

## SOUTH HOLLAND DISTRICT COUNCIL

**Report of:** Lead Development Management Planner (Interim) - BBC & SHDC

**To:** Planning Committee - 11 February 2026

**(Author:** Jess Hill - Senior Planning Consultant)

**Purpose:** To consider Planning Application H11-1210-25

**Application Number:** H11-1210-25

**Date Received:** 09 December 2025

**Application Type:** FULL

**Description:** Change of use of part of existing garden centre (Class E) to use Classes E, F1 & F2 - Retrospective

**Location:** Silverwood Garden Centre St James Road Long Sutton

**Applicant:** The Men's Shed

**Agent:** Cooper Architectural Design

**Ward:** Long Sutton

**Ward Councillors:** Cllr A C Tennant  
Cllr J Tyrrell  
Cllr D J Wilkinson

You can view this application on the Council's web site at

<http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H11-1210-25>

### **1.0 REASON FOR COMMITTEE CONSIDERATION**

1.1 The application site is owned by Cllr Tyrrell, who is a member of the Planning Committee. As such, it is deemed necessary for the application to be considered by the Committee.

### **2.0 PROPOSAL**

2.1 This is a full planning application seeking permission for a change of use to part of an existing garden centre (Class E) to use Classes E, F1 and F2.

2.2 Permission is sought to change the use of two buildings within the site, referred to within the submitted plans as 'Long Sutton Men's Shed' and 'Long Sutton Youth Shed'. The buildings are used by the local community for various activities.

2.3 No extensions or external alterations are proposed. The application is retrospective, with the application form detailing that the use began in October 2017.

### **3.0 SITE DESCRIPTION**

3.1 The site comprises land at Silverwood Garden Centre, located to the south-east of St James Road in Long Sutton. The change of use is proposed within two buildings located on either side of the remaining Garden Centre, diner and retail building. There is a car park area located within the site and access is taken from St James Road.

3.2 The site is outside the settlement boundary of Long Sutton, as identified by the South East

Lincolnshire Local Plan 2011-2036 and accompanying policies map.

3.3 The site is within Flood Zone 3, as identified by the Environment Agency's flood risk maps.

3.4 Sheaf Cottage (grade II listed) is located to the north of the site, on the opposite side of St James Road

## **4.0 RELEVANT PLANNING POLICIES**

### **4.1 The Development Plan**

4.2 South East Lincolnshire Local Plan, March 2019

4.3 Policy 01 - Spatial Strategy  
Policy 02 - Development Management  
Policy 03 - Design of New Development  
Policy 04 - Approach to Flood Risk  
Policy 24 - The Retail Hierarchy  
Policy 30 - Pollution  
Policy 32 - Community, Health and Well-being  
Policy 36 - Vehicle and Cycle Parking  
Appendix 6 - Parking Standards

4.4 If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, Section 38 (6) of the Planning and Compulsory Purchase Act 2004, states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

### **4.5 National Guidance**

4.6 National Planning Policy Framework (NPPF), December 2024

Section 4 - Decision-making  
Section 9 - Promoting sustainable transport  
Section 11 - Making effective use of land  
Section 12 - Achieving well-designed places  
Section 14 - Meeting the challenge of climate change, flooding and coastal change  
Section 15 - Conserving and enhancing the natural environment  
Section 16 - Conserving and enhancing the historic environment

Planning Practice Guidance (PPG)

### **4.7 The Planning (Listed Buildings and Conservation Areas) Act 1990**

## **5.0 RELEVANT PLANNING HISTORY**

5.1 H11-0849-02: (Full Application) Change of use from agricultural nursery to nursery/garden centre, plus additional access and car parking facilities - approved 24 September 2002.

5.2 H11-0595-03: (Full Application) Change of use of packhouse to cafe and shop in association with existing garden centre - approved 22 July 2003.

5.3 H11-1106-05: (Full Application) Proposed shop unit in association with existing garden centre, relocation of compound and proposed new access - approved 06 October 2005.

5.4 H11-0692-07: (Full Application) Earth bank - refused 19 July 2007.

5.5 H11-0022-07: (Full Application) Kitchen extension to existing cafe - approved 05 March 2007.

- 5.6 H11-0792-21: (Full Application) Conversion of packhouse building into dwelling including alterations - approved 01 November 2021.
- 5.7 H11-0686-10: (Section 73A Continuation) Extension to cafe opening hours - Monday to Saturday inclusive until 22:00 hours - refused 15 October 2020 - appeal dismissed 26 April 2011.

## 6.0 REPRESENTATIONS

### 6.1 Consultation Responses

- 6.2 Responses have been received from the below referenced consultees. The responses are summarised below; however, the responses can be viewed in their entirety on South Holland District Council's website.
- 6.3 Long Sutton Parish Council: The Parish Council continue to value the Men's Shed amenity and the work they do. However, the Parish Council object to all retrospective applications because they are detrimental to those who abide by the planning laws. The owner of the site is a SHDC district councillor, former Cabinet Member and a member of the planning committee. As such, the application should go to planning committee. No planning notices have been displayed to inform residents of the application. The Council request that the application is withdrawn until the required notices are posted, neighbours are informed and given time to submit their comments.
- 6.4 South Holland Internal Drainage Board: Having screened the application, whilst the site in question lies within the Internal Drainage District of the South Holland Internal Drainage Board the proposed application does not meet our threshold for commenting as per our Planning and Byelaw Strategy. Therefore, the Board has no comments to make.
- 6.5 Environment Agency: This proposal comes under cell E7 of the local flood risk standing advice and does not appear to fit any other criteria on our consultation checklist, 'When to consult the Environment Agency'. It was therefore not necessary to consult us; please consider the proposals against the guidance of the standing advice.
- 6.6 Lincolnshire County Council - Highways and SUDS: The access and parking arrangements remain unchanged; therefore, it is considered that the proposals would not result in an unacceptable impact on highway safety.
- 6.7 Conservation Officer: No objections. The site is within close proximity to a Grade II listed building to the North (Sheaf Cottage). However, the proposal is merely for a change of use and includes no alterations to the site which I consider to place the character of the Listed Building's setting at risk in any way.
- 6.8 Environmental Protection: No comments.
- 6.9 Ecology Officer: No response received.
- 6.10 Cllr A C Tennant: No response received.
- 6.11 Cllr J Tyrell: No response received.
- 6.12 Cllr D J Wilkinson: No response received.
- 6.13 Public Representations
- 6.14 This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, two representations have been received from members of the public. The key matters raised within the responses are

summarised below:

- 6.15 - The application has not been advertised through the display of a site notice nor have notification letters been issued.
- 6.16 - It is unclear which part of the garden centre the proposals relate to.
- 6.17 - The application form (section 10) refers to 61 parking spaces which the block plan indicates relates to just the Men's Shed.
- 6.18 - Section 11 of the application form sets out that the site is not connected to any form of foul sewage disposal. Therefore, it is unclear where foul sewage is disposed of from the site.
- 6.19 - The Class E Use would conflict with the amenity of nearby residents and harm the future of Long Sutton Town Centre (if the facility was converted to a large shop or additional smaller shops).
- 6.20 - Does the application also include the Business Centre which is now promoted on Social Media and a roadside sign. It is vital the whole site is considered at one and the same time as the accumulation of different uses will have adverse consequences.
- 6.21 - This complex started life as blocks of greenhouses, which in recent years have received piecemeal cladding of walls and to some areas of the roofs. It is unlikely that the structures are suitable in terms of fire safety. A safety plan should be produced.
- 6.22 - There is no footpath along the frontage which comprises a B road used frequently by HGV's. A comment from LCC Highways should be obtained as to road safety for persons visiting the site on foot. The reality is almost everyone visiting this site will use a car which should be regarded as unsustainable. The nearest bus stop is about 2 kilometres away. Young people previously using the Youth Shed and arriving on foot or by Cycle were required to cross the A17, regarded as the busiest single carriageway in the country.
- 6.23 - A mobile home was brought onto the site of the Garden Centre in 2023, and a large extension added in 2024. The Council is aware that this new dwelling and extension do not have planning permission.
- 6.24 - Additionally the part of the Garden Centre comprising the location of the new dwelling has been sold off, another reason why the various activities not having planning permission should be considered in the round, not on a piecemeal basis.
- 6.25 - Three phase electricity has recently been brought on to the site of the above additional dwelling which suggests yet another new business may shortly be forthcoming at this site.
- 6.26 - Consideration should be given to the untidy overall appearance of the Garden Centre Site and whether or not these former glass houses have any architectural merit.

## **7.0 CONSIDERATIONS**

### **7.1 Evaluation**

7.2 The main issues and considerations in this case include the following:

- 7.3
  - Principle of Development;
  - Visual and Amenity Impact;
  - Highway Safety and Parking;
  - Flood Risk; and
  - Biodiversity Net Gain.

- 7.4 These matters are assessed in turn below.
- 7.5 Principle of Development
- 7.6 Policy 1 of the South East Lincolnshire Local Plan (2019) sets out the settlement hierarchy in respect of delivering sustainable development, which meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local need, whilst making more sustainable use of land, and to minimise the loss of high-quality agricultural plots by developing in sustainable locations and at appropriate densities.
- 7.7 Policy 1 expresses this sustainable hierarchy of settlements, ranking the settlements deemed to be most sustainable in descending order. The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy are areas of limited development opportunity including 'Minor Service Centres', with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location.
- 7.8 The site is outside the settlement boundary of Long Sutton and as such, the site is within the countryside in planning policy terms. Policy 1 sets out that within the countryside, development will be permitted that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits.
- 7.9 The proposal is for a change of use of two existing buildings within the site to be used for a community use. According to the submitted Planning Statement, the 'Men's Shed' and the 'Youth Shed' are used for various activities by the local community offering a space for visitors to learn skills, promote health awareness and a meeting space.
- 7.10 One of the public representations has set out that the proposed floorspace is unclear. To clarify, it is proposed to retain the central building and three other buildings located within the eastern part of the site, as part of a garden centre and cafe space. These buildings are proposed to be retained under Use Class E. The Men's Shed and Youth Shed as proposed, would be used under Use Classes F1 and F2 (these buildings provide approximately 1,307 sqm).
- 7.11 Paragraph 96 of the National Planning Policy Framework (December 2024) sets out that planning decisions should aim to achieve healthy, inclusive and safe places which promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other. Paragraph 96 also sets out that planning decisions should enable and support healthy lives, through both promoting good health and preventing ill-health.
- 7.12 Policy 32 of the South East Lincolnshire Local Plan (2019) sets out that development shall contribute to the creation of socially-cohesive and inclusive communities by reducing health inequalities and improving the community's health and well-being. According to the policy, the development of new community facilities will be supported, provided that they are located so as to be:
- 7.13 *"1. as close as possible to the community they will serve;  
2. readily accessible by public transport, on foot, and by bicycle;  
3. compatible with nearby uses and the character and appearance of the neighbourhood; and  
4. located and designed to enable (where possible) shared use with other services/facilities."*
- 7.14 Whilst the site is within the outskirts of Long Sutton rather than within a more central position within the town, the proposal seeks to re-use existing buildings within site, thereby re-using previously developed land. Furthermore, the site can be accessed locally as there are some dwellings next to and near to the site. It is also considered that the proposed use is compatible with nearby uses. For example, the proposal should not result in a significant degree of noise or disturbance to local residents. The buildings are within an established garden centre site, which offers a cafe and retail space. As such, the proposals offer a shared use with other services and facilities. Overall, it is considered that the proposals accord with the aims of Policy 32 of the South East Lincolnshire Local Plan (2019).

- 7.15 It is noted that Long Sutton Parish Council have raised concerns with the retrospective nature of the proposals. Whilst the Local Planning Authority encourages applications to be submitted prior to any use or development commencing, breaches of planning control are not a material consideration and the application needs to be considered on its own merits. The retrospective nature of the proposals does not on its own warrant refusal, nor alters the assessment in this case.
- 7.16 It is also noted that one representation received, referenced Policy 24 of the South East Lincolnshire Local Plan (2019).
- 7.17 The planning history of the site has been reviewed and condition 2 of planning permission H11-0849-02 restricts the site to the permitted garden centre use. The condition is worded as follows:
- 7.18 "The garden centre premises shall only be used for the sale of horticultural produce, garden related products and other domestic horticultural requisites and for no other purpose (including any other purpose in Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to those classes in any statutory instrument revoking and re-enacting that Order, with or without modification).
- 7.19 Reason: To ensure the goods range is restricted and does not conflict with national and local policy that directs unrestricted retail outlets towards town centres."
- 7.20 The above referenced condition was imposed to prevent the site from being used for other types of retail, which could undermine the retail hierarchy within the district. The current proposal seeks to provide a community use within the site, rather than seeking to sell alternative retail products from the approved garden centre use. As such, it is not considered that the current proposals would undermine the underlying aim of the condition, nor would the proposal directly conflict with Policy 24 of the South East Lincolnshire Local Plan (2019). Nonetheless, it is considered appropriate to include the condition on any new permission to clarify that the central building within the site should be used as a garden centre / cafe rather than for more general retail use.
- 7.21 Therefore, the principle of the development is acceptable as it is considered that the proposal accords with Paragraph 96 of the National Planning Policy Framework (December 2024) and Policies 1 and 32 of the South East Lincolnshire Local Plan (2019). This is subject to a consideration as to whether the proposed development accords with the development plan and national policy in terms of other material considerations.
- 7.22 Visual Amenity, Consideration of the Character and Appearance of the Area and Impact on Residential Amenity
- 7.23 Section 12 of the National Planning Policy Framework (December 2024) specifically relates to 'Achieving well-designed places' and details that the "creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.
- 7.24 Paragraph 135 of the National Planning Policy Framework (December 2024), states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping. Paragraph 135 also states that development should create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 7.25 Policy 2 of the South East Lincolnshire Local Plan (2019) outlines sustainable development considerations for development proposals, providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals.
- 7.26 Furthermore, Policy 3 accords with the provisions of Section 12 of the National Planning Policy Framework (December 2024), in that it requires development to comprise good design;

identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically-designated or undesignated townscape or landscape surroundings.

- 7.27 The site also lies within fairly close proximity to a grade II listed building. In this regard, Policy 29 (The Historic Environment) states amongst other matters that the distinctive elements of the South East Lincolnshire historic environment will be conserved and, where appropriate, enhanced, in keeping with the policies in the National Planning Policy Framework (December 2024). Development proposals will be expected to conserve and enhance the character and appearance of designated and non-designated heritage assets, including archaeology, historic buildings, conservation areas, scheduled monuments, street patterns, streetscapes, landscapes, parks (including Registered Parks and Gardens), river frontages, structures and their settings through high-quality sensitive design.
- 7.28 The National Planning Policy Framework (December 2024) expresses the importance of considering the impact of development on the significance of designated heritage assets; advising that development and alterations to designated assets and their settings can cause harm. These policies ensure the protection and enhancement of the historic buildings and environments. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance should be treated favourably.
- 7.29 Section 16 of the National Planning Policy Framework (December 2024) states that "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".
- 7.30 In assessing proposals of this nature, the Local Planning Authority must ensure special regard to preserving the Listed Buildings and their settings in relation to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act'). No harm should be caused with the historical assets and their surroundings requiring to be preserved or enhanced.
- 7.31 Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) also set out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.
- 7.32 The proposal seeks a change of use, in part, and does not seek the addition or development of new built form. No external alterations are proposed, such as elevational changes or extensions, to any existing building as a result of this proposal.
- 7.33 It is not considered that the proposed change of use of two of the buildings within the garden centre would significantly alter the character or appearance of the area. Whilst movement may occur directly in relation to these proposed uses, the site would be subject to notable movements in any case given its existing use, and has capacity for such.
- 7.34 The existing opening hours for the garden centre appear to be 10am to 3pm Monday to Sunday. The opening hours for the Men's Shed and the Youth Shed are 8:30am to 5:30pm Monday to Friday, with no hours proposed at the weekends. These hours are not considered to be extensive and remain appropriate for their setting, in light of the existing use of the garden centre. Furthermore, it is not considered that the proposal would result in a significant increase in visitors to the site above the previous garden centre use, that would otherwise cause an unacceptable or detrimental impact.
- 7.35 As set out previously, the Local Planning Authority's conservation officer acknowledges that the proposal is for a change of use and no physical alterations to the site. As such, it is considered that the development would not negatively influence the character, significance or appreciation of the heritage asset, which is a grade II listed building (Sheaf Cottage) located approximately 40m to the north of the site.
- 7.36 Notwithstanding that the application site lies nearby to neighbouring properties, the proposal is not considered to give rise to an unacceptable or significant adverse impact upon the residential amenities of these occupiers.

7.37 Taking account of the scale and nature of the development, as detailed above, the proposal is considered to be acceptable. The proposal would not cause an adverse impact to the character or appearance of the area, would not cause harm to the significance of the nearby asset, nor cause an adverse impact on the amenity of nearby residents. Therefore, the proposal is in accordance with Policies 2, 3 and 29 of the South East Lincolnshire Local Plan (2019) and Sections 12 and 16 of the National Planning Policy Framework (December 2024).

#### 7.38 Highway Safety and Parking

7.39 Section 9 of the National Planning Policy Framework (December 2024) specifically relates to 'Promoting sustainable transport'. Paragraph 116 of the National Planning Policy Framework (December 2024) advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios".

7.40 Policy 2 of the South East Lincolnshire Local Plan (2019) sets out that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation.

7.41 Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal.

7.42 Policy 33 further reinforces the need for developments to be accessible via sustainable modes of transport. Policy 36 of the South East Lincolnshire Local Plan (2019), in conjunction with Appendix 6, sets out minimum vehicle parking standards.

7.43 Vehicular access to the site is provided from St James Road, on the north-western edge of the site. There are at least 61 parking spaces within the site which can be shared amongst the buildings. No changes are proposed to the vehicular access or the parking arrangements. Lincolnshire County Council's Highways Team, as Local Highway Authority, have not raised any concerns or objections to the proposals, nor have any planning conditions been recommended.

7.44 Therefore, the proposal would have an acceptable impact in terms of highway safety in accordance with Policies 2, 3, 33 and 36 of the South East Lincolnshire Local Plan (2019), as well as Section 9 of the National Planning Policy Framework (December 2024).

#### 7.45 Flood Risk and Drainage

7.46 Section 14 of the National Planning Policy Framework (December 2024) explains that "Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere".

7.47 The site in this instance lies within Flood Zone 3, as identified by the Environment Agency's flood risk maps. Policy 4 of the South East Lincolnshire Local Plan (2019) allows for certain types of development within Flood Zones 2 and 3 in instances where specific criteria are met.

7.48 Policy 2 of the South East Lincolnshire Local Plan (2019) requires proposals to meet sustainable development considerations including in relation to sustainable drainage and flood risk (part 7). Policy 4 of the South East Lincolnshire Local Plan (2019) requires proposals in Flood Zones 2 and 3 to be supported by sufficient information relating to flood risks associated with the development.

7.49 The site is located within Flood Zone 3 as stated; however, the development is identified as a 'less vulnerable' use according to Annex 3 of the National Planning Policy Framework (December 2024). As the proposal is for a change of use, it is not necessary for the development to pass the sequential or exception tests in flood risk terms as set out by

Paragraph 176 and footnote 62 of the National Planning Policy Framework (December 2024). Nonetheless, it is still necessary to ensure the proposal meets the requirements for site-specific flood risk assessments, in accordance with Paragraph 176 of the National Planning Policy Framework (December 2024).

- 7.50 The South East Lincolnshire Strategic Flood Risk Assessment (SFRA) provides an overview of how flood risk has been considered in shaping the proposals of the Local Plan; including the spatial strategy and the assessment of housing and employment sites. Within the SFRA, areas across South Holland have been identified according to the level of hazard that is posed in terms of flood risk. Appendix C of the SFRA sets out guidance in terms of the minimum measures that are required according to what hazard category areas fall under.
- 7.51 The site is not within a 'Danger to Some' hazard area. As the proposal is for a minor 'less vulnerable' use, the SFRA recommends that the finished floor levels should be raised as high as practicable (for example 300mm above the existing ground level). It is presumed that this recommendation is for new buildings, rather than for proposals to change the use of existing buildings. In this case, the submitted Flood Risk Assessment does not recommend that the finished floor levels are raised as the proposal is for a change of use and it would not be practical or feasible to raise the ground levels. The Local Planning Authority agrees that it would not be practical or reasonable to require the floor levels to be raised and as such, this is not required in this instance.
- 7.52 As no extensions are proposed, nor are any changes proposed to the site surfacing, the proposals would not increase the impermeable area within the site. As such, the proposals should not increase surface water run off within or from the site.
- 7.53 It is considered that, on balance, the proposal is acceptable in this regard. Therefore, in flood risk and drainage terms, the proposal is considered to accord with Policy 4 of the South East Lincolnshire Local Plan (2019) and section 14 of the National Planning Policy Framework (December 2024).
- 7.54 Biodiversity Net Gain
- 7.55 Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021) requires developers to deliver a minimum of 10% Biodiversity Net Gain (BNG) using standardized biodiversity units measured by statutory biodiversity metrics. This is often referred to as the mandatory requirements for Biodiversity Net Gain.
- 7.56 "Under the statutory framework for biodiversity net gain, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met ("the biodiversity gain condition"). This objective is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. This increase can be achieved through onsite biodiversity gains, registered offsite biodiversity gains or statutory biodiversity credits".
- 7.57 The biodiversity gain condition is a pre-commencement condition. This relates to a condition that seeks, once planning permission has been granted, a Biodiversity Gain Plan that must be submitted and approved by the planning authority before commencement of the development, alongside the need to submit a Habitat Management and Monitoring Plan.
- 7.58 The effect of Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission is deemed to have been granted subject to the "biodiversity gain condition".
- 7.59 The effect of this "biodiversity gain condition" is that development granted by this notice must not begin unless:  
(a) a Biodiversity Gain Plan has been submitted to the planning authority, and  
(b) the planning authority has approved the plan, or  
(c) the development is exempt from the biodiversity gain condition.
- 7.60 It is considered that the proposal would be exempt from the requirement to provide BNG as no

extensions are proposed, nor is any operational development proposed. As such, the proposal is considered to fall under the de minimis exemption.

#### 7.61 **Additional Considerations**

#### 7.62 Public Sector Equality Duty

7.63 In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:

A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act

B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).

C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

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

7.65 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

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

#### 7.67 Human Rights

7.68 In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

7.69 It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

#### 7.70 **Planning Balance**

7.71 As detailed above, Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

7.72 The proposed development is appropriate and would not materially harm the character or appearance of the locality, or the amenity of nearby residents. The development is acceptable in terms of highway safety and flood risk management. Overall, the proposed development accords with the South East Lincolnshire Local Plan (2019) and the National Planning Policy Framework (December 2024).

## 8.0 **RECOMMENDATIONS**

8.1 Based on the assessment detailed above, it is recommended that the proposal should be approved subject to conditions.

## 9.0 CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the following approved plans and/or documents:

- SW-25-01 - Site & Location Plans

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

2. The use hereby permitted shall not be open to visitors except between the hours of 8:30am to 5:30pm Monday to Friday, and not at all on Saturdays, Sundays or Bank Holidays.

Reason: In the interests of the amenity of local residents.  
This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

3. The retained garden centre buildings shall only be used for the sale of horticultural produce, garden related products and other domestic horticultural requisites, as a cafe, 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 those classes in any statutory instrument revoking and re-enacting that Order, with without modification).

Reason: To ensure the goods range is restricted and does not conflict with national and local policy that directs unrestricted retail outlets towards town centres.  
This Condition is imposed in accordance with Policy 24 of the South East Lincolnshire Local Plan, 2019.

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

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

## 5. Biodiversity Net Gain

The applicant's attention is drawn to the following Biodiversity Net Gain requirement.

The effect of Paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 is that planning permission is deemed to have been granted subject to the "biodiversity gain condition". The effect of this "biodiversity gain condition" is that development granted by this notice must not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan, or
- (c) the development is exempt from the biodiversity gain condition.

For guidance on the contents, in respect of the details that must be submitted and agreed by the Local Planning Authority, prior to the commencement of the consented development, please see the GOV.uk website and Planning Practice Guidance.

### Statutory exemptions and transitional arrangements

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These can be found at Paragraph: 003 Reference ID: 74-003-20240214 of the Planning Practice Guidance, which can be found at <https://www.gov.uk/guidance/biodiversity-net-gain>.

Based on the information available and submitted in support of this application, the Local Planning Authority considers that the development hereby permitted is exempt and therefore will not require the approval of a biodiversity gain plan, prior to the commencement of development; with the development comprising a statutory exemption as listed below: -

The proposal is considered to fall under the de minimis exemption.

As such, the development hereby permitted will not be subject to the biodiversity gain condition.

### Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

For clarity the LPA do not consider that irreplaceable habitats are present at this site.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

### Effect of Section 73(2D) of the 1990 Act

Under Section 73(2D) of the Town and Country Planning Act 1990 (as amended) where

- (a) a biodiversity gain plan was approved in relation to the previous planning permission ("the earlier biodiversity gain plan"), and
- (b) the conditions subject to which the planning permission is granted:
  - (i) do not affect the post-development value of the onsite habitat as specified in the earlier biodiversity gain plan, and
  - (ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat within the meaning of regulations made under paragraph 18 of Schedule 7A, do not change the effect of the development on the biodiversity of that onsite

habitat (including any arrangements made to compensate for any such effect) as specified in the earlier biodiversity gain plan.

- the earlier biodiversity gain plan is regarded as approved for the purposes of paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended) in relation to the planning permission.

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Background papers:- Planning Application Working File

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**Lead Contact Officer**

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**Appendices attached to this report:**

Appendix A Plan A

# MapThat Scale Print Title

