

ITEM:

RECOMMENDATION: APPROVAL

REF NO: 3PL/2021/0032/F

CASE OFFICER Rebecca Collins

LOCATION: WATTON

APPLICANT: Abel Homes Ltd Neaton Business Park (North) Norwich Road

AGENT: Abel Homes Ltd Neaton Business Park (North) Norwich Road

PROPOSAL: Development of single storey food store (Use Class E - retail) with associated car parking, and landscape works; and 45 dwellings (Class C3) with associated open space and highway infrastructure.

REASON FOR COMMITTEE CONSIDERATION

The application is a major planning application with significant public interest.

HISTORY

On 2nd August 2021 Members of the Planning Committee resolved to grant planning permission and planning permission was issued on 11th August 2021. Tesco Stores Limited submitted a judicial review to challenge this decision.

Tesco Stores Limited set out that the decision to grant planning permission was unlawful and that the Permission should be quashed, for the following reasons:

- Ground 1: failure to impose necessary conditions
- Ground 2: breach of Habitats Regulations

The Council agreed to consent to judgment, and on 1st November 2021 the High Court Judge, Judge Elizabeth Cooke, signed and sealed the Consent Order, quashing planning permission reference 3PL/2021/0032/F dated 11 August 2021.

On this basis, the planning application has been reconsidered and further public consultation undertaken, as detailed below.

KEY ISSUES

Principle
Highways and Access
Character, Design and Heritage
Amenity
Flood Risk
Ecology

Other matters including Contamination, Trees, Planning Obligations

DESCRIPTION OF DEVELOPMENT

Development of single storey food store (Use Class E - retail) with associated car parking, and landscape works; and 45 dwellings (Class C3) with associated open space and highway infrastructure.

SITE AND LOCATION

The site constitutes approximately 2.7 hectares of grazing land. The site lies to the east of Watton Town Centre. The application site lies primarily within the designated Watton settlement boundary on a site, allocated for residential development of at least 45 dwellings and at least 60 bed care home, with a small area of land to the north of the site being outside of the allocation and settlement boundary, designed to provide open space drainage lagoon to serve the proposals. The site is allocated in the adopted Breckland Local Plan (2019) for residential development of at least 45 dwellings and a 60 bed care home.

Dense vegetation along the eastern and western boundaries currently provides significant screening to the residential development to the west, and the light industrial uses to the east. A strong building line also resides beyond the western boundary in the form of existing properties fronting Akrotiri Square. The site is open to the south and can be viewed from Norwich Road. A mature tree belt denotes the site's northern boundary.

Existing vehicular and pedestrian access to the site is taken from Norwich Road (B1108) to the south.

Rokeles Hall, a Grade II listed building is located to the north east of the site.

EIA REQUIRED

No

RELEVANT SITE HISTORY

No relevant site history

POLICY CONSIDERATIONS

COM01 Design

COM02 Healthy Lifestyles

COM03 Protection of Amenity

EC01 Economic Development

EC04 Employment Development Outside General Employment Areas

EC05 Town Centre and Retail Strategy

ENV01 Green Infrastructure

ENV02 Biodiversity protection and enhancement

ENV03 The Brecks Protected Habitats & Specie

ENV04 Open Space, Sport & Recreation
ENV05 Protection and Enhancement of the Landscape
ENV06 Trees, Hedgerows and Development
ENV07 Designated Heritage Assets
ENV08 Non-Designated Heritage Assets
ENV09 Flood Risk & Surface Water Drainage
GEN01 Sustainable Development in Breckland
GEN02 Promoting High Quality Design
GEN03 Settlement Hierarchy
GEN05 Settlement Boundaries
HOU01 Development Requirements (Minimum)
HOU02 Level and Location of Growth
HOU06 Principle of New Housing
HOU07 Affordable Housing
HOU10 Technical Design Standards for New Homes
TR01 Sustainable Transport Network
TR02 Transport Requirements
WHA2 Watton Housing Allocation 2: Land north of Norwich Road, Watton (LP015)
INF02 Developer Contributions
LBC Planning(Listed Building & Conservation Areas) Act 1990
NPPF National Planning Policy Framework
NPPG National Planning Practice Guidance

OBLIGATIONS/CIL

A Section 106 is required for the following:

- 25% Affordable Housing
- Open space play space on site and maintenance contributions.
- Education contributions of £154,242 towards the provision or enhancement of educational facilities at Watton Westfield Infant and Nursery School and Watton Junior School.
- £3,375 (i.e. 75 per dwelling) for increasing the capacity of the library serving the development.
- Two fire hydrants (to be secured via condition).
- Travel Plan preparation, implementation and monitoring (to be secured via condition).

CONSULTATIONS

WATTON TOWN COUNCIL

The Town Council welcomes this application for a food store on this site. It is regrettable that the information placed into the public domain prior to submission did not indicate the scope of the application as subsequently submitted. The Town Council accepts that the principle of housing on this site was established in the district local plan, however it does feel that the number of homes proposed in addition to the store is excessive given the area involved. It would prefer to see a reduction in the number of units on the area not allocated for the store.

Concerns have been raised regarding the cramped nature of the delivery area for goods vehicles due to the close positioning of the residential units in the immediate locale. The proposed dwellings would be subject to noise and disturbance from delivery vehicles affecting resident's amenity. In addition, the need for manoeuvring of delivery vehicles in such limited space could lead to conflict between residents and customers of the store both pedestrian and vehicular. Whether or not the former issue can partially be addressed by the removal of some of the units, the Town Council would ask that consideration be given to the limiting of deliveries to the site during projected busy times such as the period around school opening and closing times. Limits on delivery times outside of social hours could also reduce noise and disturbance impacting the residential amenity of new and existing nearby residences. Suggest hours could be deliveries only between 10am to 2pm and 5pm to 9pm.

Residents have expressed their concerns regarding the lack of local amenities and infrastructure in place to support the housing element of this application. It is therefore requested that concerted efforts are made to maximize local provision by way of a s.106 agreement connected to this application.

The Town Council is aware that the Watton and Saham Toney drainage group will be submitting comments on the application in relation to drainage matters on the site. Councillors consider that the group is well informed and has detailed knowledge of drainage issues in the area.

NORFOLK COUNTY COUNCIL HIGHWAYS

The applicants have worked to address the concerns raised by the Highways Authority, who have no objections subject to conditions.

CONTAMINATED LAND OFFICER

Recommend approval providing the development proceeds in line with the application details and subject to contamination conditions.

NATURAL ENGLAND

No objection.

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

ECOLOGICAL AND BIODIVERSITY CONSULTANT

The Shadow HRA provides a reasoned justification for the conclusion of no likely significant effects and is considered fit for purpose.

It is noted that Natural England also have no objection and conclude that the proposed development will not have likely significant effects on the Breckland SPA.

The updated landscaping plans shows a native species hedgerow along the western site boundary. If you are minded to approve this application, we recommend that you condition that the development proceeds in accordance with the landscaping plans.

HISTORIC BUILDINGS CONSULTANT

Given the current setting, the location of the proposed development, its relationship with existing development and significant mature planting it is not considered from an historic built environment perspective that the proposed development will adversely affect the setting of any of the identified heritage assets to the extent that it will harm significance. I therefore have no objections.

TREE AND COUNTRYSIDE CONSULTANT

No objections subject to conditions with regards to operations on site shall take place in complete accordance with the approved Arboricultural Impact Assessment (AIA), Tree Protection Plan (TPP) and Arboricultural Method Statement (AMS) prepared by A.T Coombes 11th March 2021 and details with regards to the no-dig construction of surfaced areas.

HISTORIC ENVIRONMENT SERVICE

Most of the proposed development site was subjected to pre-application archaeological trenching last year. However, part of the present development area was not included within last years trenched area. The area not included (the northwest part, to be a pond) is close to a number of trenches which contained a significant number of undated archaeological features, that may represent the edge of an occupation area, which may lie within the area of the proposed pond. Consequently there is potential that heritage assets with archaeological interest (buried archaeological remains) will be present at the site and that their significance will be adversely affected by the proposed development. If planning permission is granted, we therefore ask that this be subject to a programme of archaeological mitigatory work in accordance with National Planning Policy Framework para. 199, to be secured via condition.

HOUSING ENABLING OFFICER

The amended plans submitted on 25 March 2021 show that the proposed affordable housing remains in a single area which is contrary to Policy HOU 07 which states that 'The Council will seek for affordable housing to be distributed across a development as single units of small clusters, rather than in a single area'.

The plans show a proposed delivery of 11 affordable units, 4no 1bed flats, 4no 2bed houses and 3no 3bed houses for which there is an identified need. There is also a need for 4bed houses in the towns, so would be happy to see one of the 3bed houses as a 4bed house if this suited. The amended house types now meet the required space standards.

OBLIGATIONS OFFICER, NORFOLK COUNTY COUNCIL

Considering the permitted planning applications in Watton, there is spare capacity in the Early Education sector and Secondary School sector. However, there will be insufficient places for children at Watton Westfield Infant and Nursery School and Watton Junior School for this proposed development, should it be approved. Therefore, Norfolk County Council will seek Education contributions of £154,242.00 towards the provision or enhancement of educational facilities required.

For the residential - one fire hydrant on no less than a 90 mm main at a cost of £843.00 and for the supermarket one fire hydrant on no less than 120mm diameter main at a (current) cost of £843.00 when fitted on a new water main.

A development of 45 dwellings would place increased pressure on the existing library service particularly in relation to library stock, such as books and information technology. This stock is required to increase the capacity of the library. It has been calculated that a development of this scale would require a total contribution of £3,375.00 (i.e. £75.00 per dwelling). This contribution will be spent on increasing the capacity of the library serving the development.

ENVIRONMENT AGENCY

No objections.

ANGLIAN WATER SERVICE

There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site.

The foul drainage from this development is in the catchment of Watton 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.

We note that the site falls within a Source Protection Zone, we have assessed the potential impact of the site and have concluded that there is no risk to our potable water source. The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection.

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.

FLOOD & WATER MANAGEMENT TEAM

No objection, subject to conditions.

ENVIRONMENTAL HEALTH OFFICERS

I have looked at the revised application submitted and, based on the information provided to me at this time; there are no objections or further comments on the grounds of Environmental Protection, providing the development proceeds in line

with the application details and subject to conditions, regarding acoustic barriers, hours of works/operation, lighting, noise and materials disposal.

AIR QUALITY OFFICER

There are no objections or comments on the grounds of Air Quality, providing the development proceeds in line with the application details.

REPRESENTATIONS

Initially, publicity took place in the form of a site notice, notice in the press and letter to immediate neighbours between 18th January 2021 and 8th February 2021. 174 letters of representation were received in the response to the application, their comments are summarised as follows:

- Very happy for Lidl to be built, as Watton is in need of another supermarket. (x18 comments)
- Watton has a High Street and every step should be taken to develop that, not to spread the retail foot print. No new shops/supermarket are needed, this proposal will affect other local shops nearby. (x2 comments)
- Very against the proposed housing. (x23 comments)
- Watton has too many large housing estates being built.
- This should be two separate applications.
- Infrastructure in Watton is not capable of taking further housing development. Schools, pre-schools, dentist and doctors do not have the capacity for all these new homes being built.
- Parking is an issue in Watton, especially on new housing estates.
- This is a busy road, already at capacity. Trying to get out of the junction of Akrotiri Square onto Norwich road is diabolical during rush hours and the development will make this worse.
- To build a Lidl on that site will attract shoppers from a wide area and increase the traffic this already busy road.
- The road layout isn't wide or adequate enough to allow two cars to pass.
- The bus to Norwich is always full.
- An extension of the 30mph limit to the roundabout by the spar may be some mitigation of the risks of the additional junction.
- The proposal is on a soakaway, development here will result in increased risk of flooding. The site already suffers from poor drainage, which affects neighbouring properties. The removal of trees will also affect ground conditions, as they suck up water.
- The proposal for these new houses is to drain the flood water into the ditch between Watton Green and the new site which will only add to the potential flood risk for existing homes on Watton Green.
- To build on more green spaces is environmentally and mentally damaging, more trees are required not more houses.
- Wildlife will be significantly affected, through the development of the site and the removal of trees.
- There are bats and other wildlife on this site, which will be affected.
- The proposal will result in loss of privacy, especially as the trees are to be removed.

- Light pollution and noise from construction, especially with more people working at home.
- Loss of sunlight to adjacent residential properties.
- Anti social behaviour is already an issue highlighted by our local community police and this would further add to it.
- If this is to be passed I would rather see the store and 45 houses than no store and 90 houses.
- Leisure facilities, parks, retail, skate park, bring jobs for the people of Watton and make it a place we want to live in not cram more houses onto land that has no infrastructure or jobs.

Six people wrote in support of the proposals, and comment:

- I would rather more houses than to lose the opportunity of having such a well known retailer in Watton, offering a cheaper alternative to Tesco.
 - Our growing community needs housing and affordable local shopping choice. Our town needs to grow enough to be attractive to investors so we can all benefit.
 - I do believe it's a good idea to bring Lidl to Watton, job wise and another choice of where to do your grocery shopping.
- (18 comments (listed above) which state that are very happy for Lidl to be built)

Following the initial consultation, a further 136 letters of representation, supporting a Lidl Food store in this location were received.

Further comments received:

Cllr Tina Kiddell

I strongly and wholeheartedly support this application. It will be good for Watton to have a new food store. There has been some consternation from the public with regards the housing at the side of Lidl but there has been overwhelming support for Lidl. The houses I hasten to add are good ones and are in keeping with the street scape of the road as Abel homes are further along the same stretch. These houses were already in the local plan and the bonus now is that it will be a Lidl and not another care home. As we all know the infrastructure does not come without houses. I feel strongly that Watton needs another shop as many locals have to travel to Dereham for more choice, so it will help keep the Watton residents from travelling further afield.

Watton and Saham Flood Action Group

- We welcome the attenuation pond in the residential area which will not only hold storm water but will also be a pleasant landscape feature for the residents.
- Welcome the attenuation tank below ground at the Lidl store. The water from this will flow in underground pipes to the attenuation pond. The water from the pond will be released gradually into the ditch to the north west of the site on the east side of the road at Watton Green on land owned by Abel's who acknowledge that maintenance of this ditch is their responsibility.
- Maintenance of attenuation features is always critical in reducing flood risk. Abel's have an agreement with Anglian Water to maintain the attenuation pond and the pipework leading to it. However, the maintenance of the below ground attenuation tank and its associated pipework will be given by Lidl to a third party.

- We have satisfied ourselves that Abel's have a drainage strategy for their site that will work as well as any such strategy can in these times of climate change. Our concerns focus on what happens when the overflow from the attenuation pond goes into the ditch beside the road in Watton Green which is critical to drainage in Watton Green. It takes water from nearby properties to the south-west, drains land to the north-east towards Carbrooke and also from the road. Watton Green itself slopes down from the Norwich Road and the place where the overflow will enter the ditch is at the low point of the road. As we understand it, the water then flows north-east to get to the culvert across the road. At that point before it crosses the road, the ditch is probably thigh depth if one stood in the bottom of it, but it is much shallower elsewhere. The water goes through the culvert under the road into the ditch on the other side and thence to the watercourse on the west side of the road. The overflow will be 4.59litres/sec which equates to 3,635 gallons per hour. This rate is set to be that of the land without the development. If these figures are right, is that why the road gets so flooded at the culvert at present?
- The road at this point in Watton Green has been flooded to a depth of several inches.
- We also have concerns over the lifetime maintenance of this system.
- Our concern too is the replacement culvert under the highway and who will be responsible for its maintenance over the lifetime of the development.
- We ask that the Planning Officer does the following:
 1. Condition the names of the landowners/agency responsible for the maintenance of the culvert under the road at Watton Green that will take the surface water to the Brook are given to Watton Town Council so that if there is a problem action can be swiftly taken.
 2. There is a risk of silt build up in the culvert such that a regular maintenance schedule should be devised for those responsible to adhere to (much as there is for the attenuation system and its pipes).
 3. That the name of the third party for maintaining the Lidl attenuation system is given to the Town Council so that any problems can be speedily addressed.
 4. That this third party report annually to Watton Town Council on the maintenance work they have undertaken on the attenuation system.
 5. That Anglian Water report annually to Watton Town Council on the maintenance work they have undertaken with regard to the attenuation pond and the associated pipes and other structures as detailed in the maintenance schedule described in section 7 of the Flood Risk Assessment provided by the developer.
 6. That Anglian Water be asked to state that the foul sewer system will be up to the task over the lifetime of this development.
 7. Asks Breckland Council as a Risk Management Authority for flood risk, to give a public undertaking to the residents of Watton Green and Watton that they will work in partnership with NCC Highways, the Lead Local Flood Authority (LLFA) and Anglian Water to effectively manage the risk of flooding in Watton Green.

Objections were received from Martin Robeson Planning Practice (MRPP) acting on behalf of Tesco Stores Limited (Tesco's) dated 29 April 2021 and 26th July 2021. Their comments are summarised as follows:

- The assessment of the impact on town centre trading conditions has been inappropriately undertaken and does not provide a robust examination of the likely effects arising from the introduction of the proposed supermarket.

- The impact on trading conditions in Watton town centre is assessed to be substantial and will have a significant adverse impact on its health, justifying refusal of planning permission.
- The approach to the assessment of sequentially preferable sites to best meet the “Town Centre First“ principle is deficient in terms of its approach to the ‘availability’ of alternative sites.
- There is a fundamental and harmful conflict with the recently adopted local plan arising from the breach of the Allocation for the application site to include an ‘at least 65 bed care home’.
- The proposed Lidl store is nearly four times the scale of the locally set threshold for retail impact assessment of out of centre proposals. Having regard to the stated purposes for the threshold there must be a strong likelihood of it causing a significant adverse impact on the town centre.
- The Retail Impact Assessment accepts that it was not possible to undertake a proper assessment of the health of Watton Town Centre due to the COVID-19 pandemic lockdown. The opportunity must now be taken to undertake such work.
- The attempt to demonstrate capacity for the proposed development is wholly contrary to convention as it has put the proposed development ahead of existing shop floor space.
- Retail impact assessment has not drawn on any useful existing data to inform judgements, rather it has relied on assertions which we have shown not to have credibility. Applying realistic assumptions has demonstrated a very significant adverse impact on the town centres of c26%.
- The loss of the site's care home Allocation is a fundamentally harmful breach of development plan policy. The care home use was essentially the justification for the release of the wider Allocation, i.e., including the housing. No convincing evidence has been provided that the care facility will not come forward either in the short or longer term to meet the Local Plan's identified need for specialist housing.
- There are fundamental breaches of development plan policy - EC05 and WHA2 - with insufficient other material considerations to outweigh the harm.
- Planning permission should therefore be refused.

Tesco Stores Limited submitted a Judicial Review Pre-Action Protocol Letter to challenge the original grant of planning permission on two grounds:

- Ground 1: failure to impose necessary conditions
- Ground 2: breach of Habitats Regulations

The consent order was signed and sealed by the High Court on 1st November 2021.

Following this, a further public consultation was held, between 19th November 2021 and 10th December 2021. Six further letters of representation were received; their comments are summarised as follows:

- This planning application clearly has the backing of the residents of Watton as shown by the numerous comments in favour.
- The Housing Survey June 2021 (in Rapleys Retail Statement Update) shows that residents in the proposed Watton Store's catchment area are already spending £2.72 million at the other 4 neighbouring Lidl stores, with Dereham large retail stores also picking up a large sum. If a sizeable proportion of that

money could be spent in a new Watton Lidl there is the obvious benefit to the smaller Watton shops for incidental purchases that would normally be spent in the smaller Dereham, Thetford, Attleborough and Wymondham local shops, all with the further benefit of less car journeys - something that we are all trying to achieve.

- This has previously had support from officers and Councillors.
- No change from the previous application and should be approved.
- Tesco's should not be allowed to delay this application further.
- There is no competition in Watton.
- This needs to be approved due to the amount of building taking place and the lack of facilities and choice currently available.
- One small supermarket is not sustainable for Watton in the long term.
- Lidl is awaited and welcomed.

ASSESSMENT NOTES

1.0 Principle

1.1 The proposals include consent for a single storey food store (Use Class E - retail) with associated car parking, and landscape works; and 45 dwellings (Class C3). The application site lies primarily within the designated Watton settlement boundary on a site, allocated for residential development of at least 45 dwellings and at least 60 bed care home, with a small area of land to the north of the site being outside of the allocation and settlement boundary, designed to provide open space drainage lagoon to serve the proposals. The application will be considered in accordance with adopted Planning Policies, as set out in the Development Plan, taking into consideration any other material planning considerations, as set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Paragraph 2 of the NPPF.

1.2 The site layout will comprise of a large retail store to the south west corner of the application site, comprising 1,900 sq. m gross internal area (GIA) with a net sales area of 1,256 sq. m; 122 car parking spaces (including 6 disabled spaces, 9 parent & child spaces and 2 electric vehicle charging (EVC) spaces); and a trolley bay located adjacent to the store entrance. The store will be located to the western boundary and car parking and landscaping to the east and south of the store. Access to the store and the dwellings is off Norwich Road, starting at the south eastern corner of the site and progressing north into the application site with access to the store branching off to the west. To the north, the land will comprise of 45 dwellings, in accordance with the housing allocation as set out in Policy WHA2 of the Breckland Local Plan (adopted 2019).

1.3 To assess the principle of development in this location the following three considerations are relevant; retail impact; loss of a care home; and the acceptability of residential development (in particular, including land outside of the allocation/settlement boundary), and these are discussed in this section under their relevant headings, below. Other considerations are set out in the relevant sections of this report.

Retail Impact

1.4 In order to assess the impact of the proposals on Watton Town Centre with regards to the merits of the application in terms of its compliance with retail and town centre planning policy and guidance, as set out by the statutory development plan and by the National Planning Policy Framework (NPPF), the Council have had regard to Policy EC05 of the Breckland Local Plan (adopted 2019), which sets out *'Policies in the Local Plan will seek to support and enhance the vitality of the District's hierarchy of centres and seek to direct floorspace requirements in line with the breakdown in the 2017 retail study projections over the plan period'*. This includes 514 net sqm of convenience floorspace and 181 gross sqm of food and beverage floorspace for Watton. Watton is also identified as a preferred location for food retail. This policy seeks to direct local provision through focusing retail and leisure proposals within designated town centres. The proposal falls outside the designated Town Centre boundary for Watton. In addition, Section 7 of the NPPF, seeks to *'support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation'*.

1.5 The Council has also sought independent advice with regards to the submitted Retail Impact Assessment (RIA) (dated December 2020), an Addendum Retail Statement (ARS) (dated June 2021) and Retail Statement dated January 2022, prepared by Rapleys on behalf of the applicants and in support of this application.

The applicants initial Retail Impact Assessment (December 2020), in support of the convenience store proposal, sets out the following:

- *The assessment has demonstrated that the proposed discount retailer will not have a significant adverse impact on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal.*
- *The sequential assessment concluded that the proposed development could not be located within or on the edge of any of the defined retail centres with the store's catchment.*
- *The proposal will improve the range and choice of retail offer in this part of the Borough by provision of another mainstream retailer, particularly of the discount model, which is not available in the locality.*
- *Once operational, the new superstore will employ approximately 40 to 50 staff, in a mixture of full- and part-time roles.*
- *Overall, the proposed scheme adopts the principles of sustainable development, in relation to social, economic and environmental factors. The proposal accords with the emphasis in national policy contained within the NPPF, which confirms a presumption in favour of sustainable development. In these terms, it has been demonstrated that the scheme complies with relevant policy as set out within the NPPF and the Development Plan.*

1.6 It is agreed that a site of this size and scale is unlikely to be found within or adjacent to Watton Town Centre Boundary. It is also agreed that the proposal will improve the range and choice of retail offer within Watton. Finally, although some distance from Watton Town Centre boundary, this is considered to be a direct walking route and the store is within easy walking and cycling reach of much of the eastern part of Watton. Paragraph 88 of the NPPF sets out *'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. Applicants and local planning authorities should 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'*. This site is considered accessible in accordance with Paragraph 88 of the NPPF.

1.7 Following receipt of the first letter from MRPP on behalf of Tesco's Stores Limited, the applicant submitted further information in support of their proposals in the form of a new Household Survey, which took place in June 2021. This was to provide up-to-date information on the shopping patterns; the role of the stores within the proposal's catchment, as well as their trading performance; and the catchment area's potential to accommodate new convenience and comparison goods floorspace. In addition, an updated Health Check commentary based on a review of available sites and vacant units in and on the edge of Watton Town Centre; together with an in-person visit for the purposes of assessing the centre's vitality and viability. The updated addendum to the originally submitted Retail Impact Assessment (June 2021) concluded the following:

- *That the proposed discount retailer will not have a significant adverse impact on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal.*
- *The sequential assessment submitted concluded that the proposed development could not be suitably located within or on the edge of any of the defined retail centres with the store's catchment and that none of the identified sites are reasonably available.*
- *The proposal will improve the range and choice of retail offer in this part of the Borough by provision of another mainstream retailer, particularly of the discount model, which is not available in the locality.*
- *Overall, the proposed scheme adopts the principles of sustainable development, in relation to social, economic and environmental factors. The proposal accords with the emphasis in national policy contained within the NPPF, which confirms a presumption in favour of sustainable development. In these terms, it has been demonstrated that the scheme complies with relevant policy as set out within the NPPF and the Development Plan. Therefore, the application should be fully supported.*

1.8 Independent advice, in this regard has been sought from Nexus Planning, who reviewed the submitted Retail Impact Assessment (RIA) (dated December 2020), and Addendum Retail Statement (ARS) (dated June 2021). A summary of their findings is summarised below:

Conclusion in respect of the NPPF Sequential Test

- We have reviewed all of the sites and locations considered by the applicant in its submission and do not believe that any one is both available and suitable to accommodate the application proposal. Furthermore, we are unaware of any other site in the area which is in a sequentially preferable location relative to the application site, and is available and suitable for the proposed development (allowing for appropriate flexibility in terms of format and scale).*
- In reaching this conclusion, we recognise the need to consider the potential offered not just by in centre and edge of centre sites, but also accessible out of centre locations which are well located in respect of a town centre.*
- Given the above, we find that the application proposal conforms to the requirements of the sequential test as articulated by Policy EC05 of the Breckland Local Plan and paragraphs 87 and 88 of the NPPF.*

Conclusion in respect of impact

- As we set out above, we are unaware of any town centre investment which would likely be prejudiced as a consequence of the application proposal, which we find accords with the requirements of the first part of the NPPF impact test.*
- In terms of the second part of the test, we have identified a series of issues in respect of the applicant's methodological approach and in particular some of the trade diversion impacts assumed within the quantitative assessment.*
- However, having undertaken our own analysis to enable the Council to continue to determine the planning application, we are of the view that although the impacts on the existing convenience provision within Watton town centre is likely to be significantly higher than that which has been adopted by Rapleys, we do not consider that the resultant impacts on the overall vitality and viability of the town centre would be at a level which could be considered to be significantly adverse.*

Overall Conclusions

- Paragraph 91 of the NPPF indicates that planning applications for retail uses that are not in an existing centre and not in accordance with an up to date development plan should be refused planning permission where they fail to satisfy the requirements of the sequential approach or are likely to result in a significant adverse impact.*
- In respect of the sequential approach to development, we have reviewed all the sites identified by the applicant and do not believe that any are both available and suitable to accommodate the application proposal, even allowing for appropriate flexibility. We are unaware of any other sequential sites offering realistic potential to accommodate the proposal and, as such, find that it accords with the requirements of paragraphs 86 and 87 of the NPPF.*
- With regard to the first part of the NPPF impact test, we do not believe that the grant of planning permission for the proposed food store would lead to an adverse impact in respect of any existing, committed and planned public and private sector investment.*
- In terms of the second part of the test (relating to the vitality and viability of town centres), our review of the submitted retail impact assessment has confirmed that a large proportion of the impact arising from the proposal would occur at Tesco, located within the defined centre.*
- However, having considered the potential implications of the proposal's trade diversion from the town centre, we do not consider that this would be at a level which*

would result in a significant adverse impact on the centre as a whole. This is particularly the case given that we do not consider it likely that the Tesco would close as a result of the proposal, and that given the local offer within Watton, there will still be the need for residents to visit the town centre even if they chose to undertake their convenience shop at the proposed new store.

- Furthermore, planning policy is supportive of retail development which improves local customer choice and accords with sustainable development principles, providing no 'significant adverse' impacts occur at town centre locations. Most particularly, this is evident through paragraph 90 of the NPPF [now paragraph 91 of the NPPF, 2021] which requires a local planning authority to consider changes in consumer choice across the retail catchment area as a whole when determining planning applications for retail uses.

1.9 With regards to points 4 and 5 above Nexus point out that 'Rapleys assume that at 2024, £1.2m of the proposal's convenience turnover will be diverted from the Tesco, or 12% of the convenience turnover. They further assume that £0.1m will be diverted from other convenience stores within the town centre. The resultant impact (in terms of convenience goods only) on the Tesco store is -7.8% and on the town centre as a whole is -7.5% . . . given the existing established shopping patterns, it is considered that the level of diversion on the Tesco to be significantly underestimated by Rapleys . . . we are of the view that the proportion of trade Rapleys expect to be diverted from the number of stores in Dereham and Attleborough to be too high and too evenly spread, and in addition, the level of trade expected to be diverted from the Tesco in Watton to be too low'. Nexus were also of the view that a 10% diversion (incorrectly referred to as 'inflow' by Rapleys) from destinations outside of the 0-20 minute drivetime catchment is unlikely, given the nature and extent of the catchment area adopted. Nexus's view was that the level of trade diversion on the Tesco in Watton is significantly underestimated and could be as high as 30%-40% of the proposal's convenience turnover, or approaching as much as £4m of the turnover of the proposed convenience floorspace. As set out previously, the Tesco is the principal store serving the convenience needs of residents within Watton.

1.10 Despite the above, Nexus concluded:

i) Despite the high level of trade diversion impact on the existing Tesco store within Watton town centre, we are not of the view that the store would close as a result of the proposal. No evidence has been provided to question this conclusion;

ii) Although there may be an element of reduced linked-trips between the Tesco and the wider town centre offer, we do not consider this would be at a level which could result in a significant adverse impact. This is particularly the case given the nature of Watton and the potential for a shopper to visit the proposed foodstore and still visit the town centre, despite it being further from the centre. This is because given the proposed foodstore's offer, it does not stop the need for residents to visit facilities such as a pharmacy, DIY shop, opticians, Post Office and so on. In this regard, we note the findings of the Inspector in considering an appeal against the refusal of planning permission for an out of centre food supermarket development in Newport, Shropshire (PINS reference APP/C3240/A/11/2167505). Paragraph 43 of the Inspector's report finds that:

'bearing in mind the relatively small amount of comparison goods floorspace in the new foodstore and the variety of specialist offer in the town centre there is no reason to believe that people would not continue to visit [the centre] even though this may be by car or in a separate trip.'

iii) The proposal does have the potential to draw trade back into Watton, and therefore increase the level of available expenditure to support existing facilities on the high street; and

iv) Watton town centre appears to be performing well despite the wider implications of COVID-19 and is considered to be a relatively vital and viable centre. In this regard, we do not consider that the implications of the proposal would be to have a significant adverse impact on the performance of the other existing operators within the town centre. It is our view that the centre would continue to still perform its localise role in meeting day-to-day convenience, comparison and service needs, as demonstrated by the current offer within the centre.

1.11 It is considered that based on the above, the Local Planning Authority (LPA) has considered the concerns raised in the Martin Robeson Planning Practice (MRPP) acting on behalf Tesco Stores Limited (Tesco's) letter, as well as the information submitted in support of their proposals by Rapley's and the conclusions, as set out above produced by Nexus. On this basis, the LPA agrees with Nexus conclusions that there will be impact on the Watton Tesco's store (greater than that set out by Rapleys). However, it is not considered that competition is a material planning consideration in the determination of this planning application (it is noted in the letter from Martin Robeson Planning Practice (MRPP) acting on behalf Tesco Stores Limited (Tesco's) that they are not objecting to the application on the grounds of competition).

1.12 It is considered that the vitality of the Town Centre would be preserved in accordance with Section 7 of the NPPF and EC05 of the Local Plan, taking into account Nexus' conclusions; that the proposals are unlikely to lead to closure of the Tesco Store; that people would continue to visit the Town Centre, given the proximity of the site, the availability of services/facilities and the distance/walkability of the Town Centre from the application site. This is also considered to accord with paragraph 88 of the NPPF, whereby when considering out of centre proposals, preference to accessible sites should be given. It is considered that this site is well connected to the Town Centre, being on a direct walking route.

1.13 The Local Planning Authority has been flexible in terms of format and scale, given the size of the unit, above the required retail need for Watton as set out in Policy EC05 of the Local Plan (although conditions are recommended to limit the size and use of the store if permitted, this is further explained towards the end of this report). Despite the increased scale from that set out in Policy EC05 of the Local Plan, it is considered that the size of the store is necessary to meet the needs of the end users, which is supported locally and its impact has been deemed acceptable in terms of the vitality of the Town Centre.

1.14 In this regard, it is worth noting the significant local support for the proposed store, evidenced in the responses to the planning application consultation, as well as

the applicants own consultation reporting that 98% of respondents to the Lidl consultation supported the principle of the development. It should also be noted that there have been no objections from any businesses/shops from within Watton Town Centre other than Tesco. Therefore, the increase is considered acceptable based on the identified need in Watton for another foodstore/further convenience retail. This is also considered to accord with paragraph 88 of the NPPF.

1.15 With regards to paragraph 91 of the NPPF the conclusions of Nexus with regards to the Sequential Test are agreed with and therefore it is not considered planning permission should be refused on this basis.

1.16 A further update from Nexus was sought in response to the additional points raised by MRPP (26th July 2021). MRPP stated that the fact the Tesco store would not close as a result of the proposal is not a pertinent consideration. Nexus state that a similar matter was considered in detail by Inspector Christina Downes as part of the called-in appeal decision at Meols Cop in South port (reference APP/M4320/V/15/3002637). Despite an identified impact on other nearby stores the Inspector stated ***'However, there is no evidence or allegation that either would close or become unviable. It is appreciated that there are other small shops that would also have their turnover reduced but these generally provide a local service and, again, there is no suggestion that there would be closures as a result. Whether or not the stores outside the PSA enjoy specific policy protection, the main point is that local consumer choice and trade would not diminish if the proposed development went ahead'***. To this end, Nexus state that they have not been provided with any evidence to suggest that a direct result of the proposal would be the closure or closures of stores within Watton Town Centre, or that any business or operation would become unviable.

1.17 The proposed foodstore would have a relatively narrow offer and residents would still have the need to visit defined centres in the catchment to access other goods and services, so linked-trips will still likely take place on foot or by car as part of a single journey.

1.18 MRPP state that the level of linkage with other shops and services will be much higher between the Tesco and the remainder of the centre, than the proposed foodstore and the centre. Nexus agree that the level of potential linked-trips compared between the Tesco and the proposed store would differ, simply due to the location of the Tesco. However, Nexus do not consider the potential loss in linked-trips and associated loss of expenditure from the wider town centre to be at the level stated by MRPP given the likelihood of shoppers to still need to go into Watton Town Centre to meet their other retail, leisure and service needs. In short, not all of the expenditure lost from the Tesco store will also be lost from the wider town centre.

1.19 MRPP query the level of expenditure which may be drawn back into the centre as a result of the proposal, stating that the contribution to the town centre from linked trips expenditure from 'new to Watton' shopping trips will be very small. Nexus state that Watton is dominated by one single foodstore. Whilst Nexus queried Rapleys' initial trade diversion figure from the existing Tesco store to the proposal as being too low, this does indicate that the development has the real potential to draw trade back into the settlement from other existing operators outside of Watton. There can

be no dispute that some residents within Watton are choosing to shop elsewhere given the lack of choice of convenience offer within the town. The provision of a new store, which will also seek to provide for residents' main food shopping needs within the settlement of Watton, has the potential to increase available expenditure elsewhere in the town.

1.20 The NPPF is supportive of retail development which improves local customer choice and accords with sustainable development principles, providing there is no failure to satisfy the sequential test and provided there are no likely 'significant adverse' impacts on the considerations set out in paragraph 90 of the NPPF (relating to investment in the town centre, and vitality and viability of the town centre). Paragraph 91 of the NPPF provides that if an application fails to satisfy the sequential test or is likely to have significant adverse impacts on the considerations set out in paragraph 90, then it should be refused. As set out in this report, the view of Officers is that the application here satisfies the sequential test and it is not likely to cause any significant adverse impacts on investment in the town centre or on the vitality and viability of the town centre.

1.21 MRPP references the recent appeal decision (reference APP/W1850/W/20/3244253) which relates to a dismissed Class E foodstore at an out of centre Business Park in Ross-on-Wye. In dismissing the appeal, the Inspector refers to the loss of expenditure and linked-trips between the dominant foodstores within the town. However, the Inspector states '***It is of course conceivable that the trade diversions assessed here could be of little consequence to a booming town centre. Equally, a lower level of diversion could be disastrous for a struggling centre***'. The Inspector also takes account of the potential implications of COVID-19 on the high street. Nexus state that in coming to their conclusions in respect of the potential impact and implications of this proposal on the vitality and viability of the town centre, they have given full consideration to both the existing and potential future health and offer of Watton Town Centre as a whole. They note that the proportion of vacant units fell below the national average and that the centre has a high proportion of retail service, leisure service and financial and business service uses. Having regard to the general impact of the COVID-19 pandemic, Nexus believe that the convenience goods function of the centre is more resilient and less susceptible to such pressures.

1.22 It is also important to note that in querying the findings of the Council and Nexus, MRPP do not reference the conclusions made in respect of the sequential test or the first part of the impact test relating to the potential impact on the investment within the defined centres.

1.23 Nexus' submitted retail impact assessment confirmed that a large proportion of the impact arising from the proposal would occur at Tesco's store. Also, that it is likely that the level of diversion estimated by Rapleys to be taken from the Tesco store in particular has been underestimated and the resultant impact on the store and the wider town centre would be higher in practice. However, Nexus having considered the potential implications of the proposal's trade diversion from the town centre, did not consider that this would be at a level which would result in a significant adverse impact on the vitality and viability of the town centre as a whole.

1.24 Following Tesco Stores Limited Judicial Review Pre-Action Protocol Letter to challenge the original grant of planning permission and the quashing of the earlier decision, the applicants have submitted a further updated Retail Statement (January 2022), which provides updated benchmark sales densities for the convenience and comparison element of the proposed store at Norwich Road. No other changes have been made by Rapleys to the Retail Impact Assessment. The update provided by Rapleys is a result of both Mintel and GlobalData publishing updated benchmark figures relating to the average turnover of named stores in September and December 2021 respectively. In this regard, and as set out at paragraph 1.4 of Rapleys' Statement, the latest GlobalData figures issued in December 2021, reflect Lidl's actual accounting figures (for two years up to year end February 2020) for turnover and net sales floor areas across all stores within its portfolio. Rapleys have applied the updated sales densities to the proposed sales areas of the foodstore and calculated updated turnovers for both the convenience and comparison elements of the proposal.

1.25 This statement has been independently assessed by Nexus Planning who conclude that:

'The result of the above is a reduction in the estimated turnover of the proposed foodstore . . . Given the above, and in light of the estimated turnover of the proposal now having reduced following the publication of the latest GlobalData figures, it follows that the same conclusions as previously set out still apply. In this regard, and to reiterate our overarching conclusions, we are of the view that although the impacts on the existing convenience provision within Watton town centre is likely to be at a higher level than that which has been adopted by Rapleys, we do not consider that the resultant impacts on the overall vitality and viability of the town centre would be at a level which could be considered to be significantly adverse.

We therefore consider that the proposal complies with both parts of the impact test, as set out within Policy EC 05 of the Breckland Local Plan and paragraphs 87 and 91 of the NPPF.

Furthermore, planning policy is supportive of retail development which improves local customer choice and accords with sustainable development principles, providing no 'significant adverse' impacts occur at town centre locations. Most particularly, this is evident through paragraph 90 of the NPPF which requires a local planning authority to consider changes in consumer choice across the retail catchment area as a whole when determining planning applications for retail uses'.

1.26 The last sentence of paragraph 1 of page two of the Nexus independent report makes reference to needing to wait till until the latest GlobalData figures had been published. These have been published and Rapleys Retail Statement updated accordingly, leading to Nexus' Planning recommendations, as set out above.

1.27 Policy EC05 of the Breckland Local Plan (adopted 2019), seeks to direct retail, leisure and office schemes to the defined centres in the first instance, and support

town centre development. Officers have reviewed the comments received throughout the application process and the submissions of the applicants, as well as the conclusions that Nexus have reached in their independent review of this application. On this basis, officers consider that the proposal complies with both parts of the impact test, as set out within Policy EC05 of the Breckland Local Plan and paragraphs 87, 88, 90 and 91 of the NPPF. The application proposal satisfies the sequential test and it is not likely to cause any significant adverse impacts on investment in the town centre or on the vitality and viability of the town centre. Further, the application improves local customer choice and accords with sustainable development principles. The site is located close to the Watton Town Centre, within walking distance and an additional store in this location will promote customer choice. On reviewing the Nexus conclusions, officers concur that there will be no 'significant adverse' impacts on Watton Town Centre. On this basis the proposal is considered to accord with Policy EC05 of the Breckland Local Plan (adopted 2019) and paragraphs 87, 88, 90 and 91 of the NPPF.

Loss of an allocated care home

1.28 In addition to the concerns raised about the retail impact of the proposals, MRPP also made reference to the loss of the site's care home, especially given this formed part of the allocation, as set out in Policy WHA2 of the Breckland Local Plan (adopted 2019). It is agreed that the application site forms part of a site allocated in the Breckland Local Plan (adopted 2019), which has been allocated within that plan for 'residential development of at least 45 dwellings and at least a 60 bed care home' under Policy WHA2 of the Breckland Local Plan (adopted 2019). Here, it is crucial to note that proposals need to be considered against the Development Plan as a whole, as well as any other material considerations. Also, that the Policies within the Breckland Local Plan (adopted 2019) were examined and found sound by an Inspector and therefore should be given full weight in the determination of planning applications.

1.29 As set out by MRPP, Development Plan allocations endure for the lifetime of the Plan, unless that Plan is reviewed, and those allocations altered. In this regard, it is important to note that Policy INF03 of the Breckland Local Plan requires the Council to undertake an immediate partial review of the Plan, with regards to the matters as set out under Policy INF03, which include 'Policy HOU 01 Development Requirements (minimum): To consider housing need and the subsequent strategy for meeting the identified need'. The revised NPPF (2021) paragraph 33 states 'Policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary'. Footnote 20 states 'Reviews at least every five years are a legal requirement for all local plans (Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012)'. Therefore, whilst it is accepted that the full plan period (i.e. up to 2036) is relevant, the weight attached to the point is limited as a review is imminent and required.

1.30 Despite the general local support for the store (although mainly not for the residential) this has been at the expense of the care home. There is a Breckland/Norfolk wide shortage of care and therefore the loss of this facility needs to be carefully considered. In the event planning permission for this proposal is

granted, then it is unlikely that a care home would be delivered on this site. As the care home forms part of an allocation in the Local Plan, this is a significant material planning consideration, which weighs significantly against the granting of planning permission.

1.31 The applicants have set out in their application submission, the following:

The landowner and applicant (Abel Homes) have discussed the potential opportunity with a number (four) of care home operators, including one who Abel are working with in conjunction with delivering a care home and assisted living units at Swaffham. However, none of the care home operators approached have been able to make the demographics of the area work for their respective models, and have failed to show interest in developing the site as a care home. It is considered that this may, at least in part, be explained by the significant prevalence of care homes (six) in Watton, including four along Watton Road and two assisted living/ care homes elsewhere within Watton. These include: Buckingham Lodge Care Home; Lancaster House; Dorrington House; and Linden Court Residential Care (all on Norwich Road); and Kalmia and Mallow; and Conquest Care Home (both on Dereham Road). Accordingly, whilst it is readily acknowledged that there is a care home need generally within Norfolk, it is evident that there is no demand for a care home in this specific location.

In parallel to Abel Homes discussing the potential development of the site with care home operators, they were approached by Lidl in relation to the development of part of the site for a retail store. Whilst the development of a retail unit on the site would be contrary to Watton Housing Allocation 2, material considerations exist to justify the principle of development. An Impact Assessment prepared by Rapleys on behalf of Lidl has demonstrated that there is available convenience and comparison expenditure within the local area to support a retail unit of the size proposed. As well as the evidence provided in relation to expenditure, the need for a retail unit is highlighted by the fact that approximately 43% of residents (based on the public consultation exercise undertaken by Lidl) leave Watton, primarily by car, to undertake their shopping. In addition, to this a Sequential Test has been undertaken to demonstrate that there are no other sites within or outside the town centre to accommodate the proposed development and which satisfy the operators requirements.

1.32 The applicants also submitted a Planning Statement Addendum on 19/07/2021 to further support their original submission which sets out the lack of demand for a further care home in Watton. They state:

- The identified need for a care home (as supported by the Central Norfolk Housing Market Area (CNSHMA) 2017) was not specific to Watton, but based on a County/District requirement.

- The reference within the policy to a care home reflects the fact that during the preparation of the Local Plan, Abel Homes (the landowners and applicants) were working with a care operator who, at the time, had a requirement for a site in Watton. Unfortunately, the care operator that Abel had been working with withdrew their

interest in the site shortly prior to the adoption of the Local Plan. The care home part of the allocation policy obviously still remains.

- Since 2018, Abel have been unsuccessful in trying to attract an alternative operator, despite speaking to four operators active in the eastern region.

- Letters from all four operators have been provided to demonstrate the lack of interest for providing further care in Watton. In summary, they state 'there is an oversupply of care beds. More specifically, there are 6 care homes within a 5 mile radius of Watton with further care homes in Swaffham, Dereham and Attleborough, all of which are within approximately 10 miles of Watton. Accordingly, Watton is viewed as an oversaturated area in terms of care beds, meaning that care operators do not wish to pursue the opportunity provided by Policy WHA2'.

- Since the adoption of the Local Plan in 2019 and the allocation of the site for a care home, as well as Abel approaching care operators, Abel have not been approached directly by a care operator interested in the site.

1.33 On this basis, it is considered that it has been demonstrated that there is currently limited or no demand for a care home in this location, at this time.

1.34 In addition, whilst the care home was clearly a positive aspect of the proposed allocation, it was not the only reason the site was allocated. As page 84 of the Breckland Local Plan: Approach to the Selection of Sites (August 2017) states:

"The site is considered suitable for allocation as it is easily accessible, close to local services and would form infill development between established residential and employment areas"

1.35 This position is not, affected by the loss of the care home. The merits of the site i.e. it's infill development and close to services, are unaffected. It should be noted that the other allocation in Watton 'land off Saham Road' also only scored neutrally against the Sustainability Appraisal criteria (the same rating as land north of Norwich Road before the ability to provide specialist housing was considered) but was still allocated.

1.36 In addition, from looking at the other sites included within the Watton section of the Selection of Sites, there are clearly other reasons why alternative sites within Watton, whilst scoring neutrally, were not allocated i.e. open space, edge of centre.

1.37 Notwithstanding, the District wide need identified by the Central Norfolk Housing Market Area (CNSHMA) (dated December 2017 - prior to the adoption of the Local Plan), Policy WHA1 of the Breckland Local Plan (adopted 2019) is the only allocation in the adopted Local Plan that has a specific requirement for the provision of a care home. The applicants state that this is a reflection of the fact the site was promoted with the inclusion of a care home. No specific assessment of the need for a care home in Watton or the wider District was undertaken in the allocation of sites in the Breckland Local Plan (adopted 2019).

1.38 The applicants state that they consider that the proposed care home on this site would deliver less than 5% of the total District need during the period to 2036 and that on this basis the Council are obviously expecting to meet Care needs through the application of Policy HOU09 of the Breckland Local Plan (adopted 2019). Policy HOU09 of the Local Plan seeks to encourage the provision of new care homes and resist the loss of existing extra care or care premises. It is worth noting that the policy makes no reference to planning sites, only existing facilities, and indeed, the wording of the policy actually refers to the need to provide a replacement facility. It is considered that this wording relates to existing, not proposed, facilities.

1.39 The applicant has made reference to two pending planning applications for care (3PL/2017/1487/O & 3PL/2021/0748/D - outline approved and reserved matters approved and 3PL/2019/0513/F - pending), which they state demonstrate that Policy HOU09 can deliver care in appropriate locations, without the need for this allocation. They state *'The two applications alone will, subject to the grant of planning permission, secure consent for the delivery of 11% of the identified need within the first 2/3 years of the period covered by the Local Plan'*. Finally, they state that should a care operator in the future wish to operate in Watton, an application could appropriately be considered under Policy HOU09 of the Breckland Local Plan.

1.40 As set out above, the NPPF, is a significant material planning consideration in the determination of planning applications. The applicants state that paragraphs 82(d) and 122 of the NPPF, are relevant material planning considerations, which state:

Paragraph 82(d):

'Planning policies should: be flexible enough to accommodate needs not anticipated in the plan . . . and to enable a rapid response to changes in economic circumstances'.

Paragraph 122:

Planning policies and decisions need to reflect changes in the demand for land. They should be informed by regular reviews of both the land allocated for development in plans, and of land availability. Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan:

a) it should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, deallocate a site which is undeveloped); and

b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area. (Own emphasis).

1.41 With regards to these paragraphs, the applicants make the following points:

- As detailed above, it is evident that there has been a change in the demand since the adoption of the Local Plan in relation to the use of the site as a care home, and

that as a result there is no prospect of the allocation, so far as it relates to a care home, coming forward.

- The Council have resolved to undertake a full review of the Local Plan and are currently considering the timetable for the review. As part of this review the Council will consider future needs based on new housing requirements and any other changes to demographics in the area and what effect this may have on the need for care homes and other forms of social care. It is likely to take a number of years for a replacement Local Plan to be adopted.

- With regards to part b) of paragraph 122 (of the NPPF), it should be considered whether the proposed retail use would contribute to meeting an unmet need for development in the area? The assessment of need for retail in Watton is set out in the proceeding section of this report, as well as an assessment of sequentially preferable sites in accordance with Policy EC05 of the Local Plan and paragraphs 87 and 88 of the NPPF.

1.42 The proposal therefore, does not comply with one aspect of Policy WHA2 of the Breckland Local Plan (adopted 2019), in that it does not deliver the 'at least 60 bed care home', as set out in this allocation policy. That said the Council, as will be explained further below, has considered the other aspects of Policy WHA2 and other policies in the Development Plan as a whole, and has reached a view that the proposal does comply with the Development Plan as a whole. In accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, permission should thus be granted, unless material considerations indicate otherwise. The Council also considers that other material considerations further support the grant of consent. The NPPF is a significant material planning consideration in the determination of any planning application. In this regard in particular it is considered that the need for a care home in the District does still exist, but the applicants have submitted sufficient information to demonstrate that the demand in Watton specifically is not there to meet this need, at this time. Having regard to paragraphs 82(d) and 122 of the NPPF, the positives of delivering the retail store (as identified in the submitted needs assessment, outlined in the proceeding section) and the delivery of housing on an allocated site, are considered to outweigh the need for a care home in this location, at this time. On this basis the principle of development is considered to be established.

Residential

1.43 With regards to the residential, despite the general local concern about residential in this location, the site has been allocated for at least 45 residential dwellings, subject to the criteria listed below. Therefore, on the basis the proposal is delivering in accordance with the allocation, the principle of residential development is established here.

1.44 A further area of open space is to be provided to the north of the site. This area lies outside of the formal allocation and designated settlement boundary for Watton but lies immediately adjacent to it. Development outside of the settlement boundary for Watton is assessed against Policy GEN03 of the Breckland Local Plan, which directs new development to sustainable locations in accordance with the sustainable

settlement hierarchy, which includes Watton as a Market Town. Development outside of designated settlement boundaries, such as Watton, is considered against Policy GEN05 of the Breckland Local Plan, which states '*outside the defined settlement boundaries, development is restricted to recognise the intrinsic character and beauty of the countryside*'. This land is not to be developed with housing, it will be used for a drainage lagoon and additional open space to serve the site. This is seen as a benefit to the development. In addition, the area is proposed to be landscaped, (to be conditioned), which will help to protect the setting of the Grade II Listed Building to the north. For these reasons it is not considered to negatively impact the intrinsic character and beauty of the countryside and the principle of development in this location is considered acceptable in accordance with Policies GEN03 and GEN05 of the Breckland Local Plan (adopted 2019).

1.45 Taking into consideration the above, compliance with the criteria, as set out in Policy WHA2 has been considered and is set out in summary below, with further detail provided within the relevant sections of the report. It is considered that the proposal complies with these aspects of Policy WHA2 overall, as follows:

1. *Vehicular access to the site is provided from Norwich Road.* Yes it is.
2. *Where necessary, implementation of transport mitigation measures to the satisfaction of Norfolk County Council Highway Authority.* The Highways Authority have confirmed no objections to the proposals following amendments and relevant conditions will be applied, to ensure this.
3. *Appropriate density to respond to the surrounding development.* The density is 20 dwellings per hectare and the allocation was for at least 45 dwellings. It is considered that the proposal responds well to the surrounding character of the area.
4. *Retention and enhancement of native hedgerow and trees on the northeast site boundary to form a landscaping buffer which responds to the rural setting and protects the setting of the adjacent listed building.* The Tree Survey sets out that there are no planned works to these trees, and this can be secured via an appropriately worded planning condition.
5. *Additional mitigation measures will be required to ensure the protection of residential amenity from the adjacent business park, in line with Policy COM 03.* Environmental Protection Officers raise no objections to the proposals and have suggested to conditions to address amenity impacts.
6. *The provision of open space is required in accordance with Policy ENV 04.* The proposals are considered compliant with Policy ENV04 and this can be secured via an appropriately worded s.106 agreement.
7. *Appropriate sustainable surface water attenuation measures are provided, and where possible included as part of landscaping schemes.* The drainage lagoon to mitigate the proposals sits to the north of the application site, outside the original allocation. However, given that all the actual built development would lie within the allocation then this is considered acceptable, especially as it is needed to mitigate the development. The LLFA and AW raise no objections to the proposals in this regard.
8. *Development proposals in Watton should have regard to the findings of the Water Cycle Study which indicates potential capacity limitations at Watton Waste Water Treatment Works and within the foul sewerage network. A Utilities Statement will be required to support the planning application to demonstrate how capacity will be made available in time to serve the site.* The applicants have submitted a utilities

statement in support of the application. The LLFA and AW raises no objections to the proposals and Anglia Water are working on an overriding strategy for dealing with foul water in the locality.

9. *The scheme's design will preserve or where possible enhance the setting of nearby designated and non-designated heritage assets, with particular regard to the Grade II Rokeles Hall.* There are no objections raised by the historic buildings officer to the proposals and given the distances involved and the relatively low lying character of the development then it is considered the setting of Grade II Rokeles Hall will be preserved, as well as other nearby heritage assets.

10. *Submission of a project level Habitats Regulation Assessment to determine the impact of proposed development on Breckland SPA/SAC and to assess habitat suitability, the need for additional survey work and mitigation strategies where required.* A Shadow HRA has been provided. It presents a reasoned justification for the conclusion of no likely significant effects and is considered fit for purpose. Our ecologist and Natural England have no objection and, conclude that the proposed development will not have likely significant effects on the Breckland SPA.

Conclusion on Principle Grounds

1.46 The other Development Plan policies and other material planning considerations which weigh in favour of granting planning permission are summarised as follows:

1. Policy EC05 of the Breckland Local Plan identifies a need for convenience and food retail in Watton. This is a significant material planning consideration in the determination of this application, and the retail proposal on this site would deliver this need, which weighs in favour of the proposal. However, the proposal is for 1256m² net of retail space and the Local Plan allocation is for 514m² for convenience and 181m² for food. This over provision of retail proposed, this is minor negative not in favour of the application. However, the proposal would lead to delivery of another foodstore in Watton, which would increase consumer choice without having a 'significant adverse' impact on Watton Town Centre, in accordance with paragraph 91 of the NPPF.

Policy EC05 of the Breckland Local Plan states '*The development of additional retail floorspace outside of defined centres will be restricted where it fails the sequential and impact tests (except where it serves local need)*'.

Through increasing consumer choice, it is considered that the proposal will serve a local need. Policy EC05 is clear that applications for retail development in Watton over 500m² will be required to undertake an Impact Assessment and that support will be dependent on how it reflects need identified in the 2014 retail study and other evidence [own emphasis].

Rapleys on behalf of the applicants and Nexus have provided evidence that there is an unmet need in Watton, which is greater than that detailed in the Development Plan. This is relevant to paragraph 122 of the NPPF, which is further discussed below.

Finally, it is important to note that 'need' is no longer a NPPF policy requirement and the proposal's impact on the vitality and viability of the centre

is the key test. The assessment of the impact on the vitality and viability of the centre is not considered to be 'significantly adverse' in accordance with Paragraph 91 of the NPPF. In addition the application brings numerous benefits, including in increasing consumer choice. All these matters can be given significant weight in the determination of this planning application.

2. Policy HOU09 of the Breckland Local Plan (adopted 2019) seeks to encourage applications which meet the anticipated levels of varied needs of an ageing population for supported and affordable provision, developments that provide housing solutions for older residents, or anyone in need of care or health support. This has limited weight as a material planning consideration in the determination of this application but does demonstrate that there are other possible ways to deliver care facilities across the District to meet the need. MRPP made reference to Policy HOU09 and the requirement to provide a replacement facility if a care home is lost. Policy HOU09(a) states '*Resisting development that would lead to a **reduction** in the number of extra care or care premises unless it can be demonstrated that a replacement facility will be provided or that such a use was not viable*'. **[own emphasis]**. This proposal would not result in a reduction of care premise as no facility currently exists on this site. Therefore, it is not considered necessary to require a replacement facility or viability assessment on this basis. Policy HOU9 is only relevant to the proposed development in so far as the policy demonstrates how, notwithstanding the loss of the care home allocation at Watton, the need for care within the District can be addressed by the Local Plan.
3. There is a significant amount of public support for a Lidl store in this location, demonstrated in the number of letters of support we have received during the planning application process and the applicants own household survey. This is a material planning consideration of moderate weight which weighs in favour of the proposals.
4. The applicant has provided some evidence to demonstrate that despite the identified need for care across the District, there is no demand, at this time, for additional care homes to be delivered in Watton. The information submitted is considered to be a material planning consideration of limited weight which weighs in favour of the proposals.
5. Paragraph 122 of the NPPF states '*Planning policies and decisions need to reflect changes in the demand for land. They should be informed by regular reviews of both the land allocated for development in plans, and of land availability. Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan: . . .b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area*'. There is no timeframe provided within the NPPF of when applications for alternative uses can/cannot be supported. For the Plan to remain up to date, the council is committed to a full update of the Local Plan and will take this opportunity to seek alternative sites for care. The NPPF is a significant

material planning consideration in the determination of a planning application and paragraph 122 is considered to weigh in favour of the proposal as well as paragraph 91, which seeks to increase consumer choice. These are given limited weight based on the age of the plan and the allocation. In addition, the lack of demand for care in Watton and for a planning application coming forward on this basis, coupled with a need for retail, which can be given moderate weight in the planning balance.

6. The site is allocated for 45 dwellings, which will be delivered alongside the retail element. This is positive in favour of the proposals with significant material weight.

1.47 Based on the above, the proposal, with specific regard to the loss of the care home, is contrary to one aspect of the requirements of Policy WHA2, which has been given significant weight in the planning balance and therefore weighs significantly against granting planning permission. However, in considering the compliance of the proposal with other aspects of Policy WHA2, and in considering the compliance of the proposal with other relevant policies in the Development Plan, it is considered that the proposal complies with the Development Plan when considered as a whole. It follows that permission should be granted according to Section 38(6) of the Planning and Compulsory Purchase Act 2004, unless material considerations indicate otherwise. The Council consider that the other material planning considerations further support the grant of consent. Accordingly, when considering the Development Plan as a whole, together with other material planning considerations, the proposals are considered acceptable in principle.

2.0 Highways and Access

2.1 Policies TR01 and TR02 of the Breckland Local Plan (adopted 2019) seek to promote sustainable transport. Policy TR01 requires development to minimise the need to travel; promote opportunities for sustainable transport modes; not adversely impact on the operation or safety of the strategic road network; improve accessibility to services; and support the transition to a low carbon future. Policy TR02 requires development to integrate into existing transport networks; mitigate highways impacts; protect and enhance access to public rights of way; provide safe, suitable and convenient access for all users, including appropriate parking; and avoid inappropriate traffic generation and do not compromise highway safety.

2.2 Access to the site for both residential and the convenience store will be taken via a T-junction to the south of the site onto Norwich Road, and this is in accordance with Policy WHA2 also.

2.3 A Transport Assessment (TA) has been submitted in support of the application. The TA demonstrates that the surrounding area benefits from an excellent level of pedestrian infrastructure, whilst the site is also in close proximity to a number of local cycle routes. Furthermore, it references frequent bus services to and from Norwich City Centre from the bus stops situated on the B1108 Norwich Road, one located immediately to the south of the site.

2.4 Parking provision will be provided across the site for residential dwellings through a combination of curtilage parking and separate discreet designated parking areas (with spaces allocated per unit), meeting the Council's adopted Car Parking standards, reference in Policy TR02 of the Local Plan. In total, 92 (not including garages) car parking spaces are provided within the site, which equates to a minimum of two spaces per dwelling.

2.5 The convenience store development will provide 122 car parking spaces (including 6 disabled parking, 9 parent and child spaces, and 2 electric vehicle charging points), cycle parking close to the store entrance and a delivery bay. When assessing the proposal with regards to net sales area of 1,256 sq. m then the proposal would be required to deliver 89 car parking spaces, 4 disabled and 18 cycle spaces. The proposal is delivering in excess of these numbers with regards to car parking and disabled spaces. If the proposal was assessed using the 1,900 sq. m gross internal area (GIA) then 136 car parking spaces, 7 disabled and 27 cycle parking spaces would be required. The proposal is obviously delivering less car parking spaces. The applicants have submitted further information in this regard, stating:

- 120 car parking spaces is Lidl own maximum target for car parking spaces per stores of this size across the country. However, on a number of occasions the number is actually much lower than this.
- 120 car parking spaces is deemed more than adequate for Lidl purposes and more than meets the requirements for the level of customers frequenting the store given the length of stay.
- The standards referred to are for A1 class (now class E) and presumably are the same for all retailers within this category. Lidl note that the average length of stay for a customer to a discount retailer is less than half of that of a customer to an unrestricted food retailer and hence the requirement for parking spaces is less.

Given the above comments and the accessibility of the site, and the size of the net sales area then the amount of car parking is considered appropriate for a store of this size. Taking the gross floor area this would equate to one less disabled space (however this is rounding up) and the proposal includes parent and child spaces as well as electric. For these reasons, taking into account the net sales area, then the amount of disabled spaces proposed is considered acceptable. Finally, the required cycle parking provision can be secured via an appropriately worded planning condition, applied to any subsequent approval of planning permission.

2.6 In seeking to reduce the number of vehicular trips generated by the development, a Travel Plan has been prepared in respect of the proposed store. A series of measures are identified in the Travel Plan including a welcome pack for all staff outlining public travel information, on-site information points, on-site cycle parking, and the creation of an informal car sharing scheme. The action plan measures will be subject to a monitoring and review process. A Travel Plan Co-ordinator will be appointed with appropriate funding, and the travel patterns of future employees at the site will be monitored, with one year, three year, and five year travel to work targets for car, cycling, public transport and walking modes. This is to be secured via a suitably worded planning condition.

2.7 Subject to some minor amendments made to the proposals, the Highways Authority has raised no objections, subject to condition(s). With regards to the information submitted they comment *'The traffic data used in the TA is from 2015, which would normally be rejected as it is more than 3 years old. However, due to the current circumstances preventing any opportunity to collect new traffic flow information and there being no significant changes to the local network that would alter traffic patterns, the submitted data is considered acceptable in this instance'*. On this basis the access and parking provision as proposed is considered acceptable and complies with Policies TR01, TR02 and WHA2 of the Breckland Local Plan (adopted 2019).

3.0 Character, Design and Heritage

3.1 Section 12 of the NPPF and Policies HOU01, GEN02 and COM01 of the of the Breckland Local Plan (adopted 2019) seek to promote high quality design and protect the character of an area.

3.2 The character of the area comprises of a large industrial estate to the east, with large buildings, predominantly side onto Norwich road at the frontage of the estate. These building surround a central access route and are built of a mixture of metal cladding and red brick. There is a row of existing trees separating the industrial estate and the application site. To the west are residential properties, comprising of a mix of detached, semi-detached and terrace properties, largely constructed of red brick. To the south east of this existing residential development is a terrace of properties fronting onto to Norwich Road, again with trees separating them from the site.

The Store

3.2The new Lidl store will be oriented south-north wards with the car parking area located to the east and south of the new store, with appropriate landscaping to help soften the hard aspects, like the car parking. This can be secured via appropriately worded planning conditions. The delivery bay will be located at the north-western corner of the site, furthest away from Norwich Road to maintain street frontage. In total, the proposed food store with associated car parking and landscaping will occupy 0.81ha of the application site. The proposed building consists of a contemporary single storey building with a sloping roof, typical of its retail type. The building, in terms of positioning on the site is located furthest away from heritage assets so as not to affect their setting or significance.

3.3 With regards to character of the area and street scene, the proposed store at the frontage of the site has been designed to sit sideways with the road and given its form and scale it mimics that of the layout of the adjacent industrial estate. The street frontage onto Norwich Road is considered a sensible way to deliver the site given the proposed end user. Although, there will be large areas of car parking to the east and south, this is not usual for this type of use and an appropriate landscaping condition, will help soften and break up this area. The retention of trees to the east is also supported.

Housing

3.4 The proposal seeks to provide 45 residential units, including 11 affordable homes (25%). The scheme proposes a mixture of detached and semi-detached units, with on-plot parking and separate designated parking areas. The affordable housing units are within two clusters either side of an access road to the north of the retail store. It is noted that the Housing Enabling Officer has raised concerns about the clustering of affordable units. Policy HOU07 of the Breckland Local Plan (adopted 2019) states that *'The Council will seek for affordable housing to be distributed across a development as single units of small clusters, rather than in a single area. The Council will consider exceptions if an applicant can demonstrate that it is necessary for the long term management or viability of the affordable housing'*. The comments of the Housing Enabling officer are noted and have been considered by officers. However, it is considered that 11 affordable homes is a very small number and a cluster of this size would not materially affect the character of the area. The applicant has expressed that given the amount of affordable housing required then these would be easier to manage by a housing association as a cluster, than spread across the site. The applicants state that they have an identified housing association who has confirmed support for this layout. Housing have been approached on this basis and although continue to express concern, they agree that an objection to the application on this basis could not be substantiated in terms of the refusal of planning permission.

3.5 The proposed materials for the houses are predominantly red brick, with some in prominent locations to be finished in white render. Areas of natural timber cladding are also incorporated. Windows fascias are proposed to be dark grey with rainwater goods zinc coated steel. Roofs are finished with red and dark grey flat plain tiles. These materials are considered acceptable given the context of the surrounding area and a condition will be added in this regard.

3.6 The plans have been amended during the course of the application, in conversation with the case officer to ensure usable areas of open space are provided within the site and key spaces are framed by properties with dual elevations to protect the character of the area and maintain surveillance. The residential element of the proposal is set back from the Norwich Road frontage, open space frames the entrance to the site to the east with landscaping in-between the access and store car parking to the west. Plot 1 is dual elevation to provide frontage in the street scenes and address the access to the site.

3.7 Based on the provision of 45 dwellings on a site area of 2.28ha (based on the 'developable site', and excluding the area associated with the retail unit), the residential aspect of the development would equate to a density of approximately 19.73 dwellings per hectare (dph). It is considered that the proposed density reflects the surrounding context in accordance with Policy WHA2. The character of the area is protected by the retention of the significant tree belt adjacent the eastern boundary, and the open space provided at the entrance to the site, which marks this once open field. The applicant has confirmed that all house types now exceed the nationally prescribed space standards in accordance with Policy HOU10 of the Breckland Local Plan. On this basis the proposal is considered to accord with the character of the surrounding area and is considered acceptable on this basis, in

accordance with Policies GEN02, COM01, WHA2, HOU06 and HOU10 of the Breckland Local Plan (adopted 2019).

Open Space

3.8 The proposal is to provide approximately 0.33 hectares of outdoor playing space/open space on site, in accordance with Policy ENV04 of the Breckland Local Plan (adopted 2019). This is to be provided in three distinct areas across the site; including at the frontage of the site, to the eastern boundary which would complement the existing tree belt to the eastern boundary that will be retained and to the centre and east of the site. This area has been increased in size through amendments to the application following dialogue with the case officer. It is felt this new space will provide a central focus to the application site, especially as it will include the proposed LAP. It is also now a more usable open space, accessible to future occupants and the wider area. A further area of open space is to be provided to the north of the site. This area lies outside of the formal allocation but will be a positive addition to this site and the surrounding area. No development is proposed in this area and landscaping, which can be conditioned will help to protect the setting of the Grade II Listed Building to the north. The proposal exceeds the outdoor playing space/open space requirement by approximately 640sqm.

3.9 The proposal includes no outdoor sport provision. In this regard it is noted that Policy ENV04 of the Breckland Local Plan sets out:

'It is recognised that there may be cases where the direct provision of outdoor playing space on-site is not the preferred option. It may be that outdoor playing space does not represent an efficient use of land in the context of the site location or that there is a deliverable opportunity to secure a more meaningful area of outdoor playing space that better serves the whole community in close proximity to the application site. Contributions in lieu of on-site provision for sites of 25 or more dwellings will be the exception and will need to be supported by robust evidence from the applicant that on-site provision is not appropriate and/or viable . . . Any contribution will need to be towards a specific deliverable scheme in consultation with the relevant parish council and the developer contributions policy in this document'.

3.10 The size and scale of the site is acknowledged and the amount of development proposed is the minimum in terms of the sites allocation for 45 dwellings. As a result, it is agreed that no usable outdoor sport space could be provided on site, on this basis. The applicants have been in contact with Watton Town Council, who have confirmed that they have no specific deliverable scheme for contributions to outdoor sport open space. Officers have also contacted the Town Council with regards to this matter and Watton Town Council have responded that, at present the Town Council has no scheme planned. On this basis, there is no requirement to provide outdoor sport open space or a contribution in accordance with Policy ENV04 of the Breckland Local Plan (adopted 2019). The proposal is considered acceptable on this basis.

Heritage

3.11 Section 16 of the NPPF, ENV07 and ENV08 of the Breckland Local Plan (adopted 2019), and Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, seek to protect the special interest and significance of heritage assets/Listed Buildings and their settings.

3.12 A Heritage Impact Assessment (HIA) has been submitted, which assesses the significance of relevant heritage assets and any potential effects of the proposed development on this significance. The HIA identifies Rokeles Hall (Grade II listed, a designated asset) that is located approximately 120m to the north east of the site, behind a row of established trees, and some former RAF buildings (considered non-designated assets) adjacent the site. Due to existing trees, there are no views from or towards Rokeles Hall or its associated outbuildings from the site. In respect of the setting of this Listed Building, outbuildings and the former RAF buildings their setting has been significantly changed by the construction of 20th century industrial units in front of the buildings and the development of housing estates on the former airfield. This has been confirmed by the Council's Historic Building officer who has made additional comments. Assessing the impact of the proposals on the setting of the Grade II Listed Building, outbuildings and former RAF buildings, in support their initial comments of 'no objection' the Council's Historic Building officer states '*Given the current setting, the location of the proposed development, its relationship with existing development and significant mature planting it is not considered from an historic built environment perspective that the proposed development will adversely affect the setting of any of the identified heritage assets to the extent that it will harm significance. I therefore have no objections.*'

3.13 The submitted HIA concludes that the proposal has the potential for less than substantial harm (in the range of low adverse) to the wider setting of Rokeles Hall and the former RAF buildings but the appearance of the area will be preserved by being of an appropriate design, scale, form, height, massing and position.

3.14 Paragraph's 197 and 199 of the NPPF (2021) state:

197. In determining applications, local planning authorities should take account of:

a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and

c) the desirability of new development making a positive contribution to local character and distinctiveness.

199. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

3.15 In terms of Section 16 of the NPPF, specifically paragraphs 197 and 199 and Policy EC07 of the Breckland Local Plan (adopted 2019), great weight has been attached to the significance of preserving historic assets and it is recognised that the proposals would result in less than substantial harm to their setting by the provision of residential dwellings. On that basis paragraph 202 of the NPPF states *'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'*.

3.16 The proposed application will deliver 45 dwellings on an allocated site in the Local Plan, providing public benefit in terms of delivering housing in a sustainable location, in accordance with Policies WHA1 and GEN05 of the Breckland Local Plan. In addition, public benefit will come from the provision of retail on this site through the provision of a local facilities, for which there is significant public support evidenced in the responses to this application and the need identified in Policy EC05 of the Local Plan (although not to the scale to be provided, which has been discussed above having regard to retail impact).

3.17 Great weight has been attached to the significance of preserving historic assets and it is recognised that the proposals would result in less than substantial harm to the setting of the Grade II Listed Building, outbuildings and former RAF buildings. However, it is considered that this less than substantial harm is outweighed by the public benefits of delivering housing on an allocated site and the provision of local retail. The proposal is therefore considered to accord with Section 16 of the NPPF, ENV07 of the Breckland Local Plan (adopted 2019), and Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Archaeology

3.18 Trial trenching was undertaken across the site. The results of the trial-trenching revealed little activity across the site, with no indication of Roman activity towards the north-west of the site which was anticipated due to the presence of the Roman farmstead lately discovered at Watton Green just to the west. The low quantities of later prehistoric finds indicate that the site is unlikely to be within the main 'foci' of settlement activity. The sparse evidence of just three struck flints uncovered indicates a dispersed nature to any prehistoric activity on site and it is unlikely that features from this period will be present in quantity. The archaeological investigation has revealed evidence for possibly early medieval and postmedieval agricultural activity with a small representation of prehistoric activity. The results are in keeping within the known archaeology of the eastern part of Watton and the surrounding area.

3.19 The Historic Environment Team have been consulted and state that most of the proposed development site was subjected to pre-application archaeological trenching. However, part of the present development area was not included within last years trenched area. The area not included (the northwest part, to be a pond) is close to a number of trenches which contained a significant number of undated archaeological features, that may represent the edge of an occupation area, which may lie within the area of the proposed pond. Consequently, there is potential that heritage assets with archaeological interest (buried archaeological remains) will be

present at the site and that their significance will be adversely affected by the proposed development. On this basis they have requested a planning condition, which will be appended to any subsequent granting of planning permission. Any harm therefore to archaeological assets can be suitably mitigated against by the application of a condition. The proposal is therefore considered to accord with Section 16 of the NPPF, ENV07 and ENV08 of the Breckland Local Plan (adopted 2019) in terms of archaeology also.

4.0 Amenity

4.1 Policy COM03 of the Breckland Local Plan (adopted 2019) seeks to avoid unacceptable effects on the residential amenity of neighbouring occupants, or development which does not provide for adequate levels of amenity for future occupants.

4.2 A number of concerns have been raised in representations with regards to development adjacent to the west of the application site including loss of light/privacy. The majority of dwellings off Akrotiri Square have long rear gardens and will be some distance away from new residential dwellings, over 30 metres away. In addition, existing dwellings will be over 24 metres away from the new convenience store. These distances are considered significant and given the proposed store is single storey and the proposed dwellings two storey's then it is not considered that there would be a significant impact on amenity, loss of privacy or light due to these distances involved.

4.3 At the frontage of the site, the proposed store will sit adjacent to a row of two storey terrace properties. There will be approximately 6 metres between this dwelling and the proposed store. Although, there is some risk of amenity impact here, it should be noted that this is the rear of the store, with no windows or deliveries taking place from this entrance. These dwellings front onto Norwich Road, which is an already busy road in terms of traffic and noise. Existing vegetation abuts the walls of this dwelling, closer than the existing store. On this basis it is not considered an objection on grounds of amenity could be substantiated. Concerns over noise and disturbance during construction are noted. However, it is considered that works adjacent to dwellings will be for a limited period only and significant distances exist. On this basis the proposal is considered acceptable in this regard.

4.4 On the eastern boundary of the site, concerns were raised by officers with regards to new residential development and the proximity to trees and the potential for shading. The applicants have amended the proposals and submitted shade analysis plans to demonstrate the acceptability of the proposals. In addition, there would be an element of buyer beware in this regard.

4.5 The Town Council and initially our Environmental Protection officers raised concerns with regards to the potential impact of the noise from deliveries on the closest proposed residential properties. Further information was provided by the applicants and these concerns have been addressed, subject to the imposition of conditions with regards to acoustic barriers, hours of works/operation, lighting, noise and materials disposal.

4.6 There are varying sizes of garden proposed, some fairly small but overall the proposals appear in character with the surrounding area in terms of variance of garden sizes. Dwellings within the site are well spaced and have access to rear gardens and car parking. It is considered that there will be good surveillance across the site through proposed fenestration and the location of dwellings, open spaces and car parking. The proposal is therefore considered to accord with Policy COM03 of the Breckland Local Plan (adopted 2019).

5.0 Flood Risk

5.1 Section 14 of the NPPF and ENV09 of the Breckland Local Plan (adopted 2019) seek to minimise the risks of flooding by direct new development away from areas at highest risk of flooding and for new development not to increase flood risk elsewhere. The site lies within Flood Zone 1, which is considered to be at very low risk to fluvial and/or tidal flooding (having a less than 1 in 1000 annual probability of flooding), as well as being at low risk of surface water flooding.

5.2 The submitted information with the application sets out that infiltration testing was undertaken in four trial pits, with no ground water encountered in any trial pits. Nonetheless, infiltration as a form of surface water discharge for the proposed development has been deemed not possible on the grounds of the variable rates of infiltration throughout the site. Permeable paving has been incorporated into all driveways for the residential units, it is viewed there will be an element of infiltration to some degree in most areas. However, in the extreme events this will discharge into a perforated pipe and discharge into the Anglian Water sewer. The use of permeable paving will reduce the time of entry and velocity of water into the adoptable pipe network together with providing storage with a combination of infiltration and discharge.

5.3 In respect of surface water attenuation and discharge, surface water collects from the roof areas via a private surface water network located in the vicinity of each plot. The surface water for the driveways collect via permeable paving offering additional storage and first stage treatment this water is collected via a perforated pipe that connects into the private surface water network. The surface water then connects into the proposed Anglian Water adoptable sewer and discharges north west towards the proposed attenuation lagoon towards the north-west of the site (given the sites topographical fall from south-east to north-west). The storage lagoon is to be adopted by Anglian Water and has been designed incorporating enhanced flow routing and biodiversity features and is in accordance with Anglian water SuDS requirements to satisfy adoption criteria.

5.4 The proposed adoptable pond has been designed to discharge into the existing watercourse via a proposed Hydro-brake flow control before entering a proposed ditch that connects to the existing. The Hydro-brake will limit flows in accordance with QBAR run-off of 4.59 L/s (in accordance with the proposed greenfield rate) allowing flows to back up and store within the adoptable lagoon up to and including a 1 in 100-year storm event with an allowance of 40% climate change. The Lidl element of this scheme is also proposed to connect into this surface water network, with an allowance of 2.0 L/s.

5.5 With regard to foul water management it is proposed to construct an adoptable foul water network subject to a S104 Agreement with Anglian Water. The proposed designed is to connect into the existing 150mm Anglian Water clay pipe located to the north of the site in Watton Green Road where the foul water is to be discharged via gravity. Via a Pre-Planning Assessment Report, Anglian Water have confirmed that this is acceptable as the foul sewerage system, at present, has available capacity.

5.6 The Watton and Saham Flood Action group make 7 points they would like to be included within the application. It is important to note that we must take our advice from our statutory consultees with regards to flood risk and drainage and the LLFA and AW raise no objections to the proposals. With regards to the points listed - point 1, this is a civil matter, not a planning matter and involves land outside the application site and therefore cannot be reasonably conditioned. Points 2, 3 and 4 – maintenance will be required as part of the submitted and conditioned flood risk and drainage assessments. Points 5 and 6 - cannot be conditioned or can we require a third party to comply with conditions, only the applicant. Point 7 is not a material planning consideration in the determination of this planning application. In addition, to this it is worth noting that the applicants have met with the Flood Action Group on a number of occasions to explain their proposals.

5.7 LLFA and AW have requested that conditions are applied to any permission, and these conditions will be applied, if the application is approved. On this basis the proposal is considered to comply with Section 14 of the NPPF and policy ENV09 of the Breckland Local Plan (adopted 2019).

6.0 Ecology

6.1 Section 15 of the NPPF and policy ENV02 of the Breckland Local Plan (adopted 2019) requires the protection and enhancement of biodiversity. A Preliminary Ecological Appraisal (PEA) as well as an Ecological Mitigation and Management Plan (EMMP) were included as part of the original application submission and subsequently a Shadow Habitat Regulations Assessment (sHRA) was provided following Tesco's Judicial Review Pre-Action Protocol Letter, Ground 2: breach of Habitats Regulations and the quashing of the planning permission.

6.2 Tesco's Grounds of Review are provided from paragraph 16 onward of the Pre-Action Letter, which states:

*'20. Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 ("**Habitats Regulations**") requires a competent authority, before giving permission for a project which is likely to have a significant effect on a European site, to make an appropriate assessment of the implications of the project for that site. It is well-established that a project is likely to have a significant effect on a site if such an effect cannot be excluded on the basis of objective evidence, applying a precautionary approach.*

21. The potential impacts of the policies of the Local Plan on the Breckland SPA were considered in detail prior to the adoption of those policies. In respect of the

allocations at Watton, including at the Site, it was concluded that a likely significant effect on the SPA could not be excluded, i.e. that the development of the Site was likely to have a significant effect on the SPA. As both policy ENV03 (read with Map 5.1) and the supporting text to policy WHA2 make clear, that is because of the potential impact on “functionally linked land” (i.e. land lying outside of the protected site but which supports interest features of the protected site) for Stone Curlews. It is not because of the distance of the Site from the boundary of the SPA. The areas in question are illustrated on Map 5.1, and include Watton. The requirement for an appropriate assessment is made clear in the terms of policy WHA2.

22. Thus it is clear that likely significant effects of the project on the SPA could not be excluded. It follows that regulation 63 required such an assessment to be carried out before the Permission was granted. Such an assessment was also expressly required by policies ENV03 and WHA2.

23. The OR materially misdirected members by stating that an appropriate assessment was not required because of the distance from the SPA boundary. That ignored the clear need to carry out an appropriate assessment because of the presence of, or proximity to, functionally linked land. The OR further materially misdirected members by failing to identify the relevance of, and conflict with, policy ENV03

24. Moreover, because of the failure to carry out – or even to consider carrying out – an appropriate assessment in circumstances where it had been established that likely significant effects could not be excluded, the decision to grant the Permission was in breach of regulation 63 of the Habitats Regulations.

25. Accordingly, the grant of the Permission was unlawful and it should be quashed’.

6.3 The applicant has therefore submitted a shadow Habitat Regulations Assessment. This shadow Habitat Regulations Assessment is required because the proposed development is to be sited on land within a 1km grid square which were identified in the Breckland Local Plan HRA as having low or insufficient data on the distribution of stone curlews to allow a determination of the likely impacts of local development within these grid squares.

6.4 The submitted sHRA states:

There are two European Sites within a 5km radius from the proposed development site:

- *Breckland Special Protection Area (SPA) (3.6km west).*
- *Norfolk Valley Fens Special Area of Protection (SAC) (3.7km southwest).*

In addition, Breckland Special Area of Conservation (SAC) is located approximately 5.2km west.

At this distance from these European Sites, it is reasonable to screen out direct impacts resulting from the proposed development. Even in the absence of any suitable alternative natural greenspace or public open space within the development itself, Watton is a major conurbation with access to a number of parks and other public open space that would satisfactorily absorb any increases in population . . . and recreational impacts can effectively be ruled out of the assessment.

Based on the requirements for HRA, in Breckland Local Plan HRA, is it reasonable to screen out impacts to European Protected Sites locally based on the conclusions of these studies as the development has been subject to the requirements of planning and thus the in combination effects of the development can be ruled out where the project conforms to local planning policy.

The development site is located approximately 3.6km from Breckland SPA which is the nearest European Site. Usually at this distance from any component of Breckland SPA, an HRA would be unnecessary in accordance with the Breckland Planning Policy based on the recommendations in the Breckland LDF HRA as it would fall outside of the 400m buffer for Breckland Forest SSSI or other component SSSI which contain heath and woodland habitats likely to support nesting woodlark and nightjar, and outside of the 1500m buffer for Breckland Farmland SSSI or other component SSSI which support suitable heathland or arable farmland habitat for stone curlews. However, the development falls partly within a 1km grid square identified in the Breckland Local Plan HRA where potential impacts could not be ruled out at the time of the LDF HRA due to the absence of or incomplete stone curlew data sets.

As such, the project level HRA will focus on potential impacts to Breckland SPA, in particular component SSSI which are designated for the stone curlew interest feature.

The development is located 3.5km from the SPA boundary and therefore is not situated within the 1500m primary buffer. It is also not situated within the secondary buffer. The location of the development is within Watton which is a major urban area surrounded by housing, industrial, commercial and major infrastructure. As such, the development site is fully shielded from Breckland SPA. Further screening will occur after the construction of 80 affordable dwellings under a Bennett Homes development located to the south of Norwich Road (3PL/2007/0262/O and related Discharge of Conditions).

The 1km grid square in which the proposed Abel Homes development is located is approximately 70% urban development and the site is located immediately adjacent to the B1108, Norwich Road. As such, there is a lack of suitable habitat for stone curlews within the grid square and is not considered likely to be functional to the SPA. Also, the site is completely shielded from any of the arable land within the 1km grid square by existing residential and commercial development. Inside the 1km grid

square, there is no suitable arable or heathland habitat which could credibly support nesting or foraging stone curlews within 500m of the development site. All areas of suitable arable habitat for stone curlews within the 1km grid square are also within 500m of the edge of Watton and therefore at a distance of urban landscape where stone curlews are known to avoid. The species records data from Norfolk Biodiversity Information Services (NBIS) reviewed during the Preliminary Ecological Appraisal (PEA) did not highlight any stone curlew records from within 2km of the development site.

The development of 45 dwellings alongside a new supermarket within the site is not considered to result in Likely Significant Effects to any European Protected Sites when considered in isolation. This conclusion is based on the size of the development; the distance from any European Protected Sites or extended buffers supporting functionally linked habitat; and the urban nature of the development being 'infill' within the town of Watton, fully enclosed by other residential and commercial development and fully screened from any European Site or indeed any habitat which might be considered functional.

In combination effects of development in the region are largely attributed to urbanisation. The proximity to urban centres and high population pressure means impacts are greater in proximity to urban areas and there is further risk of isolation and fragmentation of habitats resulting in retraction of range and long term species loss. Cumulate effects will relate to the overall scale of growth around the European sites. The only credible impact to Breckland SPA or other local European sites is that of impacts relating to recreational disturbance. This places a requirement for Breckland Council to monitor recreational impacts and develop a strategy to reduce potential long term deterioration of the key features of the local SPA. Planning policy within Breckland driven by recommendations in the Local Plan HRA already accounts for regional increases in population and requires the inclusion of sufficient public open space within the design of each new development. This policy is deemed satisfactory to reduce recreational pressure on sites within Breckland SPA and thus minimise potential recreational impacts. The development includes public open space in accordance with this policy.

6.5 In addition, to the open space policy (ENV04) mentioned above Breckland District Council is considering, along with all other Norfolk Local Authorities charging a one off tariff of to go towards the Norfolk Recreation Impact Avoidance Mitigation Strategy. All schemes (although not this one as the scheme has not yet been adopted by the Council), which are likely to have a recreational impact on these protected wildlife sites will be liable to pay this tariff, to be spent strategically on measures to mitigate the effects of development across the area on European Protected Sites.

6.6 The Council has taken advice from our Ecologist in this regard who states.

'The Shadow HRA provides a reasoned justification for the conclusion of no likely significant effects is considered fit for purpose.

It is noted that Natural England also have no objection and, conclude that the proposed development will not have likely significant effects on the Breckland SPA'.

6.7 On the basis of the above, including the submission of the Shadow Habitat Regulations Assessment, the Local Planning Authority has carried out an Appropriate Assessment (AA) and has concluded that the application will not adversely affect the integrity of the Breckland SPA, in accordance with Paragraph 182 of the NPPF and Policies ENV03 and WHA2 of the Breckland Local Plan (adopted 2019) and Regulation 63 of the Habitats Regulations.

6.8 In addition to the above the applicants submitted a Preliminary Ecological Appraisal (PEA), which establishes the current biodiversity value of the site; identifies any potential ecological constraints or impacts associated with the development; and provides recommendations for additional survey work.

6.9 In respect of ecological constraint's, the western boundary trees to be removed are considered to have no value as roosting habitat for bats. The trees and scrub within the site are considered to provide opportunities for nesting birds and the site could support hedgehogs which are vulnerable to impacts from development. On this basis, the EMMP identifies a number of mitigation measures including new grassland, hedgerows and tree planting for habitat creation and landscaping.

6.10 Natural England and our Ecologist have been consulted and raise no objections to the proposals or the additional information provided. Our ecologist suggests a native species hedgerow with standard trees would be beneficial to connect the proposed landscaping and further details regarding ground preparation, sowing, aftercare and management for areas sown with EM2 Wild flower-Seed and Em8 Wet Land Seed Mix, where requested. The applicants have provided further information and NCC ecologist state *'The updated landscaping plans shows a native species hedgerow along the western site boundary. If you are minded to approve this application, we recommend that you condition that the development proceeds in accordance with the landscaping plans'.*

6.11 On this basis, the application is considered acceptable in ecology terms and in accordance with Section 15 of the NPPF and policy ENV02 of the Breckland Local Plan (adopted 2019).

7.1 Other matters

Contamination

7.2 Section 15 of the NPPF and Policy COM03(8) of the Breckland Local Plan (adopted 2019) states that planning decisions should take account of ground conditions, pollution and contamination risk. A Phase 1 Desk Study contamination assessment has been submitted in support of the application. A summary of the findings, were that:

- Historically, the site was agricultural land and was largely undeveloped;

- The historical use of the site was considered unlikely to have resulted in significant contamination, with no potential on or off-site sources of ground gas identified; and
- Human end users were considered to be at low/moderate risk from ground gas and low risk from near surface soil contamination.

7.3 Based on this, no further investigative work was considered to be required to enable the safe development of the site for residential end use, in relation to contaminated land. Notwithstanding this a Ground Investigation Report to identify subsoil conditions and relevant geotechnical parameters was also undertaken. The investigation comprised 10 machine excavated trial pits, four of which were subsequently used for carrying out soakage testing. The ground conditions were generally found to be similar across the site with variably sandy gravelly clay encountered. Our contaminated land officer has raised no objections to the application on this basis and recommended a condition be added if the application is approved. On this basis the proposal is considered to accord with Section 15 of the NPPF and Policy COM03(8) of the Breckland Local Plan (adopted 2019).

Trees

7.4 The retention of significant trees and hedgerows is supported by Policy ENV06 of the Breckland Local Plan (adopted 2019). The submitted Arboricultural Impact Assessment (AIA) identifies that one B category group containing 29 trees (G4) located towards the western boundary of the application site will be removed to facilitate the development. An Oak (T1) and the southernmost five trees in G1 are subject to a Tree Preservation Order. These will be retained and protected throughout the development process. In order to mitigate the loss of trees on the site, a minimum of 29 new heavy standard rootballed or containerised trees (12 to 14cm stem girth) will be planted.

7.5 Our Tree Officer had previously commented on the application and stated *'I have visited the site and agree that the trees are generally quite poor and not really suitable for retention on a new development. The trees are quite a significant landscape feature and do provide good screening between the sites. I would be supportive of removal on the basis that suitable mitigation planting is provided. Ideally the planting would not be within gardens but on a strip between the gardens and the two sites. My suggestion would be a mixed native species hedgerow containing some standard trees, which could include field maple and some Oak where space allows'*.

7.6 Further information was subsequent provided by the applicants and the Tree Officer has removed their objection on that basis, subject to the imposition of conditions. These would be added to any subsequent permission. A hedgerow is also proposed on the western boundary of the site to form the rear boundary treatment of properties along this boundary, this is considered an acceptable solution to address the Tree Officers previous comments. Subject to no objections being raised, it is considered that the proposal could comply with Policy ENV06 of the Breckland Local Plan (adopted 2019), subject to the imposition of conditions, as proposed.

Pre-application Consultation

7.7 Comments have been received with regards to the pre-consultation undertaken by the applicants and the consultation not including the houses, only the proposed Lidl Store, as well as suggesting these should form two separate applications. This is noted. However, the houses form part of the allocation for the site and the store was a departure from the allocation and therefore it was prudent to consult on this element only. With regards to this planning application, this is not a material consideration in its determination and both elements form part of this application and have been suitably consulted upon and a recommendation reached on that basis.

Planning Obligations

7.8 A section 106 agreement will be required to secure the following obligations:

- 25% affordable housing in line with that required by Policy HOU07 of the Local Plan.
- On-site open space including a LAP will be secured and a maintenance contribution, in accordance with adopted policy ENV04.
- Education contributions are also required, as follows: a contribution of £154,242.00 towards the provision or enhancement of educational facilities required at Watton Westfield Infant and Nursery School and Watton Junior School.
- A Library contribution of £3,375.00 (i.e. £75.00 per dwelling). This contribution will be spent on increasing the capacity of the library serving the development.
- Travel Plan, as proposed by applicants.
- For the residential, one fire hydrant on no less than a 90 mm main at a cost of £843.00. For the supermarket one fire hydrant on no less than 120mm diameter main at a (current) cost of £843.00 when fitted on a new water main (to be secured via condition).

Planning Conditions

7.9 A list of relevant planning conditions to be imposed on any subsequent permission are attached to the end of this report. However, having regard to Tesco Stores Limited submitted a Judicial Review Pre-Action Protocol Letter and Ground 1: failure to impose necessary conditions, Tesco Stores Limited Grounds of Review are provided from paragraph 16 onward of the Pre-Action Letter, which states:

'16. A central issue in the determination of the application was the impact of permitting a main town centre use in an out of centre location. Both the Applicant and BDC (through Nexus) assessed the impact of the proposals on the basis of a food store use, with a net sales area of 1,256 sq m and a ratio of convenience to comparison goods of 80:20. It is self-evident that a different use, a different sales area and/or a different split of goods would be capable of having different effects on nearby centres, including Watton Town Centre.

17. However, the BDC failed to consider applying, and failed to apply, any conditions to restrict the use of the Site to that which had been assessed in the application. Accordingly, the building authorised by the Permission could be used for any use within Class E of the Use Classes Order without a further grant of planning permission. Class E covers most commercial, business and service uses including

retail, sale of food and drink, offices, and recreational facilities. The building could also be developed with a larger sales area with a consequential greater impact on nearby centres. It could also be used for a different split, i.e. more convenience or more comparison goods.

18. The necessity to impose conditions to restrict the use of the Site to that which had been assessed, and the consequences of failing to do so, were clearly material considerations. Those matters were not considered at all by BDC in determining the application. Further and in the alternative, in all the circumstances it was irrational not to impose conditions to limit the use of the Site to the food store use which had been assessed.

19. For those reasons, the decision to grant planning permission was unlawful. The Permission should be quashed.'

7.10 During the application process Breckland Council sought independent advice from Nexus Planning with regards to the potential retail impact of the proposals.

7.11 Breckland Council has subsequently sought further advice from Nexus Planning who, based on their earlier advice have suggested conditions to address the matters Tesco Stores Limited raised with regards to ground 1. Nexus consider the following conditions are appropriate and reflect what has been applied for:

1. The foodstore hereby permitted shall be subject to the following restrictions:
 - i. The total gross internal floorspace shall not exceed 1,900 sq.m including any mezzanine floorspace.
 - ii. The net retail floor area (excluding checkouts, lobbies, concessions, restaurants, customer toilets and walkways behind the checkouts) shall not exceed 1,256 sq.m including any mezzanine floorspace.
 - iii. The total retail sales area for the sale and display of convenience goods shall not exceed 1,005 sq.m including any mezzanine floorspace.
 - iv. The total retail sales area for the sale and display of comparison goods shall not exceed 251 sq.m including any mezzanine floorspace.
 - v. The foodstore shall be used for the sale and display of retail goods as set out in (iii) and (iv) above and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason for condition:-

To safeguard the vitality and viability of nearby defined centres.

2. The foodstore hereby permitted shall be used as a single unit, and shall not be subdivided into two or more retail units without express planning permission being granted by the Local Planning Authority.

Reason for condition:-

To safeguard the vitality and viability of nearby defined centres.

3. No concession units shall be provided within the foodstore without express planning permission being granted by the Local Planning Authority.

Reason for condition:-

To safeguard the vitality and viability of nearby defined centres.

7.12 It is considered that these conditions are necessary, relevant to planning, enforceable, precise and reasonable in all other respects. As required by paragraph 56 of the NPPF and Sections 70 and 72 of the Town and Country Planning Act 1990 and are recommended to be added to any subsequent permission, if granted.

8.0 Conclusion

8.1 Based on the above, the proposal, with specific regard to the loss of the care home, is contrary to one aspect of the requirements of Policy WHA2 of the Breckland Local Plan (adopted 2019), which has been given significant weight in the planning balance and therefore weighs significantly against granting planning permission. However, in considering the compliance of the proposal with other aspects of Policy WHA2, and in considering the compliance of the proposal with other relevant policies in the Development Plan, it is considered that the proposal complies with the Development Plan when considered as a whole. It follows that permission should be granted according to Section 38(6) of the Planning and Compulsory Purchase Act 2004, unless material considerations indicate otherwise. The Council considers that the other material planning considerations further support the grant of consent. Therefore, when considering the Development Plan as a whole, together with other material planning considerations, the proposals are considered acceptable.

8.2 The provision of housing on an allocated site, is given significant weight in favour of the proposals, in accordance with Policy WHA2 of the Breckland Local Plan (adopted 2019). The land outside the allocation and settlement boundary is to be used for a drainage lagoon and open space and therefore will not affect the intrinsic beauty and character of the countryside in accordance with Policies GEN03 and GEN05 of the Breckland Local plan (adopted 2019).

8.3 Matters of highways, access, parking, character, design, heritage, amenity, flood risk, contamination and ecology have all been assessed above and the development is considered acceptable and compliant with policy in this regard.

8.4 Subject to the conditions listed below and the signing of a section 106 agreement to secure matters of open space, maintenance, affordable housing, education, and libraries contributions, the proposal is considered in general accordance with the Development Plan, when consider it as a whole, taking into consideration any other material planning consideration, especially the National Planning Policy Framework and Guidance. The proposal has been recommended for approval on this basis.

RECOMMENDATION

The application is recommended for approval, subject to conditions, the signing of a section 106 agreement.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of THREE YEARS from the date of this permission.
Reason for condition:-
To comply with section 91 of the Town & Country Planning Act 1990 (as amended).
2. The development must be carried out in strict accordance with the application form, and approved documents and drawings as set out in the table at the end of this notice.
Reason for condition:-
To ensure the satisfactory development of the site, in accordance with Policy COM01 of the Breckland Local Plan (adopted 2019).
3. Prior to commencement of development above slab level, a scheme shall be submitted to, and approved in writing by, the Local Planning Authority for the provision of fire hydrants (served by mains water supply) serving the development. No dwelling shall be occupied until the approved hydrant(s) for the residential element have been provided. The store hereby approved shall not be brought into first use until the approved hydrant(s) for the store have been provided.
Reason for condition:-
In order to secure the provision of fire hydrants, in accordance with Policy INF02 of the Breckland Local Plan (adopted 2019).
4. 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 in accordance with details to be agreed in writing with the Local Planning Authority. Where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved in writing by the Local Planning Authority.
Reason for condition:-
To ensure that risks from land contamination to the 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 offsite receptors. This condition is imposed in accordance with Section 15 of the National Planning Policy Framework.
5. No trees or hedges on the eastern boundary shall be cut down, uprooted destroyed, lopped or topped, other than in accordance with a schedule of works which shall first be submitted to and approved in writing by the Local Plan Authority. Any trees or hedges removed without consent shall be replaced during the next planting season November/March with trees of such size and species as agreed in writing with the Local Planning Authority.
Reason for condition:-

To ensure that the trees and hedges are retained in the interests of the visual amenities of the area and the satisfactory appearance of the development in accordance with policy ENV06 of the Breckland Local Plan (adopted 2019).

6. The development shall be carried out in accordance with the approved Flood Risk Assessment and Drainage Design (Ingleton Wood Ref: 111759 Rev 3 dated 9 February 2021). The approved scheme shall be implemented prior to the first occupation of the development and permanently maintained in that form.

Reason for condition :-

To prevent flooding in accordance with Policy ENV09 of the Breckland Local Plan (adopted 2019) and Section 14 of the National Planning Policy Framework (2021) by ensuring the satisfactory management of local sources of flooding surface water flow paths, storage and disposal of surface water from the site in a range of rainfall events and ensuring the surface water drainage system operates as designed for the lifetime of the development.

7. Prior to first utilisation of the site's approved surface water drainage network', the necessary repairs/replacement of the culvert in accordance with plan ref: 111759 IW XX XX DR C 6024 Rev P2 shall be carried out in complete accordance with this plan and permanently maintained in this form.

Reason for condition :-

To prevent flooding in accordance with Policy ENV09 of the Breckland Local Plan (adopted 2019) and Section 14 of the National Planning Policy Framework (2021) by ensuring the satisfactory management of local sources of flooding surface water flow paths, storage and disposal of surface water from the site in a range of rainfall events and ensuring the surface water drainage system operates as designed for the lifetime of the development.

8. The acoustic barriers detailed within 5.2, 5.3 and 5.4 of the submitted noise report, shall be erected, as approved prior to first use of the convenience store hereby approved. They shall be permanently maintained, as approved.

Reason for condition:-

In the interests of the amenities of the locality in accordance with policy COM03 of the Breckland Local Plan (adopted 2019).

9. The rating level as defined within BS 4142:2014+A1:2019 (or the equivalent relevant UK adopted standard in force at the time of the measurements) of the plant noise from the single storey food store shall not exceed at a distance of 1 metre from the facade of the nearest affected residential property 3dBA below the background level during day time hours (07.00 23.00) 30dBL_{aeq} 15min during night time hours (23.00 07.00). The background noise level to be measured as an LA90 (level exceeded 90% of the time) using the principles contained in BS 4142:2014+A1:2019 and shall be measured over 1 hour between the hours of 07:00 and 23:00. All measurements to be taken with a sound level meter of IEC 651 Type 1, or BS EN 61672 Class 1, standard (or the equivalent relevant UK adopted standard in force at the time of the measurements) set to measure using a fast time weighted response. This should be calibrated in accordance with the procedure specified in BS 4142:2014+A1:2019 (or the equivalent relevant UK adopted standard in force

at the time of the measurements). This should be available on request by the Local Planning Authority, within 21 days, in the event a complaint is received.
Reason for condition:-

In the interests of the amenities of the locality in accordance with policy COM03 of the Breckland Local Plan (adopted 2019).

10. No demolition, site clearance or construction shall be carried out, no machinery operated nor construction deliveries taken at or waste dispatched from the site outside the hours of:- 07:30 to 18.00 Monday to Friday 08:00 to 13.00 Saturday or at any time on Sunday or Bank Holidays

Reason for condition:-

In the interests of the amenities of the locality in accordance with policy COM03 of the Breckland Local Plan (adopted 2019).

11. No burning of any materials from the clearance of the site or from any related construction works should take place on the site. All materials to be disposed of in a proper manner off site.

Reason for condition:-

In the interests of the amenities of adjoining residents in accordance with policy COM03 of the Breckland Local Plan (adopted 2019).

12. No deliveries shall be made or dispatched from the site, materials loaded or unloaded, refrigerated units run or engines idled outside the following times:-
Monday to Saturday 07:00 to 20:00
Sundays and Bank Holidays 08:00 to 20:00.

Reason for condition:-

In the interests of the amenities of adjoining residents in accordance with policy COM03 of the Breckland Local Plan (adopted 2019).

13. (A) No development shall take place other than in accordance with the written scheme of investigation submitted with this application (NCCHES Ref: CNF47488) and any addenda to that WSI covering subsequent phases of mitigation.

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

Reason for condition:-

Details are required prior to commencement to protect heritage assets in accordance with Section 16 of the NPPF.

14. All hard and soft landscaping works shall be carried out in accordance with the approved details, including the planting of the hedgerow on the western boundary of the site, as shown on plans reference 2524-20 Rev 4 plans A to C 'Soft Landscaping Planting'. The hard and soft landscaping shall thereafter be retained. The works shall be carried out within the first planting season November/March following the commencement of work on site or in accordance with a programme to be first agreed in writing by the Local

Planning Authority. If within a period of FIVE YEARS from the date of planting, any tree or plant, or any tree or plant planted in replacement for it, is removed, uprooted or is destroyed or dies, or becomes in the opinion of the local planning authority, seriously damaged or defective another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

Reason for condition:-

In the interests of the satisfactory appearance of the development in accordance policies GEN02 and COM01 of the Breckland Local Plan (adopted 2019).

15. The development hereby permitted shall be constructed using the materials specified on the planning application form and / or submitted drawings.

Reason for condition:-

To enable the Local Planning Authority to ensure the satisfactory appearance of the development, as required by Policies COM3, GEN2 and COM1 of the Breckland Local Plan (adopted 2019).

16. Prior to first occupation of the development hereby permitted a plan indicating the positions, design, materials and type of boundary treatment/screening to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment/screening shall be completed before the building(s), which it adjoins are first occupied or in accordance with a timetable to be first submitted to and agreed in writing with the Local Planning Authority. Boundary treatments shall include a hedge to the western boundary of the site. Development shall be carried out in its entirety in accordance with the approved details.

Reason for condition:-

In the interests of the satisfactory appearance of the development in accordance with policies GEN02 and COM01 of the Breckland Local Plan (adopted 2019).

17. Development shall proceed in complete accordance with the landscaping plans (2524-20 rev 4-A, 2524- 20 rev 4-B and 2524-20 rev 4-C), the Landscape Maintenance Plan rev 4 dated 22nd April 2021 and the Ecological Mitigation and Management Plan (Parker Planning Services; December 2020), unless otherwise first agreed in writing by the Local Planning Authority.

Reason for condition:-

To preserve and enhance ecology, in accordance with policy ENV02 of the Breckland Local Plan (adopted 2019).

18. Operations on site shall take place in complete accordance with the approved Arboricultural Impact Assessment (AIA), Tree Protection Plan (TPP) and Arboricultural Method Statement (AMS) prepared by A.T Coombes dated 11th March 2021. No other operations shall commence on site in connection with the development until the tree protection works and any pre-emptive tree works required by the approved AIA or AMS have been carried out and all tree protection barriers are in place as indicated on the TPP. Works shall not commence until written confirmation has been obtained from the appointed

arboriculturalist to confirm that tree protection is in place as specified. The protective fencing shall be retained in a good and effective condition for the duration of the construction of the development and shall not be moved or removed, temporarily or otherwise, until all site works have been completed and all equipment, machinery and surplus materials removed from site, unless the prior written approval of the local planning authority has been sought and obtained. Where the proposed layout is reliant on the no-dig construction of hardsurfaces. In order to ensure that tree roots are adequately protected it is essential that a stable structure is provided which will distribute loads, reduce pressure at ground level whilst promoting the migration of water and nutrients. It will be necessary to provide details of the product to be used including the sub base, infill material and surface material. Specifications must be based on existing ground conditions and soil information (CBR) details of which should be provided. Loading information should be included specifying assumed maximum gross vehicle weight and assumed maximum axle load. No development in relation to the area of no-dig construction shall take place unless or until details of the no-dig construction as well as of an auditable system of arboricultural site supervision and inspection for the duration of the no dig construction works associated with the site entrance have been submitted to and approved in writing with the Local Planning Authority.

Reason for condition:-

To protect trees in accordance with policy ENV06 of the Breckland Local Plan (adopted 2019).

19. The foodstore hereby permitted shall be subject to the following restrictions:

- i. The total gross internal floorspace shall not exceed 1,900 sq.m including any mezzanine floorspace.
- ii. The net retail floor area (excluding checkouts, lobbies, concessions, restaurants, customer toilets and walkways behind the checkouts) shall not exceed 1,256 sq.m including any mezzanine floorspace.
- iii. The total retail sales area for the sale and display of convenience goods shall not exceed 1,005 sq.m including any mezzanine floorspace.
- iv. The total retail sales area for the sale and display of comparison goods shall not exceed 251 sq.m including any mezzanine floorspace.
- v. The foodstore shall be used for the sale and display of retail goods as set out in (iii) and (iv) above and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason for condition:-

To safeguard the vitality and viability of nearby defined centres in accordance with Policy EC05 of the Breckland Local Plan (adopted 2019) and Section 7 of the NPPF.

20. The foodstore hereby permitted shall be used as a single unit, and shall not be subdivided into two or more retail units without express planning permission being granted by the Local Planning Authority.

Reason for condition:-

To safeguard the vitality and viability of nearby defined centres in accordance with Policy EC05 of the Breckland Local Plan (adopted 2019) and Section 7 of the NPPF.

21. No concession units shall be provided within the foodstore without express planning permission being granted by the Local Planning Authority.

Reason for condition:-

To safeguard the vitality and viability of nearby defined centres in accordance with Policy EC05 of the Breckland Local Plan (adopted 2019) and Section 7 of the NPPF.

22. Prior to first use of the foodstore hereby permitted, a scheme for the parking of cycles shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented before the development is first occupied or brought into use and thereafter retained for this purpose.

Reason for condition:-

To ensure the provision of adequate cycle parking that meets the needs of occupiers of the proposed development and in the interests of encouraging the use of sustainable modes of transport in accordance with Policies TR01 and TR02 of the Breckland Local Plan (adopted 2019).

23. Prior to first use of foodstore hereby approved, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall be implemented in accordance with the timetable and targets contained therein and shall continue to be implemented as long as the foodstore hereby approved is in use, subject to approved modifications which shall first be agreed in writing by the Local Planning Authority, as part of the annual review.

Reason for condition:-

To ensure that the development offers a wide range of travel choices to reduce the impact of travel and transport on the environment in accordance with Policies TR01 and TR02 of the Breckland Local Plan (adopted 2019).