

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H09-0572-24 **Applicant:** Hexagon Care Services Ltd.

Proposal: Change of use of children's care home (Use Class C2 Residential Institutions) to an independent school - Learning and Non-Residential Institution (Use Class F1 (A) Provision of Education) - approved under H09-1133-23. Modification of Condition 2 to allow amendments to previously approved plans

Location: Three Chestnuts Fen Road Holbeach

Terminal Date: 30th September 2024

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development
04	Approach to Flood Risk
28	The Natural Environment
30	Pollution
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

Section 2 - Achieving sustainable development
Section 4 - Decision-Making
Section 9 - Promoting sustainable transport
Section 12 - Achieving well-designed and beautiful places
Section 14 - Meeting the challenge of climate change, flooding and coastal change
Section 15 - Conserving and enhancing the natural environment

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	1
WARD MEMBER	0	0	0	0
ENVIRONMENT AGENCY	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1

SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	0
OTHER STATUTORY BODIES	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This is a section 73 application (variation of condition 2) of planning application H09-1133-23. That planning permission allows for:

The change of use of children's care home (Use Class C2 Residential Institutions) to an independent school - Learning and Non-Residential Institution (Use Class F1 (A) Provision of Education)

The variation relates to both the planning statement and site plan. Within the planning statement the educational facility was described as being up to 24 pupils and employees 8, furthermore the site plan showed parking provision for 9 number vehicles. The applicant seeks the following changes:

- Pupils increase now up to 36 (updated planning statement)
- Staff increase now up to 16 (updated planning statement)
- Increase in off-street parking provision to now accommodate 16 vehicles (updated site plan)

Site Description

The site which relates to a former care home is located outside of defined settlements in the open countryside. The site is accessed via the B1168 Fen Road. The property benefits from a large area of hardstanding for vehicular parking with suitable turning area to enter and leave the site in forward facing gear. Grass / garden amenity areas are located to the perimeter of the property. One metre high post and rail fencing, hedgerows and scattered trees form the boundary treatment to the application site. The nearest dwellings are Mill House - 228 metres to the west, Pennington Farm - 168 metres to the south and Greenacres - 656 metres to the north-east.

The site is located in Environment Agency Flood Zone 3, and is not subject to increased hazard or flood depth on the 2115 South Holland Strategic Flood Risk Mapping. Drainage is to remain as existing with foul sewage addressed via a septic tank.

The site benefits from planning permission to function as an educational facility, secured under permission H09-1133-23.

History

H09-0563-02 Full - Erect two storey extension and alteration to existing access - Approved - 30 July 2002.

H09-1204-02 Full - Erection of conservatory to side elevation - Approved - 03 January 2003.

H09-1230-04 Section 191 Lawful Use Certificate - Use of premises as a Children's home for up to six persons living together as a single household (Use Class C3) - Approved - 12 November 2004.

H09-1042-17 - Full - Erection of two storey extension and use of premises as a care home under Use Class C2 - Approved - 06 December 2017.

H09-1133-23 - Change of use of children's care home (Use Class C2 Residential Institutions) to an independent school - Learning and Non-Residential Institution (Use Class F1 (A) Provision of Education). Approved 02-04-24

Consultation Responses

Parish

Concerns over access for increased traffic with the change of use

South Holland IDB

As Land Drainage Consent is required, the Board strongly recommends that this is sought from the Board prior to determination of this planning application. The Board will only consider the proposals in detail on receipt of an application for Land Drainage Consent. The annexe at the end of this letter outlines the Board's regulatory function and how to apply for Land Drainage Consent.

Environment Agency

We did not recommend Condition 2 on application H09-1133-23 and therefore have no comment to make on this application, H09-0572-24.

Highways & Suds Support

No Objections - Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network or increase surface water flood risk and therefore does not wish to object to this planning application.

Crime Prevention Officer

Lincolnshire Police do not have any objections to this application

Environmental Protection

No comments

Planning Considerations

The application site already benefits from planning permission as an educational facility and therefore matters of principle do not need to be revisited. This application proposed to make changes to the number of pupils and staff and to absorb this increase has made changes to the proposed site plan to accommodate parking provision and therefore an assessment on Flood Risk, Character and Ecology amongst other matters are no required.

The key issues therefore for consideration are:

- Environmental Issues (amenity)
- Highway Safer Impacts
- BNG
- Previously attached conditions

Environmental Issues

NPPF Paragraph 135 of the National Planning Policy Framework (December, 2023) 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.

Policy 2 and of South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

Policy 30 is concerned with pollution and places impacts in relation to noise, disturbance and air quality as important consideration when considering proposals for planning.

The applicant has provided a Planning Statement that explains in detail the use of the facility. Pupil numbers have increased from 24 to 36 and staff numbers from 8 to 16. Though there is no explanation as to why the approach has changed the report does state that *The school will be registered with the Department of Education and subject to Ofsted monitoring and assessment.* It is highly likely that the amount of staff is a necessity to accord with DoE and Ofsted requirements.

Notwithstanding this the school has already a permission and the planning assessment therefore focuses upon the intensification of this permission (given the increase in numbers outlined above). In regard to this Environmental Protection have no comments to make. The building is also located in an isolated position, with only some agricultural buildings, that appear to be disused (access from Further Old Gate) and so the likely effects from noise and disturbance upon neighbouring properties/used is likely to be acceptable. Moreover, the school is stated to be open Mon-Friday (930 - 1530) and therefore the impacts during this time are made further acceptable.

Any permission will be linked to the supporting planning statement. On this basis the proposal would accord with SELLP Policies 2 and 3 as well as NPPF Paragraph 135.

Highway Safety Issues

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.

The proposal would include an intensification of use and also an extended parking provision. Both the Supporting Planning Statement and the proposed site plan demonstrate this. LCC Highways have been consulted and have no objections and consider that the existing access and proposed off-street parking arrangements can easily accommodate the development.

It is therefore considered that on this basis the proposal would accord with SELLP Policies 2 and 3 and is acceptable on highway safety terms.

BNG

NPPF Paragraph 186 sets out a criteria-based approach for LPAs to apply when considering development proposals. The criteria in part includes methods to protect and encourage bio-diversity as well as preventing development resulting in the loss of priority habitats.

NPPF Paragraph 180d is also relevant requiring net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

SELLP Policy 28 is concerned with the Natural Environment points 2 and 3 are relevant to this assessment, point 2 is concerned with Nationally or locally designated sites and protected or priority habitats and species and point 3 with addressing gaps in the ecological network.

This is a variation of an existing permission and therefore qualifies as being exempt from mandatory BNG (given it was submitted prior to the Environmental Bills stipulate dates for capturing mandatory BNG). The original permission contained a condition that prior to the commencement of development a BNG net gain plan is submitted to the LPA and approved. This condition will be reattached to any permission achieved. The condition requires that a net gain is achieved across site (which is a policy requirement rather than legislative, in this instance).

On this basis the proposal would accord with SELLP Policy 28 as well as paragraphs 180d and 186 of the National Planning Policy Framework, December 2023.

Previously Attached Conditions

The 'original permission' (H09-1133-23) attached a number of conditions, one in relation to any new materials to match, any boundaries that are to be erected must be first agreed, a landscaping plan as well as the BNG condition (discussed above). These will be re-attached to any permission, however both the landscaping and BNG where time related 'beyond the over site', given the building is in situ this was not accurate and so will be time phased prior to the first use (which will allow for the alterations and formulation of the parking area).

Also of note is that the IDB state consent is required being within 9m of a watercourse. The changes made under this application does not bring the development any closer to the said watercourse than

what has previously been approved. The last permission included an informative that consent in this instance would then be required from the Internal Drainage Board. This informative will be attached gains.

Planning Balance

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.

The proposal represents an intensification of the already approved use, the externalities of which have been assessed to be acceptable. The development hereby proposed does not materially harm the character or appearance of the locality, or amenity of nearby residents, and provides adequate parking, whilst conforming with the South East Lincolnshire Local Plan and the provisions of the National Planning policy Framework when viewed as a whole.

In this instance, there are no material considerations that weigh against the proposal and as such, the planning balance is in favour of the development.

Conclusion

Taking the above considerations into account, the proposal is considered to be in accordance with policies 1, 2, 3, 4, 28 and 36 (including Appendix 6) of the South East Lincolnshire Local Plan (SELLP) (2019), along with the identified sections contained within the National Planning Policy Framework (NPPF) (December 2023). There are no significant factors in this case that indicate against the proposal and outweigh the consideration in favour of the proposal and the policies referred to above.

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.