50\_21\_0003 Rev P02 Overall Existing Site Plan;
- PM\_40\_50\_21\_0002 Rev P02 Existing Site Plan;
- PM\_40\_50\_21\_0001 Rev P02 Site Location Plan;
- LCC Highways technical response; and
- Retail response from applicant.

2.7 The application has been considered in light of the following background papers:

- South East Lincolnshire Town Centre & Retail Capacity Study;
- South East Lincolnshire Town Centre & Retail Capacity Study Technical Appendix;
- Town Centres and Retail Planning Practice Guidance ('the Town Centres PPG'), which was updated on 18 September 2020;
- National Landscape Character Areas and Assessment;
- Town and Country Planning Act 1990 Environment Act 2021;
- National Landscape Character Assessment;
- Lincolnshire Biodiversity Action Plan;
- Strategic Landscape Capacity Study of Boston Borough;
- The Historic Character of the County of Lincolnshire;
- The Historic Character of the County of Lincolnshire Historic Landscape Character Zones; and
- Global Data figures - published March 2025.

### **3.0 Relevant History**

- 3.1 PENQ/24/0049 – Pre application advice request for the construction of a retail unit (Use Class E(a)) together with car parking, landscaping, and associated works – Advice issued 11<sup>th</sup> December 2024
- 3.2 B/20/0432 – full planning permission was granted on 11th March 2021 for a freestanding restaurant with drive-thru facility, car parking, landscaping and associated works.
- 3.3 B/20/0432/NMA – an amendment to the design of the restaurant permitted under B/20/0432 was approved on 30th June 2021.

- 3.4 B/24/0157 – full planning permission was granted on 29th May 2024 for installation of two rapid electric vehicle charging stations and ancillary equipment, and changes to the layout of the restaurant’s car park.
- 3.5 B/22/0431 – full planning permission was granted on 20th October 2023 for the construction of a food store (Use Class E) including car parking, landscaping and ancillary works.
- 3.6 B/23/0084 – full planning permission was granted on 7th November 2023 for the construction of a drive-thru coffee shop (Use Class E) alongside car parking, landscaping, and associated works.

#### **4.0 Relevant Policy**

South East Lincolnshire Local Plan 2019 (SELLP)

Policy 1: Spatial Strategy

Policy 2: Development Management

Policy 3: Design of New Development

Policy 4: Approach to Flood Risk

Policy 6: Developer Contributions

Policy 24: The Retail Hierarchy

Policy 28: The Natural Environment

Policy 29: The Historic Environment

Policy 30: Pollution

Policy 31: Climate Change and Renewable and Low Carbon Energy

Policy 32: Community, health and Wellbeing

Policy 33: Delivering a More Sustainable Transport Network

Policy 36: Vehicle and Cycle Parking

National Planning Policy Framework 2024 (NPPF)

National Design Guide (NDG)

Planning Practice Guidance (PPG)

S66 and 72 The Planning (Listed Buildings and Conservation Areas) Act 1990

#### **5.0 Representations**

- 5.1 As a result of publicity 5 representations have been received from members of the public.
- 5.2 The letters of objection can be summarised as follows:
- Highway and traffic congestion
- 5.3 The letters of support can be summarised as follows:

- Positive impacts on new job provision
- Positive impacts on local services
- Having an M&S Store back at Boston

## 6.0 Consultations

6.1 The following consultation response have been received.

6.2 Anglian Water – Comment

First Response - Our records show that there are no assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary. Prior to occupation written confirmation from Anglian Water must be submitted confirming there is sufficient headroom at the water recycling centre to accommodate the foul flows from the development site. The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer.

From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments in the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be reconsulted to ensure that an effective surface water drainage strategy is prepared and implemented.

Second Response - This application amendments are not relevant to Anglian Water – we have no further comments to make since our last response.

6.3 Black Sluice Internal Drainage Board- Comment

First Response - Please note the Boards 9 metre Bylaw policy.

*“No person without the previous consent of the Board shall erect any building or structure (including a fence), whether temporary or permanent, or plant any tree, shrub, willow or other similar growth within 9 metres of the landward toe of the bank where there is an embankment or wall or within 9 metres of the top of the batter where there is no embankment or wall, or where the watercourse is enclosed within 9 metres of the enclosing structure” (Black Sluice IDB website).*

6.4 Cadent Gas- No Objection

First Response - Cadent own and operate a High Pressure gas pipeline that appears to run through the boundary of the planning application. I can see no mention of the Cadent high Pressure gas pipeline in the application . Cadent hold a deed of grant for an easement on this High Pressure gas pipeline and no development is permitted inside the easement without written permission.

Second Response - Looking at this planning application B/25/0042 , Cadent would now remove the objection as the latest drawings show the High Pressure gas pipeline and the easement with the stand off distances overlaid. Cadent would however like to add an informative for the applicant, Cadent own and operate a High Pressure gas pipeline that runs through the application boundary.

#### 6.5 Ecology – comments.

The ecological documentation submitted is adequate to come to a balanced conclusion regarding BNG and ecological considerations. However, amendments to the BNG assessment and statutory metric are required as well as clarification about how the development will achieve 10% BNG via a combination of on-site and off-site biodiversity provision and/or purchasing units from a 3rd party habitat bank before we can be confident that 10% BNG can be met by this development. We request a condition requiring that: Works should not be carried out in the main nesting season (March 1st – August 1st). If not possible then a suitably qualified ecologist must survey for breeding birds prior to any works beginning, and ensure that actively breeding birds are not disturbed by delaying work or excluding work from within an appropriate distance from nest locations.

If the two large trees described in the PEA will be affected in any way by the development, a ground level tree assessment will be required to assess the roosting potential for bats

A Habitat Management and Monitoring Plan will be required to describe and evidence how all habitat creation and enhancement will be managed over time to ensure that target habitat conditions will be met.

Overall, we do not believe the current metric assessment captures the additional pressures that will impact the proposed habitats, and the metric calculations should be amended to better reflect these constraints, and provide some buffer to mitigate the risk of failing to achieve the intended targets. This will correspondingly require the applicants to secure a greater amount of off-site units than currently indicated to achieve the 10% biodiversity requirement.

The applicants will need to finalize plans showing how the development will achieve 10% BNG (e.g. further on-site/off-site biodiversity provision or purchase of 3rd party units from a habitat bank). They will then need to secure their on-site and off-site gains via a s106 agreement with the authority, and submit a biodiversity gain plan, Habitat Management and Monitoring Plan, and updated metric to discharge the BNGT condition pre-commencement.

#### 6.6 Environment Agency- No objection

First Response - The proposed development will only meet the National Planning Policy Framework's requirements in relation to flood risk if the following planning condition is included. The development shall be carried out in accordance with the submitted flood risk assessment dated 19 December 2024, ref: '29006-HYD-XX-XX-RP-C-0001', prepared by Hydrock Consultants Limited and the following mitigation measures it details:

- Finished floor levels to be set no lower than 2.8 metres above Ordnance Datum (AOD)
- Flood resilience and resistance measures to be incorporated into the proposed development as stated
- These mitigation measures shall be fully implemented prior to occupation and subsequently shall be retained and maintained thereafter throughout the lifetime of the development.

Second response - We have no further comments to make on the amended plans and refer you to our letter dated 24 February 2025 for our position on this application.

#### 6.7 Environmental Health - Comment

First Response - The acoustic report considers this specific impact in terms of context which always needs to be considered. However, in terms of context it looks at both the retail areas to the north of Swineshead Road and the McDonalds site and the fact neither have service delivery restrictions. Both are such that their deliveries are not so close to housing and also in the case of McDonalds closer to the Swineshead Road where traffic noise is more prominent. It also looks to suggest that levels above the WHO/ProPG will only occur relatively infrequently 'they would not necessarily occur more than 10 times during the night / early morning delivery.' In light of this context and with an appropriate noise management plan the acoustic report implies that noise from service deliveries, whilst having an observed adverse impact is acceptable. Having considered the report and the impacts, mitigation and context I do not agree with it in terms of its conclusions I believe that the nearest neighbours, where deliveries take place before 7am, may well be awakening from sleep and have to change behaviours such as keeping windows fully closed to avoid the worst of the noise and in fact the noise will likely be both noticeable and disruptive.

Second Response - Environmental Health have no comments to make beyond those already submitted on 4/2/2025.

#### 6.8 Highways and Lead Local Flood Authority – No objection

First Response- Additional Information Required. Having assessed the Travel Plan; Rev B by Exigo Project Solutions dated October 2024, we ask the applicant to give further consideration of our comments below:

- The cycle parking must be sheltered, secure, safe, and convenient including accessible and cargo bike storage options. The specified number of spaces

proposed by the developer is in accordance with current guidance in the form of LTN 1/20 retail parking allocations.

- Finance: TP needs a budgetary commitment from the developer. Section 6.2.8 of the LCC guidance notes states: “The Travel Plan should include a commitment to ensure that the budgetary requirements for its implementation will be available for the life of the plan”
- What are the proposed sets of information or resources for the Welcome Travel Pack?
- An additional objective needs to be focused on raising awareness of the most recent Highway Code. Supporting employee’s understanding of the ‘road users’ hierarchy’ specifically.

We would also like to make the applicant aware at this early stage of the following:

- On-Site S106 Requests
- Further development of cycle parking provision, to support the development of a ‘cycle hub’ required space would be 6.5m x 3.5m.
- £30,000 + future maintenance costs to be attributed to installation of hub, cycle maintenance stand and two-tier storage racks.
- Off-Site S106 Requests
- S106 monies to support the planning and delivery of a more comprehensive, coherent and safe walking and cycling network within Boston and surrounding areas.
- Boston Local Cycling and Walking Infrastructure Plan (2021) identifies a number of interventions to support the development of walking and cycling opportunities across a coherent, direct, safe, comfortable and attractive network (LTN 1/20). Therefore, contributions to recommended interventions within the Boston LCWIP study area seek a total of £500,000.00.
- Travel plan monitoring at a cost of £5000 is required.
- In the interests of promoting sustainable travel and to reduce the dependency on car travel, there will be a requirement to provide a missing section of footway, some 590 metres along West End Road and the provision of 2no. bus stops with associated works and 1no. bus shelter located on the A52 Swineshead Road, as a condition of the grant of consent for this application.

Second Response – No objection. Conditions and Informatives have been suggested.

#### S106 Contribution Request

Based on the site’s location and the existing nearby services, to achieve modal shift, reduce single car occupancy and to further enable likelihood of bus travel, placing a pair of bus stops with one shelter near the entrance of the development at a capital cost of £19,000 would reduce the walking distance required by passengers and enable clear marked locations to both wait for services and alight from, to increase the likelihood of people using public transport. Travel plan monitoring fee at a cost of £5000 is required. Cycle Access Improvement Contribution £25,000 is required.

The applicant is required to consult with Lincolnshire County Council Transportation Services with regards the provision of the bus stops and service.

## 6.9 Historic Conservation Officer – No objection

First Response - Thank you for the consultation on application B/25/0042. I have no objections to the proposal. There is a GII listed milestone near the site entrance, so I would just suggest that care is taken during construction to prevent heavy vehicles knocking it (although I'd imagine it would be unlikely to happen anyway).

## 6.10 Wyberton Parish Council- No Objection

First Response - The councillors do not have any specific objections; however, they are concerned about the additional traffic that M&S will generate. In particular, some roads leading to Swineshead Road—especially West End Road—lack cycle lanes and require improved footpaths, with certain sections having no footpath at all.

Second Response - Wyberton Parish Council have no objections to this application.

## 6.11 Retail consultant on behalf of the Council

First response

The comments cover three main areas: the sequential assessment of sites, the town centre's health check, and the retail impact assessment.

Sequential Assessment:

- There is general contentment with the sites considered for the new M&S, pending confirmation from Boston Borough Council (BBC) Officers.
- A justification is requested for why the former Oldrids town centre store is not a suitable location.
- More detailed information is needed to support the claim that a store not on a single ground level with adjacent parking would be unviable for M&S.
- Health Check:
  - It is noted that the town centre has an increased number of vacancies compared to the national average.
  - A request is made for any other indicators that could support a conclusion that the centre is performing relatively well.

Retail Impact:

- The methodology used for the assessment is considered acceptable and consistent with a previous Aldi application.
- A request has been made for the working calculations behind the M&S sales density figure of £9,550.
- The sales density for the committed Aldi store should be reconsidered using updated 2024 Global Data to ensure its forecast turnover is still appropriate.
- The order of Table 5 in the impact assessment should be changed to show the impact of the Aldi opening first, followed by the impact of the M&S.
- Adjustments for Impact Assessment:
  - Consider a scenario where the proportion of M&S trade from outside the catchment area is reduced to 10-15%, down from 20%.
  - Re-evaluate the trade draw from competitors:

- Tesco's trade draw should be considered as high as 30%.
- Asda's trade draw is suggested to be lower, around 15-17.5%.
- The trade draw from the nearby Lidl and Aldi should be reviewed, with a figure of 10-13% suggested for both.
- The Quadrant site should be addressed in the assessment text, noting that it has been sold for alternative retail development and is unlikely to be used for convenience retail.

Second final response - Based on the briefing note from Stantec dated 7 May 2025, here is a summary of their comments on the proposed M&S store in Boston:

Overall Position: Stantec has reviewed the retail evidence and a subsequent "Retail Response" from Planning Potential. The note outlines Stantec's updated position on the key planning considerations.

#### Sequential Assessment:

- Stantec now accepts that the former Oldrids Store is unsuitable for the M&S Simply Food business model. This is due to the operational difficulties of splitting produce across multiple floors and the expected drop-off in footfall on higher levels.
- It is considered unlikely that M&S would choose to locate in the Oldrids store even if the current application were refused.
- Subject to confirmation from Boston Borough Council that no other sequential sites need assessing, Stantec believes the proposal passes the sequential test.

#### Town Centre Health Checks:

- Further evidence has been provided demonstrating positive town centre regeneration and improving visitor numbers.
- Stantec notes there is little evidence to suggest that the M&S proposal would negatively impact investment in the town centre.

#### Retail Impact:

- Methodology: The assessment uses 2019 expenditure figures. While using 2024 figures might show a slightly less favourable picture, Stantec accepts the logic of using the same methodology as the previous Aldi study for consistency.
- Calculation Error: The trade draw calculations mistakenly draw 105% of the projected turnover. Stantec notes that this error mitigates any potential benefit from using the older 2019 data and provides a more robust, worst-case impact assessment.
- Cumulative Impacts: The cumulative impacts from the M&S store are acknowledged as "higher than would normally be acceptable".
- The largest impacts are on out-of-centre stores: Aldi (27%), Lidl (35%), and Tesco (17%). However, Stantec believes these stores are unlikely to close as a result.
- The impact on the town centre Lidl is 14%. The overall impact on town centre vitality is 8.64%, which is below the general 10% threshold.
- It is highlighted that the already approved Aldi proposal has a more significant impact on the town centre Lidl than the M&S proposal does.
- Overall Conclusion on Impact: While the assessment shows there is limited demand for additional convenience stores, the M&S would introduce a new retail offer, choice, and competition to Boston. It would also offer the chance for linked

trips with nearby retailers and help retain some spending that currently "leaks" to stores outside the area.

- Quadrant Site: It has been clarified that the Quadrant site is unlikely to be developed for convenience retail, which removes the concern of it adding to the impact on existing stores

## **7.0 Planning Issues and Discussions**

7.1 The key planning issues in the determination of this application are:

- The principle of development;
- Impacts to residential amenity;
- Layout and design;
- Highway safety and parking;
- Foul and surface water drainage;
- Biodiversity net gain, and
- Any other additional considerations

### **Principle of Development**

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

7.3 South East Lincolnshire Local Plan 2019 (SELLP) at Policy 1 sets out the Spatial Strategy for the region, it directs development to the main and minor service centres. The application site is outside the development limits of Boston, defined as within the countryside. Policy 1 supports proposals in the countryside where it is necessary to be located in such a location and can also be demonstrated that it meets the sustainable development needs of the area in terms of economic, community and environmental benefits.

7.4 The proposed development for a supermarket food store is not considered necessary for a countryside location and could equally well be accommodated within an existing town or village. However, it is considered that the proposed development will meet the sustainable development needs of the area by providing economic investment into the region, having an onward benefit to local traders with a linked trips and create local jobs (70 full time equivalent). The development therefore only partly complies with the intentions of Policy 1.

7.5 However, as previously determined in applications B/22/0431 (adjacent Aldi store) and B/20/0432 (adjacent McDonalds restaurant) an element of planning judgement needs to be applied and the extent of the settlement boundary is not determinative. Whilst the considerations of Policy 1 are the starting point of any assessment of proposed developments, it is not the end of the consideration. In the case of the application site the aforementioned decisions both noted the surrounding built up areas which lack rural character. The proposed development would bring further employment and service into an area with existing services and economic activity, which on balance

make the site more suitable for the proposed use of a supermarket than open countryside.

- 7.6 Policy 24 of the Local Plan seeks to focus main town centre uses (such as a 'food and drink outlets') within town centres and district/local centres, and requires proposals for such uses which are to be established outside of a Town Centre Boundary to demonstrate their suitability through a sequential test. Proposals for retail use outside the Primary Shopping Areas as identified on the Policies Map, or for other main town centre uses, outside the town centre boundaries and where not provided for under Policy 27, will be required to demonstrate their suitability through a sequential test in line with the National Planning Policy Framework.
- 7.7 Section 6 of the applicants supporting Planning and Retail Statement details that a detailed site visit to explore potential sites in Boston took place in September 2024. The requirements for the visit were for a parcel of land around 1.04 hectares capable of delivering a food store of 2,005 square metres and parking for 160 cars (+ /- 10% in line with flexibility guidelines). Table 6.1 of the Planning and Retail Statement details that 7 Boston Town Centre and 2 Edge of Centre sites were reviewed, in summary all were either unavailable or unsuitable or in fact both. Therefore, the statement concludes that there are no sequentially preferable sites to accommodate the proposed food store.
- 7.8 The applicant's assessment considered the potential benefits and impacts of the proposed retail development when set against the criteria in paragraph 91 of the National Planning Policy Framework (NPPF). The planning system is actively encouraged to assume a 'presumption in favour of sustainable development', rather than being an 'impediment to sustainable growth'.
- 7.9 In the absence of a suitably qualified officer at the Council to make review of the submitted retail impact assessment, it was decided to instruct Stantec, a third-party consultant, to conduct an independent review of the assessment.
- 7.10 Stantec provided a first review of the submitted information on 12<sup>th</sup> March 2025 with comments provided to the Applicant regarding queries over the sequential test, other indicators to support the conclusion on the 'health check', updates to the retail impact assessment and a re-evaluation of trade draw from competitors. The Applicant provided a response (Retail Response) on 9<sup>th</sup> April 2025 before Stantec then provided a final response on 7<sup>th</sup> May 2025 which concluded that while the assessment shows there is limited demand for additional convenience stores, the M&S would introduce a new retail offer, choice, and competition to Boston. It would also offer the chance for linked trips with nearby retailers and help retain some spending that currently "leaks" to stores outside the area. It has also been clarified that the Quadrant site is unlikely to be developed for convenience retail, which removes the concern of it adding to the impact on existing stores.
- 7.11 It is clear that the cumulative impacts resulting from the additional proposed M&S store are higher than would normally be acceptable. However, the question is whether these impacts would lead to the closure of stores. The largest cumulative impact is on the out of centre stores of Aldi and Lidl (27% and 35%) respectively and also the Tesco

(17%). This is significant but these stores are not protected by the sequential test policy and in our view unlikely to close. The 14% impact on the town centre Lidl store is also relatively high, but the NPPF policy requires us to consider the overall impact on town centre vitality and viability which at 8.64% is below a general 10% rule. The impact on the Lidl store is also more acute from the Aldi proposals which has already been approved (than from the M&S proposals).

- 7.12 Altogether, the cumulative impact on other stores is significant and shows limited demand for additional convenience goods provision. However, M&S would bring to Boston a new retail offer, together with choice and competition. The development would add to the offering for the town without proposing a directly competing retail offering that would adversely affect/diminish the vitality and viability/vibrancy of Boston's town centre and primary shopping/retail area. It would also provide the opportunity for linked trips with other retailers in the vicinity of the store, retaining further expenditure (albeit likely to be modest) in the town, which perhaps currently leaks into higher end convenience stores outside the catchment. The Quadrant site is unlikely to come forward as a convenience store and therefore would not lead to further impact on existing stores in the town centre (and sequentially preferable locations).
- 7.13 It is considered therefore that the submitted sequential test is robust and that, in this respect, the proposal accords with the provisions of Policy 24. However, the Policy does not support the establishment of main town centre uses in a countryside location, i.e. it expects them to be provided 'within a settlement boundary', however, the aforementioned argument of planning judgement should be applied. Therefore, satisfying the sequential test set out at NPPF para 91 and Local Plan Policy 24.
- 7.14 Whilst the site is defined as within a countryside location, it is however in an area which has an urban character, alongside existing residential and commercial uses and it is considered that the proposed supermarket use with associated infrastructure will not appear out of place, furthermore, the third-party consultant, Stantec have provided an assessment of the retail impact and sequential test carried out and determined that the use is acceptable. Therefore, the application is in principle considered acceptable subject to the review of other material planning considerations which are discussed in turn as follows.

### **Residential Amenity**

- 7.15 Policies 2 and 3 of the Local Plan set out residential amenity and the relationship to existing development and land uses as main considerations when making planning decisions. Policy 30 of the Local Plan indicates that development proposals will not be permitted, where taking into account of any mitigation measures, they would lead to unacceptable adverse impacts upon the health and safety of the public, the amenities of the areas or the natural, historic or built environmental by way of such factors as air quality, noise, light levels and land quality and condition. These policies are consistent with advice within the NPPF at paragraph 135, which amongst other matters, seeks places with a high standard of amenity for existing and future users.

- 7.16 Paragraph 198 of the NPPF requires consideration of noise and light pollution from developments, specifically that they are designed to reduce to a minimum impacts from noise and limit light pollution from artificial light on local amenity, intrinsically dark landscapes, and nature conservation.
- 7.17 The Environmental Health Officer raised no concern over the projected noise impacts from fixed plant as detailed in the Applicant's supporting noise impact assessment, however the projected impacts from delivery vehicles have required a condition to be set which limits delivery times between the hours of 7am and 11pm only. Additionally, as no external lighting scheme has been presented, a lighting scheme condition has been recommended to ensure light spill/trespass is minimised in terms of neighbours. The Applicant has provided a contaminated land report that indicates the site is suitable for use without any remediation and the Environmental Health Officer agreed with this.
- 7.18 The application site does not have any residential properties at its boundary. The closest residential properties lie to the west across Wortley's Lane.
- 7.19 Public comments have been received during consultation with both letters of support and objection received. Objections raised included concerns over the impacts of road traffic congestion in the area of Swineshead Road, West End Road and Chain Bridge Road.
- 7.20 Overall, it is considered that the proposed development would not result in any adverse or harmful impacts upon the amenity of any nearby residential dwellings, or upon any existing surrounding businesses. This view is supported by the Principal Environmental Protection Officer who raises no objections to the proposed development subject to the imposition of conditions relating to noise and lighting as further mitigation. Therefore, the proposal is therefore considered to comply with Policies 2,3 and 30 of the Local plan as well as the NPPF at paragraph 135 and is considered satisfactory.

### **Layout and Design**

- 7.21 Policy 2 and 3 of the Local Plan states that sustainable development considerations should be met in relation to such matters as quality of design, size, scale, layout density and impact on the character and appearance of an area and the relationship to existing development. Policy 2 of the Local Plan indicates that developments will be permitted which will not have harmful impacts upon the character and appearance of the area. Policy 3 of the Local Plan stipulates that development should respect the massing of neighbouring buildings.
- 7.22 Policy 3 (criterion 1 and 3) of the Plan sets out parallel criteria dealing with the design of new development which seeks to ensure that 'development will create distinctive places through the use of high quality and inclusive design and layout'. In addition to these local policies Section 12 of the National Planning Policy Framework provides overarching guidance on 'achieving well-designed places'.

- 7.23 In the case of the current proposal, the application site is not located within a landscape of any special designation, protection or sensitivity either locally or nationally despite being outside of the settlement boundary in countryside. Furthermore, the application site is not designated as a local amenity or green public open space, and as such cannot be considered as an area of public realm.
- 7.24 The application site makes a limited contribution to the character and value of the surrounding landscape by virtue of the limited inter-visibility and interconnectivity between it and the surrounding countryside. In a similar manner, it is considered that the proposed development would not restrict or adversely affect any important or significant views from Boston to the surrounding countryside.
- 7.25 With regards the proposed design of the development, the application is supported by a Design and Access Statement (DAS). The statement explains that the proposed store is a single storey building for operational efficiency. The building stands at circa 8m tall whilst the adjacent proposed Aldi is at approximately 6.25m. The aim of the development is to “provide a high quality, attractive new food store which will enhance the local area and provide a modern shopping environment”. To achieve this the statement explains:
- the shop front will be largely glazed to create an active frontage
  - a portal frame with dark-green tile finish and illuminated box fascia sign will surround the front door.
  - structured landscaping will also shape the site and inform suitable pathways to the store entrance
  - the building will be primarily clad with off-white cladding panels to provide a contemporary aesthetic, giving a clean, crisp vernacular and reflects the modern ambitions of the site.
  - to the shop front, the lower section will be glazed whilst the upper section will be clad and include signage as per the proposed elevation drawings.
- 7.26 From a layout perspective the proposed site layout includes the food store with a gross external footprint of 2,005 square metres located at the southern boundary, with a delivery area to north western elevation and car parking to the north east and south east of the store. The layout retains the existing western boundary hedgerow and introduces additional planting along all other boundaries as well as within the car park area to aid as a visual break and soften to impact of the development and define the sites boundary. The design of the site enables clear navigation for vehicles and pedestrians as well as a route for delivery vehicles.
- 7.27 With regards hard landscaping the DAS explains how the proposed scheme uses a durable and long-lasting solution, such as the concrete panels in the service yard to ensure the longevity of the material. The service yard will be surrounded by a 2.4m acoustic timber fence to the South-West perimeter to ensure that the local residential area remains undisturbed by the development. In terms of the soft landscaping the DAS explains that the proposal will look to “use a mixture of native shrubs, hedges and trees to create a well-considered and bio-diverse natural landscape around the store”. Planting will also be used to enhance the retained existing hedgerow and willow trees

to the South-West of the site. The application also provides a landscaping plan to show this in more detail and the aims to soften the proposed development.

- 7.28 Taking into account the existing approvals for the Aldi store and the built-out McDonalds it is considered that the proposed design is consistent with the existing form, whether built out or not, and acceptable for the function needed to operate the proposed store.
- 7.29 Overall, in the opinion of officers the design approach proposed by the applicant is considered to be acceptable and of a suitably quality that would result in no adverse or demonstrable harm being caused to the character of the area. Furthermore, the design of the development would be largely in-keeping with similar modern retail developments and businesses approved the Local Planning Authority in the immediate and nearby vicinity. As such, It is considered that the proposal will not have unacceptably harmful impacts upon the character and appearance of the area, and that it therefore will meet these requirements of Policies 2 (criterion 1&2) and 3 (criterion 1&3) of the SELLP and with Chapter 12 of the NPPF. It is considered that the proposal will not have unacceptably harmful impacts upon the character and appearance of the area, and that it therefore will meet these requirements of Policy 2.

### **Highway Safety and Design**

- 7.30 Policies 2 and 3 of the Local Plan indicates that sustainable development consideration should be met in terms of access and vehicle generation levels and layout of car parking. Policy 36 as well as appendix 6 set out the minimum standards for parking provision based upon the use class.
- 7.31 The proposed development for a food store with a total of 160 car parking spaces (134 standards, 6 accessible, 6 parent and child 7 EV and 7 staff spaces) is considered appropriate and consistent with the intentions of the local plan. Additionally, space for parking 16 bicycles is proposed.
- 7.32 Public comments have been received during consultation with both letters of support and objection received. Objections raised included concerns over the impacts of road traffic congestion in the area of Swineshead Road, West End Road and Chain Bridge Road.
- 7.33 The Highway Authority response to the proposed development is supportive, following additional details submitted during consultation (Highways Technical Response 27<sup>th</sup> March) and subject to the conditions and contributions as set out later in this report. The close proximity of the application site to the A52 means the site would have a good connection to the principal local road network which is considered suitable to accommodate the operation of a food store.
- 7.34 There is no precise definition of "severe" with regards to NPPF Paragraph 116, which advises 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." Planning Inspector's

decisions regarding severity are specific to the locations of each proposal, but have common considerations:

- The highway network is over-capacity, usually for period extending beyond the peak hours
- The level of provision of alternative transport modes
- Whether the level of queuing on the network causes safety issues

- 7.35 In view of these criteria, the Highway Authority does not consider that this proposal would result in a severe impact regarding NPPF. The application is supported by a suitably detailed Transport Assessment (including estimated vehicle generation information) and supporting suite of plans which considers and assesses the likely number of vehicle movements that the scheme would generate, and the impact that this would have on existing highway conditions. This is in addition to information demonstrating how safe access and appropriate access could be achieved for the site onto and from Swineshead Road.
- 7.36 Planning conditions have been suggested and there are requests for financial contributions which are discussed in more detail in a later section of this report however for the purposes of this section it is considered that all are appropriate and in line with Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 apart from the request to address the 'missing' footway section of footway along West End Road.
- 7.37 Whilst it is noted that objectors to the application have raised concerns regarding the impact of the development upon the existing highway network, the applicant has demonstrated to the satisfaction of the Highway Authority, that the proposed access would be appropriate and would not result in harm or undermine the safety of users of the surrounding highway network. Furthermore, the Transport Assessment undertaken has also demonstrated that the likely number of vehicle movements that would be generated by the development could be accommodated and absorbed by the existing/surrounding highway network from a capacity perspective with no adverse harm arising.
- 7.38 The application site is largely accessible by walking, cycling and public transport. The proposed development also includes cycle parking and EV charging points. The planning obligations associated with the development are discussed in more detail in the later part of this report however for the purposes of this section the Highway Authority have made a number of requests for financial contributions, most notably for the 'missing' footway section of footway along West End Road. Having put this to the Applicant it is apparent that this could amount to approximately 590m of footpath. The cost associated with this is likely to be considerable and the 'missing' serves a minimal number of properties. It would enable residents from the edges of Wyberton to in theory access the proposed store on foot however walking this distance would amount to almost 2km and it is not considered that this would be desirable when carrying groceries, even in small amounts, and therefore it is not considered fairly and reasonably related in scale and kind to the development or indeed the other aspects of the CIL regulations as described. The Applicant has however agreed to other highway related contributions which includes 2 new bus stops and a cycle access

improvement contribution which coupled with the proposed on-site cycle parking and EV charging points the environmental impact related to this development can be reduced and sustainable methods of transport encouraged.

- 7.39 Therefore, considering the assessment contained within the Travel Assessment submitted, and the lack of concern or objection from the Highway Authority, it would be unreasonable to conclude that the proposal would result in demonstrably severe or adverse highway impacts or harm either from a safety or capacity perspective. As such, officers are of the opinion that there is no justifiable reason for the application to be refused on the grounds of highway safety.
- 7.40 Accordingly, the applicant has demonstrated that safe and appropriate access could be achieved to the application site. Furthermore, the applicant has demonstrated that capacity exists within the surrounding highway network to absorb and accommodate the likely number of vehicle movements that would be generated. As such, the development is considered to accord with the requirements of Policies 2 (4), Policy 3 (4) and 36 (criterion 1 and 2) of the SELLP and with Paragraph 116 of the NPPF.

### **Ecological Impacts and Biodiversity Net Gain**

- 7.41 Policy 28 of the Local Plan seeks the protection, enhancement and management of natural assets, and requires all development proposals to provide an overall net gain in biodiversity. Paragraph 192 of the NPPF states that to protect and enhance biodiversity, plans should promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species and identify and pursue opportunities for securing measurable net gains for biodiversity.
- 7.42 The application is supported by an ecological walkover survey and study along with a biodiversity statement and metric assessment and soft landscaping plan by Middlemarch Environmental Ltd. This sets out the proposed hedging as well as planting of grass and trees across the site.
- 7.43 As the application site is a greenfield site, its development means that a net gain on site is not achievable, however as detailed further in the contributions section of this report the Applicant intends to deliver their 10% net gain by purchasing credits from the Environment Bank and they are already in discussions to make their reservation.
- 7.44 This is considered an appropriate measure to offset the impacts of the development of the application site would be able to achieve a 10% BNG uplift and therefore meet the requirements of Policy 28 and the NPPF.

### **Flood Risk**

- 7.45 Policy 4 of the Local Plan seeks to ensure that any new development is not exposed to flood risks unnecessarily and does not increase the level of flood risks in other locations. The submitted flood risk assessment states that the entire site is located in Flood Zone 3 however benefits from flood defences to the South Forty Foot Drain. The report then goes on to suggest finish floor levels to be set at 2.80AOD which is 1.0m

above the ground level and marginally above the 2115 1:1000 plus climate change fluvial water level.

- 7.46 This local policy position is in accordance with National Policy as set out within the NPPF. In particular, Paragraph 170 of the NPPF states “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.”. Furthermore, Paragraph 173 states “A sequential risk-based approach should also be taken to individual applications in areas known to be at risk now or in future from any form of flooding, by following the steps set out below.”
- 7.47 In the case of the current application, it is acknowledged that the application site is located within a Flood Zone 3, being that with the highest risk of flooding and increased flood risk. However, it is noted that the majority of the Borough is similarly an area of increased flood risk vulnerability. Whilst this does not automatically preclude development proposals being approved, it does require a Local Planning Authority to undertake the necessary sequential test as part of the determination of any such planning application.
- 7.48 A sequential test is provided in appendix 8 of the submitted Planning and Retail Statement. The same catchment area (shown in appendix 4) for the proposed store was used to inform the retail sequential test. This is based on a 10 minute drive time. They looked at 9 sites which were all also within flood zone 3. However, flood risk has been further categorised by the EA in ‘Hazard maps’ and of particular relevance here is the model that look at a 1 in 200 event in 2115 accounting for climate change. This model is the basis for the hazard maps included as an appendix to the Strategic Flood Risk Assessment and should form the basis for the assessment of the sequential test. The site in question is in the highest risk category, known as Danger for All. By contrast 8 of the 9 sites identified are at lesser risk categories, with the site on Bargate Green the most preferable as not being at risk at all.
- 7.49 Notwithstanding that, the other constraints of the sites were discussed in depth within appendix 3 of the statement and in particular the availability and suitability of each one. Most sites were considered unsuitable or unavailable (or in some cases both unsuitable and unavailable) to accommodate the proposal for various reasons explained. It can, therefore, be concluded that the sites identified are not reasonably available and can therefore be discounted from the sequential test. No reasonably available sites at a lower risk have been identified and therefore the sequential test can be considered to be passed.
- 7.50 Even were this not the case, whilst significant weight would be attached to any conflict, the economic benefits of the proposal are a material consideration that would outweigh such conflict and nonetheless justify approval in this instance. In this regard the proposal can be considered to comply with the requirements of Policy 4 (criterion 1, 2 & 3) of the SELLP.
- 7.51 As the use is less vulnerable it is not necessary to undertake the exceptions test but it is necessary to consider flood mitigation to make the development acceptable. The

LLFA responded that they have no objection to the proposed development in terms of flood risk and the Environment Agency responded to the Applicants flood risk and drainage assessment by stating the mitigation measures should be implemented, which included:

- Finished floor levels to be set no lower than 2.8 metre above Ordinance Datum (AOD)
- Flood resilience and resistance measures to be incorporated into the proposed developed as stated in the

7.52 It is considered that the above measures are suitable to ensure the safety of the site for existing and future users in that the site can be developed with appropriate drainage infrastructure to ensure there would be no increased flood risk at the site or to any adjoining land. Therefore, the proposal would meet the requirements of Policy 4 and the NPPF in regards to surface water drainage, provided that a condition is applied to ensure the development is carried out with the above mitigation measures.

### **Planning Conditions and Obligations**

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

7.54 All of the pre commencement conditions presented in the following section of this report have been agreed with the Applicant prior to this committee presentation.

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

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

7.56 The Highway Authority have made a number of requests for financial contributions, most notably for the 'missing' footway section of footway along West End Road. Having put this to the Applicant it is apparent that this could amount to approximately 590m of footpath. This could be a significant cost and the Applicant has intimated to be around £300,000. Whilst this figure has not been dissected it is not doubted that this cost could be considerable. Notwithstanding this, the test of whether a contribution is acceptable is considered under the CIL regulations as stated above. The

existing footway along West End Road runs alongside a number of properties to the north of the road where it meets Swineshead Road, in close proximity to the application site. The 'missing' footway consists of a large section of West End Road from the residential section to the south as it meets Five House Lane. This section of West End Road serves a minimal number of properties however would enable residents from the edges of Wyberton to in theory access the proposed store on foot. Walking this distance however would amount to almost 2km and it is not considered fairly and reasonably related in scale and kind to the development or indeed the other aspects of the CIL regulations as described. The Applicant has however agreed to all other contributions which would be controlled via a Section 106 Legal Agreement which are listed as follows:

- 2 no. Bus Stops + 1 no. Bus Shelter on A52 Swineshead Road (estimated cost of £19,000 from LCC)
- £25,000 Cycle Access Improvement Contribution
- Travel Plan Monitoring Contribution – £5,000
- Scheme to provide suitable offsite biodiversity net gain through units acquired from a 3rd party habitat bank

## **8.0 Summary and Conclusion**

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

8.2 Whilst the application site is defined as within a countryside location, it is in an area which has an urban character, alongside existing residential and commercial uses and it is considered that the proposed supermarket use with associated infrastructure will not appear out of place, furthermore, the third party consultant, Stantec, have provided an assessment of the retail impact and sequential test carried out and determined that the use in this location is acceptable sequentially, therefore the application is in principle considered acceptable.

8.3 It is not considered that the proposal would materially harm the character or appearance of the locality or amenity of nearby residents. The highways arrangements are considered appropriate and the level of contribution deemed necessary to provide necessary improvements.

8.4 Therefore, it is considered that the proposal is in accordance with the policies of the South East Lincolnshire Local Plan 2019 and NPPF 2024 when taken as a whole and represent sustainable development. It is therefore recommended planning permission is granted subject to the conditions as set out below. Where any lack of compliance with the development plan has been identified, it is considered that the overall benefits of the scheme significantly outweigh such harm in the planning balance.

## **9.0 Recommendation**

9.1 It is recommended that Committee approve the application subject to a number of recommended conditions and the signing of a Section 106 agreement.

## RECOMMENDED CONDITIONS

1	<p>The development hereby permitted shall be begun before the expiration of three years from the date of this permission.</p> <p><b>Reason:</b> To conform with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.</p>
2	<p>The development hereby permitted shall be carried out in strict accordance with the application received 27/10/2023 and in accordance with the associated plans referenced:</p> <ul style="list-style-type: none"> <li>- MEL-549-003 Rev P4 Detailed Soft Landscaping - Plot 4 M&amp;S</li> <li>- PM_40_50_21_0006 Rev P01 Proposed Elevations</li> <li>- PM_40_50_21_0007 Rev P01 Proposed Roof Plan</li> <li>- PM_40_50_21_0005 Rev P01 Proposed Ground Floor Plan</li> <li>- PM_40_50_21_0004 Rev P04 Proposed Site plan</li> <li>- PM_40_50_21_0001 Rev P02 Site Location Plan</li> </ul> <p><b>Reason:</b> To ensure that the development is undertaken in accordance with the approved details, and to comply with Policies 2, 3, 4, 28, 29 and 36 of the South East Lincolnshire Local Plan 2019.</p>
<p><b>Pre-commencement conditions:</b></p>	
3	<p>Development may not begin unless a biodiversity gain plan has been submitted to and approved by the Local Planning Authority.</p> <p><b>Reason:</b> To comply with Schedule 7A of the Town and Country Planning Act (1990, as amended).</p>
4	<p>No development shall take place until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be completed before the development is used. The scheme shall:</p> <ul style="list-style-type: none"> <li>- be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development;</li> <li>- provide flood exceedance routing for storm event greater than 1 in 100 year;</li> <li>- provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100-year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;</li> <li>- provide attenuation details and discharge rates which shall be restricted to no more than what would be the greenfield run-off rate of the undeveloped land;</li> <li>- provide details of the timetable for and any phasing of implementation for the drainage scheme and</li> <li>- provide details of how the scheme shall be maintained and managed over the lifetime of the development, including any arrangements for adoption by any public body or Statutory</li> </ul>

	<p>Undertaker and any other arrangements required to secure the operation of the drainage system throughout its lifetime.</p> <ul style="list-style-type: none"> <li>- Retailing from the permitted development shall not be commenced until the approved scheme has been completed or provided on the site in accordance with the approved phasing. The approved scheme shall be retained and maintained in full, in accordance with the approved details.</li> </ul> <p><b>Reason:</b> To ensure that the site can be adequately drained.</p> <p>This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in paragraph 182 of the National Planning Policy Framework, 2024.</p>
5	<p>No development shall take place until details of the design, implementation, maintenance and management of foul water drainage works have been submitted to and approved in writing by the local planning authority. Thereafter, the development shall be undertaken in accordance with the approved details.</p> <p><b>Reason:</b> To ensure development would not result in unacceptable risk of pollution or harm to the environment or landscape.</p> <p>This Condition is imposed in accordance with Policies 3 and 4 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in paragraph 182 of the National Planning Policy Framework, 2024.</p>
6	<p>The development hereby permitted shall be undertaken in accordance with a Construction Management Plan and Method Statement that shall first be submitted to and approved in writing by the Local Planning Authority before development commences. The Plan and Statement shall indicate measures to mitigate the adverse impacts of vehicle activity and the means to manage the drainage of the site during the construction stage of the permitted development. It shall include;</p> <ul style="list-style-type: none"> <li>- the on-site parking of all vehicles of site operatives and visitors;</li> <li>- the on-site loading and unloading of all plant and materials;</li> <li>- the on-site storage of all plant and materials used in constructing the development;</li> <li>- wheel washing facilities;</li> <li>- a strategy stating how surface water run off on and from the development will be managed during construction and protection measures for any sustainable drainage features. This should include drawings) showing how the drainage systems (temporary or permanent) connect to an outfall (temporary or permanent) during construction.</li> </ul> <p><b>Reason:</b> In the interests of the safety and free passage of those using the adjacent public highway and to ensure that the permitted development is adequately drained without creating or increasing flood risk to land or property adjacent to, or downstream of, the permitted development during construction.</p> <p>This condition is imposed in accordance with paragraph 135 of the National Planning Policy Framework.</p>
7	<p>No development shall take place until a Construction Ecological Management Plan (CEMP) is submitted to and approved in writing by the local planning authority setting out the safeguards</p>

	<p>and appropriate working practices that will be employed to minimise adverse effects on biodiversity and ensure compliance with UK Wildlife Legislation. The details of the CEcMP will be informed by the final site design and ongoing ecological survey works [depending on the scope of works] but should include as a minimum:</p> <ul style="list-style-type: none"> <li>- Development standoffs and safeguards for all retained habitats</li> <li>- Construction timetables to avoid sensitive periods such as nesting bird season</li> <li>- Pollution prevention measures with regards to Old Hammond Beck</li> <li>- Vegetation management measures to minimise the risk to species such as terrestrial mammals and herpetofauna</li> <li>- Best practice measures with regards to lighting, as to avoid adverse impacts upon protected/notable species</li> <li>- Compliance with any specific mitigation measures that will be required to acquire a Development Licence for works affecting protected species [if required]</li> </ul> <p>Thereafter, all site clearance and construction works shall be undertaken in accordance with the approved CEcMP.</p> <p><b>Reason:</b> To ensure conservation of local biodiversity. This Condition is imposed in accordance with Policy 28 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 15 of the National Planning Policy Framework, 2024.</p>
<b>Conditions which apply during the course of and following completion of the development:</b>	
8	<p>Demolition/ground works/construction works/ deliveries and collections during the construction phase of the development, shall not take place outside the following hours:</p> <ul style="list-style-type: none"> <li>- Monday to Friday 07.30 – 18.00hrs</li> <li>- Saturday 08.00-13.00hrs</li> <li>- There shall be no work on Sundays or Public Holidays</li> </ul> <p><b>Reason:</b> In the interests of highway safety and the amenity of nearby residents. This condition is imposed in accordance with paragraph 135 of the National Planning Policy Framework.</p>
9	<p>Before the proposed food store is brought into use, all of that part of the estate road and associated footways that forms the junction with Swineshead road and which will be constructed within the limits of the existing highway, shall be laid out and constructed to finished surface levels in accordance with details to be submitted to, and approved in writing by, the Local Planning Authority.</p> <p><b>Reason:</b> In the interests of safety, to avoid the creation of pedestrian trip hazards within the public highway from surfacing materials, manholes and gullies that may otherwise remain for an extended period at dissimilar, interim construction levels. This Condition is imposed in accordance with Policy 3 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in the National Planning Policy Framework, 2024.</p>
10	<p>The development hereby approved shall not be brought into use until those parts of the approved Travel Plan that are identified therein as being capable of implementation before occupation shall</p>

	<p>be implemented in accordance with the timetable contained therein and shall continue to be implemented for as long as any part of the development is brought into use.</p> <p><b>Reason:</b> In order that the permitted development conforms to the requirements of the National Planning Policy Framework, by ensuring that access to the site is sustainable and that there is a reduced dependency on the private car for journeys to and from the development. This condition is imposed in accordance with section 9 of the National Planning Policy Framework.</p>
11	<p>No development above ground floor slab level of any part of the development hereby permitted shall take place until details of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):</p> <ul style="list-style-type: none"> <li>- details of all brick, render and tiling (including details of the colour of render/paintwork to be used)</li> <li>- details of all hard surfacing materials</li> <li>- details of materials used for boundary treatments</li> </ul> <p>The development shall be carried out in accordance with the approved details.</p> <p><b>Reason:</b> To ensure that the Local Planning Authority retains control over the external materials of construction of the development in the interests of the character and appearance of the development and the visual amenity of the area in which it is set. This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and the provisions of the National Planning Policy Framework, 2024.</p>
12	<p>Notwithstanding the maintenance details submitted as part of the application before the first occupation of the development hereby permitted a schedule of landscape maintenance in perpetuity has been submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation, long-term design objectives, management responsibilities and maintenance schedules for all landscape areas. Thereafter, the approved landscape maintenance schedule shall be fully implemented within 6 months from the date of first approval or within the next available planting season (whichever is the sooner).</p> <p><b>Reason:</b> To ensure the proposed development does not have an adverse effect on the character and appearance of the area. This Condition is imposed in accordance with Policy 28 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 15 of the National Planning Policy Framework, 2024.</p>
13	<p>No boundary treatments shall be erected until detailed scaled drawings (section) of the hard boundary treatments to be erected have been submitted to and approved in writing by the Local Planning Authority. The approved boundary treatments shall be erected before the development is first brought into use and thereafter retained in that form, notwithstanding the provisions of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking and re-enacting that Order with or without modification).</p> <p><b>Reason:</b> In the interests of the character and appearance of the development.</p>

	<p>This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and the provisions of the National Planning Policy Framework, 2024.</p>
14	<p>Notwithstanding the submitted lighting details, before the development hereby permitted is brought into use details of any external lighting to be provided in association with the development shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the location of the lighting, the specification and LUX levels and the times when the external lighting will not be switched on. Only external lighting in accordance with approved details shall be provided on the application site. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) there shall be no other external lighting provided on the application site.</p> <p><b>Reason:</b> To ensure that the Local Planning Authority retains control over these matters, in the interests of the visual amenity of the overall development, to prevent light pollution and to ensure that the development is adequately lit. This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and the provisions of the National Planning Policy Framework, 2024.</p>
15	<p>The development hereby permitted shall be carried out in accordance with the measures set out in the Flood Risk Assessment by Hydrock Consultants Limited dated 19 December 2022 forming part of this planning application. In particular the following measures shall be fully implemented before the proposed food store is brought into use:</p> <ul style="list-style-type: none"> <li>- Finished floor levels to be set no lower than 2.8m above the existing ground level</li> <li>- Flood resilience and resistance measures to be incorporated into the proposed development as stated</li> </ul> <p>These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.</p> <p><b>Reason:</b> To ensure that the development does not increase the risk of flooding or be at risk of flooding.</p> <p>This Condition is imposed in accordance with Policies 3 and 4 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 14 of the National Planning Policy Framework, 2024.</p>
16	<p>No deliveries to the store hereby approved shall take place outside of the following hours:</p> <ul style="list-style-type: none"> <li>- Monday to Friday 07.00 – 23.00hrs</li> <li>- Saturday 08.00-18.00hrs</li> <li>- There shall be no deliveries on Sundays or Public Holidays</li> </ul> <p><b>Reason:</b> In the interests of residential amenity.</p> <p>This Condition is imposed in accordance with Policy 3 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in the National Planning Policy Framework, 2024.</p>

17	<p>Before the proposed food store is brought into use a Landscape Ecological Management Plan (LEMP) should be submitted to and approved in writing by the Local Planning Authority setting out the detailed establishment and management of all on site compensation and enhancement measures. In accordance with Biodiversity Net Gain Best Practice Principles, and the principles of the Environment Act 2021, the LEMP should cover a period of 30 years from the date of commencement with provisions for long-term monitoring and contingency actions linked to the Biodiversity Net Gain objectives of the project. Thereafter the development shall be undertaken in accordance with the approved LEMP.</p> <p><b>Reason:</b> To ensure conservation of local biodiversity. This Condition is imposed in accordance with Policy 28 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 15 of the National Planning Policy Framework, 2024.</p>
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<b>INFORMATIVES NOTES FOR DECISION NOTICE</b>	
	<ol style="list-style-type: none"> <li>1. In determining this application, the authority has taken account of the guidance in paragraph 38 of the National Planning Policy Framework 2024 in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the Borough.</li> <li>2. Positive and Proactive Statement. In dealing with this application, the Council has worked with the applicant in the following ways: In such ways the Council has demonstrated a positive and proactive manner in seeking solutions to problems arising in relation to the planning application.</li> <li>3. The foul drainage from this development is in the catchment of Frampton Water Recycling Centre which currently does not have capacity to treat the flows the development site. Anglian Water are obligated to accept the foul flows from the development with the benefit of planning consent and would therefore take the necessary steps to ensure that there is sufficient treatment capacity should the Planning Authority grant planning permission.</li> <li>4. This site is within the catchment of Frampton Water Recycling Centre (WRC), which currently lacks the capacity to accommodate the additional flows generated by the proposed development. However, Frampton WRC is included within our Business Plan as a named growth scheme with investment delivery planned between 2025-2030. To ensure there is no pollution or deterioration in the receiving watercourse due to the additional foul flows that would arise from the development Anglian Water recommend information is provided when responding to the relevant foul water planning condition.</li> <li>5. Black Sluice Internal Drainage Board state that no person without the previous consent of the Board shall erect any building or structure (including a fence), whether temporary or permanent, or plant any tree, shrub, willow or other similar growth within 9 metres of the landward toe of the bank where there is an embankment or wall or within 9 metres of the top of the batter where there is no embankment or wall, or where the watercourse is enclosed within 9 metres of the enclosing structure.</li> </ol>

6. All wild bird species are legally protected under the Wildlife and Countryside Act 1981 (as amended) from any form of disturbance between the onset of nest building and until such time as any dependent young have left the nest, principally from the beginning of March to the end of August.
7. In accordance with Section 59 of the Highways Act 1980, please be considerate of causing damage to the existing highway during construction and implement mitigation measures as necessary. Should extraordinary expenses be incurred by the Highway Authority in maintaining the highway by reason of damage caused by construction traffic, the Highway Authority may seek to recover these expenses from the developer.
8. All roads within the development hereby permitted must be constructed to an acceptable engineering standard. Those roads that are to be put forward for adoption as public highways must be constructed in accordance with the Lincolnshire County Council Development Road Specification that is current at the time of construction and the developer will be required to enter into a legal agreement with the Highway Authority under Section 38 of the Highways Act 1980. Those roads that are not to be voluntarily put forward for adoption as public highways, may be subject to action by the Highway Authority under Section 219 (the Advance Payments code) of the Highways Act 1980. For guidance, please refer to <https://www.lincolnshire.gov.uk>
9. The highway improvement works referred to in the above conditions 20 and 21 are required to be carried out by means of a legal agreement between the landowner and the County Council, as the Local Highway Authority. For further guidance please visit our website; [www.lincolnshire.gov.uk/highways-planning/works-existing-highway](http://www.lincolnshire.gov.uk/highways-planning/works-existing-highway)
10. Please contact the Lincolnshire County Council Streetworks and Permitting Team on 01522 782070 to discuss any proposed statutory utility connections, Section 50 licences and any other works which will be required within the public highway in association with the development permitted under this Consent. This will enable Lincolnshire County Council to assist in the coordination and timings of these works. For further guidance please visit the Highway Authority's website via the following link: Traffic Management - <https://www.lincolnshire.gov.uk/traffic-management>
11. The existing ground level of the site must not be raised above the ground level of any surrounding land without further consultation with the Lead Local Flood Authority and Local Planning Authority, to consider suitable mitigation measures to ensure that surface water flood risk is not created or increased to land adjacent to the permitted development.
12. Please note the comments made by Cadent Gas dated 6<sup>th</sup> February 2025 regarding the proximity of a cadent gas asset in the area.
13. Please note the triggers in the accompanying section 106 agreement in relation to matters such as biodiversity net gain and highway matters.

<b>BNG APPLIES</b>	
<b>BIODIVERSITY NET GAIN</b>	
<b>BNG1</b>	<p><b>BIODIVERSITY NET GAIN CONDITION</b></p> <p>The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition”) that development may not begin unless:</p> <ul style="list-style-type: none"> <li>(a) a Biodiversity Gain Plan has been submitted to the planning authority, and</li> <li>(b) the planning authority has approved the plan.</li> </ul> <p>The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Boston Borough Council</p>
<b>BNG3</b>	<p><b>Statutory exemptions and transitional arrangements</b></p> <p>There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These can be found at Paragraph: 003 Reference ID: 74-003-20240214 of the Planning Practice Guidance, which can be found at <a href="https://www.gov.uk/guidance/biodiversity-net-gain">https://www.gov.uk/guidance/biodiversity-net-gain</a>.</p> <p>Irreplaceable habitat</p> <p>If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.</p> <p>Effect of Section 73(2D) of the 1990 Act</p> <p>Under Section 73(2D) of the Town and Country Planning Act 1990 (as amended) where -</p> <ul style="list-style-type: none"> <li>(a) a biodiversity gain plan was approved in relation to the previous planning permission (“the earlier biodiversity gain plan”), and</li> <li>(b) the conditions subject to which the planning permission is granted: <ul style="list-style-type: none"> <li>(i) do not affect the post-development value of the onsite habitat as specified in the earlier biodiversity gain plan, and</li> <li>(ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat within the meaning of regulations made under paragraph 18 of Schedule 7A, do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier biodiversity gain plan.</li> </ul> </li> </ul> <p>- the earlier biodiversity gain plan is regarded as approved for the purposes of paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended) in relation to the planning permission.</p>