

SOUTH HOLLAND DISTRICT COUNCIL

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

To: Planning Committee - 24 June 2026

(Author: Jess Hill - Senior Planning Consultant)

Purpose: To consider Planning Application H16-0086-26

Application Number: H16-0086-26

Date Received: 30 January 2026

Application Type: FULL

Description: Change of use from Class F1 (Church) to E(f) Day Nursery

Location: 10 Haverfield Road Spalding

Applicant: Clarence House Day Nurseries **Agent:** Bradbury Bichard

Ward: Spalding St Johns **Ward Councillors:** Cllr M Hasan
Cllr J A Le Sage

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

<http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H16-0086-26>

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 The extent of public representation requires further member consideration.

2.0 PROPOSAL

2.1 The application seeks full planning permission to change the use of the site from a church (Use Class F1) to a nursery (Use Class E). No external works are proposed to facilitate the change of use.

3.0 SITE DESCRIPTION

3.1 The site comprises land at 10 Haverfield Road, Spalding. There is a large two-storey building within the site featuring red brickwork facades and stone facings.

3.2 The surrounding area is mostly characterised by a variety of service buildings such as a school, nursery and council offices; however, there are also residential two storey dwellings along the east of Haverfield Road. Whilst there are no listed buildings on or next to the site, the site is within Spalding Conservation Area.

3.3 The site is within the settlement boundary of Spalding, as identified by the South East Lincolnshire Local Plan (2019) and accompanying policies map.

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

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 07 - Improving South East Lincolnshire's Employment Land Portfolio
Policy 29 - The Historic Environment
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

- 4.7 Section 4 - Decision-making
Section 6 - Building a strong, competitive economy
Section 8 - Promoting healthy and safe communities
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 16 - Conserving and enhancing the historic environment

4.8 Planning Practice Guidance (PPG)

5.0 **RELEVANT PLANNING HISTORY**

5.1 **Relevant Planning History**

5.2 H16-1725-06: (Full Application) Conversion of building into 9 apartments - approved 06 February 2007

5.3 H16-0631-16: (Full Application) Alterations to front door - approved 07 November 2016

5.4 H16-0101-22: (Full Application) Demolition of rear hall and erection of two storey extension to incorporate ground and first floor halls, kitchen, food bank and function rooms - approved 09 June 2022

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 Lincolnshire County Council - Historic Environment: The proposal is unlikely to have an impact on significant archaeological remains. Consequently, no further archaeological input is

necessary for this application. It is not necessary to consult us on this application again, unless there are material changes to the proposals.

As the proposal involves internal works to MLI126320 Old Drill Hall (identified in the submitted D&A Statement as a significant unlisted building of merit / local heritage asset due to its Edwardian origins and military history), the South Holland District Council Conservation Officer should be consulted prior to determination, in relation to the potential for direct impacts on the asset's significance and indirect impacts on the character and appearance of the DL110607 Spalding Conservation Area. Given the building's Edwardian date, consultation with The Victorian Society may also be appropriate.

6.4 Conservation Officer: Change of use application involves no physical alterations to the external aspects of this building, therefore, no impact is identified upon the Conservation Area setting. No objections.

6.5 Spalding and District Civic Society: No objections as it appears that the front elevation is unaffected but we presume there will be a later application for the signage.

6.6 Lincolnshire County Council - Highways and SUDS:

First Response (27 February 2026): Please request that the applicant justifies that the parking is sufficient for the nursery use, and clarification of the number of childcare places. Further clarification is also required regarding the staggered drop-off and pick up times, including the number of vehicles at different times during these periods.

Second Response (10 March 2026) The building is in a sustainable location and a proportion of parents and staff are likely to walk, cycle or use public transport to the nursery. I am happy with the justification provided regarding parking and access, the existing access and six on site parking spaces remain unchanged and arrivals and departures will be spread to avoid peak traffic periods. The proposal will not have an adverse impact on the public highway.

6.7 Environmental Protection: No comments.

6.8 Ecology Officer: No response received.

6.9 Tree Officer: No response received.

6.10 Cllr M Hasan: No response received.

6.11 Cllr J A Le Sage: No response received.

6.12 Welland and Deepings Internal Drainage Board: No response received.

6.13 Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, 176 representations have been received from members of the public. Most of the representations set out concerns with the proposals as summarised below:

- Another nursery is not needed as the site is next to an existing nursery.
- Traffic and highway safety concerns due to the proximity to Spalding Grammar School and the nursery next to the site.
- Insufficient parking.

Some of the representations set out support for the proposal as summarised below:

- The proposal would provide a place for childcare helping local parents.
- There are no major alterations proposed to the external look of the building which would help keep the historical nature of the building in tact.
- These types of businesses bring in local employment which from what I can see is much needed.

7.0 CONSIDERATIONS

7.1 Key Planning Considerations

7.2 Development Plan

- 7.3 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.
- 7.4 The adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is the development plan for the district, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.
- 7.5 The policies and provisions set out in the National Planning Policy Framework, December 2024 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.
- 7.6 There are no adopted Neighbourhood Plans for the area within which the site is located.
- 7.7 The main issues and considerations in this case include the following:
- 7.8 -Principle of Development;
-Impact on Heritage Assets;
-Impact on Residential Amenity;
-Highway Safety and Parking;
-Flood Risk; and
-Biodiversity Net Gain.
- 7.9 These matters are assessed in turn below.
- #### 7.10 Principle of Development
- 7.11 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.
- 7.12 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.
- 7.13 The site is within Spalding, which is a sub-regional centre. Policy 1 sets out that within Spalding, development will be permitted that support the roles of the sub-regional centres. The site is considered to be within a sustainable location, within a relatively central position within Spalding. The submission sets out that there is evidence of a demand for additional childcare services within both Spalding and South Holland as a whole.
- 7.14 Paragraph 100 of the National Planning Policy Framework (December 2024) sets out that it is important that a sufficient choice of early years places are available to meet the needs of existing and new communities.

- 7.15 Some of the public representations have set out concerns with the proposals due to the lack of need for an additional nursery, particularly as the site is next to an existing nursery. The applicant is not required to demonstrate a need for additional nursery places as this is not a material planning test that needs to be applied. Therefore, the need for an additional nursery does not need to be established, it only needs to be established if a nursery is an appropriate use for the building. Notwithstanding this, according to data from Lincolnshire County Council, there is an identified shortfall of childcare spaces in South Holland (Childcare Sufficiency Report 2025).
- 7.16 Whilst the proposal would result in the loss of a church, the proposal would provide a nursery which can be viewed as a community facility. Therefore, there is policy support for the proposed nursery within Paragraph 100 of the National Planning Policy Framework (December 2024) and Policies 1 and 32 of the South East Lincolnshire Local Plan (2019) and the principle of development is considered to be acceptable. 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.
- 7.17 Layout, Design and Consideration of the Character and Appearance of the Area and Impact on Heritage Assets
- 7.18 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.
- 7.19 Paragraph 135, contained within Section 12 of the National Planning Policy Framework (December 2024), states that new development should function well and add to the overall quality of the area (beyond the short term and over the lifetime of the development) and should be visually attractive as a result of good architecture, layout and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing.
- 7.20 Likewise, 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. 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.
- 7.21 These policies accord with the provisions of the National Planning Policy Framework (December 2024) and require that design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable.
- 7.22 The application site in this instance lies within Spalding Conservation Area in this regard, the National Planning Policy Framework (NPPF) (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.
- 7.23 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".

- 7.24 Paragraph 215 of the National Planning Policy Framework (December 2024) in respect of less than substantial harm identifies that "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".
- 7.25 In respect of any buildings or other land in a conservation area, special attention must be paid to the desirability of preserving or enhancing the character or appearance of that area, through Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 7.26 Policy 29 of the South East Lincolnshire Local Plan (2019) sets out that development proposals will conserve and enhance the character and appearance of designated and non-designated heritage assets. Part B of the Policy sets out that proposals within a Conservation Area should preserve (and enhance or reinforce, as appropriate) features that contribute positively to the area's character, appearance and setting.
- 7.27 No external changes are proposed to the building to facilitate the change of use and as such, when considering the visual impact of the physical built form, no harm would be caused and the proposal, in this regard, would not cause a detrimental impact upon the character of the area.
- 7.28 The proposals could alter the character of the building to an extent, as the proposed change of use could result in people visiting the site more frequently. Notwithstanding this, the surrounding area comprises uses that would result in fairly frequent visits, and a notable footfall. In addition, the site lies within a fairly central location with Spalding. As such, it is not considered that this would have a significant detrimental impact on the character of the site or cause harm to the character, setting or significance of the Conservation Area in which the site is located.
- 7.29 As such, the proposals are considered to accord with Sections 12 and 16 of the National Planning Policy Framework (December 2024) and Policies 2, 3 and 29 of the South East Lincolnshire Local Plan (2019).
- 7.30 Impact on Residential Amenity
- 7.31 Paragraph 135 of the National Planning Policy Framework (December 2024) 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; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 7.32 Policies 2 and 3 of South East Lincolnshire Local Plan (2019) set out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.
- 7.33 The proposal seeks opening hours from 07:30am to 6pm Monday to Friday. The site is not proposed to be open at the weekends, or on bank holidays which would be secured by the imposition of a condition. According to the application form, the proposal will generate 12 full-time positions and 8 part-time positions. The applicant has since clarified that there would be no more than 15 members of staff within the site at any time.
- 7.34 The nursery is expected to provide capacity for 93 childcare places. This does not mean that there would generally be 93 children within the site at any time, as some children will attend morning sessions and other will attend afternoon sessions. Furthermore, not all of the children will go to the nursery every day. The applicant, Clarence House Day Nurseries, has set out that few nurseries run at full capacity.
- 7.35 The proposals would likely result in an increase in the comings and goings to the site; however, the site is currently used as a church and presumably this use results in people entering and leaving the site for religious services on a frequent basis. The nearest dwellings to the site include 23 to 26 Priory Road, which are located to the west of the site, and 6 to 8 Haverfield Road, which are located to the east of the site. The proposals could result in an increase in noise that is generated from the site due to the number of adults and children that would be

within the site, albeit that would not be during noise sensitive hours and times of the day.

- 7.36 Notwithstanding this, it is considered that most of the activities within the site would be contained within the relatively large building within the site and it is not considered that this would result in an unacceptable impact on the amenity of the surrounding residential properties. The hours of operation are considered to be suitable, and these hours can be controlled via a planning condition.
- 7.37 No concerns have been raised by the council's environmental protection team regarding noise generation from the proposals and the team have not recommended any noise mitigation measures.
- 7.38 Therefore, it is considered that the development would have an acceptable impact on the amenity of neighbouring dwellings in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) and Section 12 of the National Planning Policy Framework (December 2024).
- 7.39 Highway Safety and Parking
- 7.40 Paragraph 116 of the National Planning Policy Framework (December 2024) sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe, following mitigation.
- 7.41 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.
- 7.42 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. Policy 33 further reinforces the need for developments to be accessible via sustainable modes of transport.
- 7.43 Policy 36 of the South East Lincolnshire Local Plan (2019), in conjunction with Appendix 6, sets out minimum vehicle parking standards.
- 7.44 This local policy position is reinforced by Paragraph 116 of the National Planning Policy Framework (NPPF) which states that, 'Development should only be prevent 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..'
- 7.45 There are currently 6 parking spaces at the front of the site and no changes are proposed to the existing vehicular access or parking arrangements for the site. Concerns have been raised within the public representations regarding the potential impact of the proposals on the amount of traffic on Haverfield Road. These concerns are partly due to the site's proximity to an existing nursery which is next to the site and Spalding Grammar School.
- 7.46 Initially, Lincolnshire County Council's highways team requested additional information regarding the proposals including the number of childcare places and how drop-off and pickup times will be managed. Additional information was subsequently provided by the applicant.
- 7.47 It has been clarified that the nursery will operate at a maximum capacity of 93 childcare places with a maximum of 15 staff members on site at any time. Staff will generally arrive before and depart after the main parent drop-off and pick-up periods, ensuring that staff travel movements do not coincide with peak arrival times. Staggered drop-off and pick-up times are proposed to be implemented. This is in the interests of the nursery business to help staff members in addition to limiting the impact of the proposals on the nearest dwellings.
- 7.48 Based on travel patterns observed at the applicant's other nursery sites, and given the sustainable and accessible location of the building, it is anticipated that approximately 50% of

staff will travel to work by walking, cycling or public transport, with around one third of parents expected to walk to the nursery. Therefore, a proportion of visitors will be accessing the site on foot and some children will be siblings, meaning that fewer trips would be required.

- 7.49 It is unclear how many people attend the site currently as a place of worship; however, typically it is expected that visitors arrive at fixed times to participate in services and depart at similar times. The nursery is likely to generate trips to and from the site at staggered intervals; however, there might be peak periods such as in the morning or late afternoon. Parents will be allocated flexible arrival and collection windows, which spreads movements across extended periods. In this case, arrivals and departures are likely to occur from 07:30am to 09:30am and 3:30pm to 6pm, with midday transitions for half-day sessions occurring between approximately 12:30 and 1:30pm. For example, some children will attend mornings only or afternoons only. Allowing for short dwell times of approximately 5-10 minutes for drop-off and pick-up, vehicle movements will occur on a rolling basis rather than simultaneously.
- 7.50 Staff vehicles will generally already be parked prior to peak drop-off periods. Vehicle turnover will be continuous throughout arrival windows which should help to avoid a parking build up on Haverfield Road. The number of vehicles on site at any given time is expected to remain within the available 6 parking spaces. During peak periods, staff will be present externally to supervise arrivals and departures, ensuring efficient vehicle turnover and preventing obstruction.
- 7.51 In addition, visitors and staff members could have the option to park within public car parks within the area and walk to the site. For example, Vine Street Car Park and Drapers Place Car Park are approximately a 6-minute walk from the site. These public car parks potentially offer an alternative area to park cars if needed, and are in close enough proximity to the site to be reasonably considered as viable parking options for the site if needed.
- 7.52 LCC's highways team have reviewed the submitted information and consider that the building is in a sustainable location and a proportion of parents and staff are likely to walk, cycle or use public transport to the nursery. The team have not raised any objections to the proposals based on the information provided, nor suggested that the impact of the development upon the surrounding highway network would be severe. Therefore, officers are of the opinion that the proposal would not result in demonstrably severe or adverse highway impacts from either a safety or capacity perspective. As such, 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) and there is no justifiable reason for the application to be refused on the grounds of highway safety.
- 7.53 Flood Risk and Drainage
- 7.54 Section 14 of the National Planning Policy Framework (December 2024) sets out guidance relating to how local authorities should assess and determine applications which are subject to flood risk concerns.
- 7.55 The site is 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.
- 7.56 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).
- 7.57 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.
- 7.58 The site is located within Flood Zone 3; 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).

- 7.59 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).
- 7.60 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 South East Lincolnshire Local Plan (2019); 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.
- 7.61 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. The site is not within an identified 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, it is not proposed to raise the finished floor levels of the building as the proposal is for a change of use and it would not be practical or feasible to raise the ground levels. The LPA 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 and the site has the ability for safe refuge within its upper floors.
- 7.62 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.
- 7.63 Therefore, in flood risk and drainage terms, it is considered that the proposed development accords with Policy 4 of the South East Lincolnshire Local Plan (2019) and section 14 of the National Planning Policy Framework (December 2024).
- 7.64 Biodiversity Net Gain
- 7.65 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.
- 7.66 "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".
- 7.67 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.
- 7.68 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".
- 7.69 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.
- 7.70 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.

7.71 **Planning Balance**

7.72 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.

7.73 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).

7.74 **Additional Considerations**

7.75 Public Sector Equality Duty

7.76 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:

7.77 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.

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

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.

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

7.78 Human Rights

7.79 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).

7.80 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.

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 must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

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

- 1688.01 - Site Location Plan
- 1688.02 - Site Plan
- 1688.04 - Proposed Floor Plan

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

3. The use hereby permitted shall not be open to visitors except between the hours of 07:30 to 18:00 Monday to Friday and not at all on weekends of 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.

4. 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.

Background papers:- Planning Application Working File

Lead Contact Officer

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Appendices attached to this report:

Appendix A - Plan A

MapThat Scale Print Title

