

DECISION DELEGATED TO HEAD OF PLANNING

Application No:	H08-1065-23	Applicant:	Lincolnshire County Council
Proposal:	Provision of new building to provide classrooms, a suite of therapy spaces, soft play and sensory rooms and supporting hygiene spaces, removal and reinstatement of wall for access, landscaping works and associated works		
Location:	Gosberton House Academy 11 Westhorpe Road Gosberton		
Terminal Date:	19th December 2023		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
05	Meeting Physical Infrastructure and Service Needs
28	The Natural Environment
29	The Historic Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
32	Community, Health and Well-being
33	Delivering a More Sustainable Transport Network
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

Section 8 - Promoting healthy and safe communities
Section 9 - Promoting sustainable transport
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

Representations:

	Object	Support	No Obj.	Comments
WELLAND AND DEEPINGS INTERNAL DRAINAGE BOARD	0	0	0	1

OTHER STATUTORY BODIES	0	0	0	1
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CASE OFFICER ASSESSMENT

Description of Proposal

This is a Regulation 3 planning application for the provision of a new school building and associated works at Gosberton House Academy. As such, South Holland District Council are a consultee, with Lincolnshire County Council being the determining authority.

The application is for a 654 sqm new school building located towards the west of the site, in an area currently used as a garden school. The building will provide classrooms, therapy space, sensory rooms, and other supporting space. It is proposed that the building would be constructed of red brickwork panels (Ibstock, Commercial Red), although the majority of the building would be clad with timber plank effect cladding coloured sky blue. Dark grey concrete roof tiles would be used. All fixtures and fittings would be anthracite grey in anthracite grey. Eight trees will be removed to make room for this building.

Alongside this, it is proposed that the school's carpark be extended north to include an additional 28 spaces. A new turning area will be provided to aid with school drop-offs. The existing modular classrooms located to the north of the site would be removed. In order to facilitate these alterations, a new site drainage scheme has been submitted.

Site Description

The site is within the settlement boundaries of Gosberton, as outlined within the South-East Lincolnshire Local Plan, 2019. The site is located towards the centre-west of the settlement, along Westhorpe Road. The site is within the Gosberton Conservation Area and as such is within the historic heart of the village, with the Grade I listed St Peter and St Paul's Church is located approximately 100 metres south-east. A blanket Tree Protection Order (TPO) is in place over the site.

The site itself comprises of approximately 1.7 hectares of land, split between a managed playing field, a small, wooded area currently used as a woodland school, and the main school buildings. The main building was constructed in 1956 and is fairly typical of its time. A modular building is located to the of the main building. To the west is a heavily vegetated area which is currently used as a woodland school. The theme of heavy vegetation is continued throughout the site, which is surrounded by large trees and shrubs.

Relevant History

H08-1126-22 - Full. Siting of 2 mobile classrooms including classroom link - retrospective (previously approved under H08-0486-13 & H08-0484-13). Approved 30/01/23.

H08-0486-13 - County Council Reg 3. Proposed temporary flat roof link building constructed between two existing classrooms. Approved 10/07/13.

H08-0484-13 - County Council Reg 3. Siting of two mobile classrooms (retrospective). Approved 10/07/13.

H08-0292-09 - County Council Reg 3. Proposed extension to incorporate main entrance, parents room, lobby, store, admin room, heads room and toilets. Refused 15/05/09.

H08-1543-04 - County Council Reg 3. Retention of relocatable classroom. Approved 12/01/05.

H08-0763-99 - County Council Reg 3. Relocatable classroom unit. Approved 24/08/99.

Consultation Responses

South Holland District Council are a consultee to this application. As such, no formal consultation process was undertaken by the Council. Details of the consultation process conducted by Lincolnshire County Council can be found within the LCP9 form available on the South Holland District Council Website.

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

Anglian Water

No objection. Restricts development within 15 metres of the Anglian Water operated pumping station. Anglian Water are obliged to accept the increase in foul water from the development site. No comments regarding surface water disposal, as it does not relate to an Anglian Water controlled asset.

Welland and Deepings Internal Drainage Board

"HSP consulting engineers have been in contact with us from an early stage discussing potential surface water provisions.

The proposal of a restricted surface water discharge to a maximum flow of five litres per second is agreeable with the Board in principle. If planning permission were granted then an application for consent to discharge surface water would need to be submitted to us prior to works commencing on site. Any application would be subject to the agreement of technical details, payment of the £50 application fee as well as payment of the relevant development contribution.

Based on the information submitted of a maximum flow of five litres per second and a total impermeable area of 0.17 hectares, the development contribution payable to the Board in advance of connection is £8,849.90. Please note that this figure is subject to annual increase in line with RPI."

Key Planning Considerations

Evaluation

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

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.

The policies and provisions set out in the National Planning Policy Framework, 2023 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Principle of Development

Policy 1 of the SELLP 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.

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.

The site is within the settlement of Gosberton which is classed as "a minor service centre" within Policy 1. As such development will be permitted that supports Gosberton's role as a service centre, helps sustain existing facilities or helps meet the service needs of other local communities.

As the site is within Gosberton, development within this location is considered appropriate. The proposal would support the settlement's role as a minor service centre while assisting in the provision of key local infrastructure.

Policy 5 of the SELLP encourages the creation of additional education facilities; particularly in areas where there is a shortage of places. This policy states that additional primary school provisions are required within the settlement of Gosberton. In addition to this, as the site would provide specialist education facilities, the proposal would help to meet a further infrastructure need.

Therefore, the proposal is considered to be in accordance with Policies 1 and 5 of the SELLP. The principle of development on this site is considered acceptable subject to other material considerations being met.

Layout, Design, Scale and Consideration of the Character of the Area

Section 12 of the NPPF, "Achieving well-designed places", states that "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.

Paragraph 130, contained within Section 12 of the NPPF, 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. 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. Developments 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, among other considerations.

Likewise, Policy 2 of the SELLP outlines sustainable development considerations for proposals; providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 of the SELLP 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.

These policies accord with the provisions of the NPPF 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. Proposals for new development would therefore require the aforementioned considerations to be adequately assessed and designed, including the siting, design, and scale to be respectful of surrounding development and ensure that the character of the area is not compromised.

The site is extremely well screened, both by the adjacent trees which envelope the proposed site and by those on the boundaries of the school grounds. As such, the relative impact upon the character of the area is limited.

The proposed building is more contemporary in style than its counterparts in the wider Gosberton Conservation Area. Despite this, it would not appear immediately incongruous, instead complementing the setting well, in particular the more modern school building of Gosberton House Academy. The use of simple architectural detailing reflects the Gosberton area well, where simple, angular buildings are common. Paragraphs 39 and 40 of the National Design Guide (NDG), states the importance of design reflecting its setting. Likewise, paragraphs 53 and 56 states that well-designed development is influenced by the local character and architectural precedents. It is considered that the homages to the design of the area and the existing school buildings conform to these criteria.

The materials proposed, while unique within the wider area, would suit the site well. Muted colours reduce the visual impact of the building, while complementing the main building well. Likewise, the use of timber cladding is uncommon in Gosberton but not out of character. Paragraph 44 states that "well-designed places do not need to copy their surroundings in every way. It is appropriate to introduce elements that reflect how we live today, to include innovation or change". As such, the introduction of these materials and colours conforms to this point and are considered appropriate.

Taking account of the design, 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 and would therefore be in accordance with Policies 2 and 3 of the SELLP and Section 12 of the NPPF.

Impacts Upon Resident Amenity

Paragraph 130 of the NPPF 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.

Policies 2 and 3 of SELLP sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions. Both policies are supported by Policy 30 with respect to noise and light pollution.

The proposal maintains a significant distance to all adjacent properties, being approximately 100 metres from the nearest dwelling. At such distances, the potential for overshadowing or overlooking is negligible. The potential amenity impacts are further dampened by the high levels of site vegetation, providing screening, and preventing views into neighbouring dwellings.

As the area has previously been used as a woodland school, it is likely that the building would reduce the potential for noise pollution. Paragraph 4.3 of the Design and Access statement states that a noise survey was carried out prior to the submission of an application. In response to this, the positioning of the classrooms has been altered to reduce the potential for noise pollution.

A lighting scheme has been included within this application. From the submitted information, the scheme appears acceptable. The levels of lighting shown are not considered unacceptable, especially if the lights are not used throughout sensitive periods of the night. The aforementioned screening would reduce the impact further. That being said, it is recommended that the South Holland District Council Environmental Protection Department are also consulted regarding the lighting scheme.

As detailed above, the scale and design of the proposal is considered to have no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users, when also taking account of the conditions recommended. As such, the proposal is considered to accord with the Section 12 of the NPPF and Policies 2 and 3 of the Local Plan in terms of impact upon residential amenity.

Highway Safety and Parking

Section 9 of the NPPF is titled 'Promoting sustainable transport'. Within this, Paragraph 111 advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

In respect of highway matters, Policy 2 details 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. 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.

Policy 36 of the SELLP, in conjunction with Appendix 6, sets out minimum vehicle parking standards and requires at least two spaces for dwellings of up to three bedrooms and three spaces for dwellings with four or more bedrooms.

It is for Lincolnshire County Council, as lead Highway Authority, to determine the potential impacts of development upon highway safety. That being said, the submitted transport plan appears to be acceptable, allowing safe movement off and on site while minimising traffic levels.

The increase in the number of parking spaces, from 29 to 57, represents a significant improvement. Appendix 6 requires one car parking space per two members of staff. As it is estimated that there would be 65 members of staff present on the site, the proposal comfortably achieves this requirement.

Appendix 6 also outlines the required cycle storage facilities. One space per three members of staff is required. This would set a requirement of approximately 22 spaces. The proposed 14 spaces falls significantly short of this mark. That being said, it is considered that deviation from this level is appropriate here. As stated within the Transport Statement, there is a requirement for specialist staff at SEN schools which leads to the vast majority of staff coming from non-local areas. As such, the actual demand for cycle space is low. For safeguarding purposes, the vast majority of students come on private mini buses, further reducing the demand for cycle space. Therefore, it is considered that the lower cycling provisions are acceptable given the circumstances.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Policies 2, 3, 33 and 36 of the SELLP, as well as Section 9 of the NPPF.

Flooding Considerations

Section 14 of the NPPF requires development plans to "apply a sequential, risk-based approach to the location of development - taking into account all sources of flood risk and the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by: applying the sequential test and then, if necessary, the exception test as set out below".

Paragraph 162 of the NPPF states "aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding". The sequential approach is required in areas known to be at risk now or in the future from any form of flooding, with the flood risk assessment being the tool to demonstrate this.

If, following the application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exceptions Test can be applied if appropriate.

The site lies within Flood Zones 3 of the Environment Agency's Flood Maps. These have been created as a tool to raise awareness of flood risk with the public and partner organisations, such as Local Authorities, Emergency Services and Drainage Authorities. The Maps do not take into account any flood defences.

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. Policy 4 of the SELLP is clear in that "Development proposed within an area at risk of flooding (Flood Zones 2 and 3 of the Environment Agency's flood map or at risk during a breach or overtopping scenario as shown on the flood hazard and depths maps in the Strategic Flood Risk Assessment) will be permitted" in instances where specific criteria is met.

It is worth noting that large parts of the district of South Holland lie within Flood Zone 3. It is therefore necessary to use the refined flood risk information (Hazard and Depth maps) within the SFRA as a basis to apply the sequential test.

Despite being in Flood Zone 3, the site is not classified as at risk of flooding, within the SFRA, via a 1% fluvial or 0.5% tidal event. As such, it is considered that the actual risk of on-site flooding is low. Therefore, there is no specific need for flood mitigation measures to be proposed here. That being said, it is proposed that finished floor level would be set at 3.80m AOD, representing approximately a 400-500mm rise. The increase in height will fully ensure that the building is safe for its lifetime from the impacts of flooding. While this rise is significant, it is considered that, for the reasons discussed above, the visual and amenity impacts would be negligible. As a result, it is considered

the proposed flood risk strategy is acceptable.

Overall, when considering the development on balance, it is considered, given the mitigation measures detailed and recommended by condition, that the proposal accords with Policies 2, 3 and 4 of the SELLP and the intentions of the NPPF with regards to flood risk.

Environmental Sustainability

In respect of the climate emergency, Section 14 of the NPPF states that new development should be planned for in ways that: 'avoid increased vulnerability to the range of impacts arising from climate change' with care taken to manage and adapt where development is brought forward in areas which are vulnerable; and that 'can help to reduce greenhouse gas emissions, such as through its location, orientation and design'.

Section 15 of the NPPF promotes the conservation and enhancement of the natural environment. Paragraphs 174 and 179 ensure sites of biodiversity value are protected through the planning system; while Paragraph 180 states that "if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused".

In line with both aforementioned sections of the NPPF, Policies 28 and 31 of the SELLP ensure the preservation and enhancement of the natural environment and that suitable mitigation and adaptation to the climate crisis is in place.

The comments of Lincolnshire County Council Arboricultural Officer should be heeded with regards to the tree protection and management plan. If further comments regarding the Tree Protection Orders are required, it is recommended that the SHDC Tree Preservation Officer be consulted. That being said, it is recommended that the measures within the Arboricultural Method Statement by FPCR be followed.

The proposal will result in a biodiversity net gain of approximately 13%. This is a significant gain, above the 10% provision within the Environment Act (2021). The proposal therefore achieves the net gain requirement of Policy 28 of the SELLP.

As the site is heavily vegetated, an arboriculture assessment has been included. The proposal would result in the loss of eight trees. Of these, four are mature low-quality whitebeams and one is a mature alder which is considered to be unsuitable for retention. It is considered that the loss of these trees is acceptable given their poor state. An early mature pin oak, as well as two mature horse chestnuts, will also be lost as a result of the works. While this loss is unfortunate, it is considered that the proposal to replace them with fourteen new specimens is acceptable. It is recommended that these trees are replaced with native species which encourage high levels of biodiversity. Fruit bearing species have been recommended within the Ecological Appraisal by FPCR.

An ecological appraisal has been submitted alongside this application. This report details that the site is likely to be unsuitable for the vast majority of species and that the relatively small scale of the scheme would further prevent significant impacts. That being said, it is considered that the guidance contained within the ecological appraisal is followed closely in order to minimise the ecological impacts of the development. The recommendation for further ecological surveys is considered to be particularly pertinent here. It is also recommended that new planting occurs across the site to improve upon the anticipated 13% net gain.

Turning to Policy 31 of the SELLP, the proposal features a low energy design in order to decrease its long-term carbon impact. Naturally this adheres to Policy 31. The transport plan's focus on buses as opposed to private cars, and the addition of cycle storage facilities, will reduce the emissions of staff and pupils on a daily basis.

It is also stated that the proposal will incorporate solar panels. Policy 31B sets out seven criteria to be met in order for this to be considered acceptable. Taking each in turn, the following is considered:

1. The visual impact would be significantly reduced by the significant levels of screening on the site, which prevent views from the public realm. The potential impacts are further reduced by the modern design of the proposed building and the existing main school facility, both of which help to integrate

the panels.

2. The potential amenity impacts of the panels are negligible, due to both the aforementioned screening and the distances to neighbouring dwellings.

3. The screening and distance to the road would ensure there would be no impact upon highway infrastructure.

4. The addition of solar panels would have no impact upon agricultural land.

5. The addition of solar panels would have no impact upon aviation.

6. The potential heritage impacts are not considered to be substantial. While the site is within the Conservation Area, the school grounds are not particularly noteworthy, with the main school building itself currently being somewhat at odds with the Conservation Area. The panels would be well screened, preventing them from being visible from any heritage asset.

7. As the works would be on top of the proposed building, the potential impacts upon the natural environment are negligible.

As such, it is considered that the proposed solar panels conform to Policy 31B and that weight should be given in favour of the proposal as a result.

Taking the above into account it is considered that given the details submitted, and those required by suitably worded condition, the proposal is acceptable with regards to environmental sustainability. The proposal would therefore be in accordance with Policies 28 and 31 of the SELLP and Sections 14 and 15 of the NPPF.

Heritage and Conservation

The comments of the SHDC Conservation Officer, Historic England and the LCC Historic Places Team should be given significant weight in guiding the final decision of this application. That being said, a brief response on heritage matters has been prepared.

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 NPPF. 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.

This Policy is in line with Section 72 the Planning (Listed Buildings and Conservation Areas) Act 1990, which states that special attention must be paid to the desirability of preserving or enhancing the character or appearance of that area.

Paragraph 207 of the NPPF states that: "Not all elements of a Conservation Area or World Heritage Site will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 201 or less than substantial harm under paragraph 202, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole."

It is considered that the school grounds, and more specifically the site of development, does not make a significant positive contribution to the Conservation Area, due to the physical, functional and design separation the site shows to the wider area. Therefore, it is considered that the proposal would lead to less than substantial harm to the significance of heritage assets and should be assessed in line with Paragraph 202.

Assessing the proposal against Paragraph 202 it is considered that the public benefits of the proposal, namely the creation of a high-quality environment for SEN pupils and the creation of specialist employment opportunities, far outweigh the potential harm to the Conservation Area.

As stated above, Policy 29 requires all proposal to preserve or enhance the Conservation Area. The proposed building, while being somewhat unique in the area, does still pay homage to the character of the area. The scale is relatively small, and when combined with the significant boundary treatments, the impact upon the Conservation Area is low. The removal of the unsympathetically designed modular units would also represent an enhancement of the site.

Policy 29B, point 6, requires the loss of trees to be mitigated against. The replanting scheme, which will see an additional six trees added to the site, conforms to this point. Despite the proximity to the

Grade II listed Gosberton House, the proposal would have no impact upon the setting of this building as there would be no direct intervisibility. This is also true of the Grade I listed Church of St Peter and Paul.

In summary, the proposal would not have a significant adverse impact upon the Conservation Area or any nearby heritage assets. The proposal conforms to Policy 29 of the SELLP as well as Section 16 of the NPPF. In line with Paragraph 202 of the NPPF, the public benefits of the proposal far outweigh any potential minor harm to the Conservation Area.

Site Drainage

The issue of site drainage will be heavily informed by the comments from the Internal Drainage Board (IDB) and the Lead Local Flood Authority. That being said, the submitted scheme has still been initially assessed from a planning perspective below.

Policies 2, 3 and 4 of the SELLP, amongst other matters, concern site drainage. Policy 4, part 3e, states that proposal should "incorporate the use of Sustainable Drainage Systems (SuDS) (unless it is demonstrated that this is not technically feasible) and confirms how these will be maintained/managed for the lifetime of development".

In this instance, it is considered inappropriate to require SuDS due to the highwater table on the site. A piped drainage run will be constructed either side of the proposed building, carrying surface water directly to Double Dyke (North). This is an IDB maintained drain to the north of the site. Due to the difference in site levels, an onsite pumping system will be required. In order to aid this system, two underground cellular storage tanks will be required.

While the scheme proposed is uncommon, it is not immediately problematic. Given the limitations of the site, it is considered that the divergence away from SuD principles is appropriate. That being said, it is recommended that consent is sought from the IDB prior to the approval or refusal of this application.

Economic Sustainability

Paragraph 81 of the NPPF states that "significant weight should be placed on the need to support economic growth and productivity". As the proposal would result in the creation of approximately 15 jobs within the school, and create employment during the construction phase, it is considered appropriate to apply this paragraph here. As such, weight is given in favour of this proposal.

Community, Health and Well-being

Policy 32 of the SELLP, in conjunction with Section 8 of the NPPF, aims to preserve and enhance community health and well-being. Incorporated into this is the preservation of community facilities and green space. The site is classified as "recreational open space" within this policy.

Despite being marked as "recreational open space", the ability for the community to benefit from this land is naturally limited by its inclusion within school grounds. Members of the public cannot access the site. The area is grassed by heavily vegetated and shaded, precluding it from being use as a playing field. As such, the actual community value of the site is limited. When this is compared with the potential benefits arising from the creation of the new school building, it becomes apparent that the best use for the site is to facilitate this development.

Paragraph 99 of the NPPF states that:

"Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

Point A is the most pertinent here. It is considered that the Planning Statement as well as the Design and Access statement submitted has fully demonstrated that the land is currently surplus to requirements and that the proposal would be a demonstrably more suitable use for the site.

It is of note also that the proposal would result in the demolition of the current temporary buildings, with the land being used as a playground instead. This means that while there would still be a net loss in space, the proposal would result in a bespoke facility which would better serve its purpose within the school.

In summary, while the proposal does not fully conform to Policy 32, there is no clear conflict either. The mitigating circumstances outlined in Paragraph 99 of the NPPF mean that the proposal is still policy compliant despite the loss of "recreational open space".

Planning Balance

As detailed above, Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise. South Holland Planning Department are a consultee to this application, and as such, the comments given here should be considered amongst all other consultation responses and material considerations.

The proposal represents appropriate development within the defined settlement boundary. The development hereby proposed does not materially harm the character or appearance of the locality, or amenity of nearby residents, while greatly enhancing the parking and access of the site. The proposal would not harm the setting of the Conservation Area or the natural environment. Jobs and school places will be created which benefit the community.

While there is a slight deviation from Policy 32 of the SELLP, it is considered that the proposal represents the best use for the site. The community benefits of the development far outweigh the loss of green space which is considered to be surplus to requirements. Therefore, in line with Paragraph 99 of the NPPF, it is considered that exceptional circumstances have been demonstrated.

Conclusion

Taking these factors into consideration, the proposal is considered to comply with Policies 1, 2, 3, 4, 5, 6, 28, 29, 30, 31, 33 and 36 of the SELLP, as well as Sections 8, 9, 12, 14, 15 and 16 of the NPPF. There are no significant factors in this case that would outweigh the benefits of the proposal; therefore, the planning balance is in favour of the proposal.

SHDC Planning Department raise no objections to the proposal.

Additional Considerations

Public Sector Equality Duty

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.

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.

Human Rights

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).

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.