DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H12-0338-26**	**Applicant:**	**Bowmer + Kirkland and Department for Education**

Proposal: Demolition of existing school buildings and redevelopment to provide a new three storey building for educational purposes (Use Class F1), revised internal vehicular and pedestrian circulation routes (including creation of revised vehicular drop off / pick up areas for buses and cars), sports and informal recreational spaces, landscaping, drainage, parking areas (including temporary parking provision during the construction phase) and all associated works - Approved under H12-0310-24. Modification of Condition 4 to amend wording to enable new school building to be occupied prior to the new MUGA being completed

Location: 84 Little London Long Sutton Spalding

Terminal Date: 8th July 2026

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019	
02	Development Management
03	Design of New Development
32	Community, Health and Well-being

National Guidance

National Planning Policy Framework December 2024

Section 2 - Achieving sustainable development
Section 4 - Decision-Making
Section 8 - Promoting healthy and safe communities

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
OTHER STATUTORY BODIES	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This is an application made under Section 73 of the Town & Country Planning Act. Planning permission was achieved for "Demolition of existing school buildings and redevelopment to provide a new three storey building for educational purposes (Use Class F1), revised internal vehicular and pedestrian circulation routes (including creation of revised vehicular drop off / pick up areas for buses and cars), sports and informal recreational spaces, landscaping, drainage, parking areas (including temporary parking provision during the construction phase) and all associated works" under H12-0310-24.

This section S73 application seeks to amend the wording of condition 4 to enable new school building to be occupied prior to the new MUGA being completed. The existing wording prevents occupation until the MUGA is complete.

Site Description

The application site is located to the north of Long Sutton, but within the settlement boundary fronting Little London. The existing site which is the base of university academy Long Sutton contains a 3 storey building that heavily fenestrated, a number of associated brick built outbuildings, car parks, nursery building, leisure centre and playing fields.

Little London itself is made up of a broad mix of dwelling types, which form frontage development along the road away from the core of Long Sutton. To the south is the existing butterfly park where an extant permission for a residential development is located, there is also a pending application on this site.

The application site is shown by the SFRA Hazard maps to be in a location 'danger for some', the application site is within the settlement boundary ad playing fields are allocated by the policies map.

Working is underway on an existing permission that allows for the regeneration of the campus, this includes extensive demolition and rebuild of the existing school.

History

H12/0091/24 Erection of mobile classroom (retrospective) - approved under H12-0133-19 - Modification of Condition 2 to allow the retention of the mobile classroom for a further 5 years. Approved 3.04.24

H12/1046/21 Siting of Play Group Building - approved under H12-0006-17. Modification of Condition 1 to retain the building for a further 5 years Approved - 3rd November 2021

H12-1190-19 - Replace external end of life window walling to main school building with energy efficient aluminium replacement units. Approved 12-02-20

H12/0529/22 Demolition of existing modular classrooms and replace with double single storey modular classroom Approved - 15th July 2022

H12/0133/19 Erection of mobile classroom (retrospective) - approved under H12-0067-14 - Modification of Condition 2 to allow classroom to be retained fora further period of time. Approved 13th March 2019

H12/0006/17 Siting of playgroup building - approved under H12-0990-13 - Modification of Condition 2 to allow a further time period Approved - 26th January 2017

H12/0067/14 Erection of mobile classroom (Retrospective) Approved - 18th February 2014

H12/0990/13 Retain playgroup building 5th December 2013 - Approved

H12/0873/12 Siting of two classrooms (retrospective) Approved-19th November 2012

H12/0406/10 Create additional car park and hardstanding Approved18th June 2010

H12/0047/09 Proposed Stable Block Withdrawn - 24th February 2009

H11/0061/86 Erect a 'chance to share' facilities comprising kitchenette, covered ways, new room and sports hall store. Approved - 6th March 1986 H11/0467/86 Retain a mobile home No objections raised - 29th May 1987

H11/0537/73 Extension to Peele School Playing field off Little London, Long Sutton (Parish of Lutton). Permitted - 9th October 1973

H11/0157/70 Alterations and extensions to school buildings at Peele School, Long Sutton (Parish of Lutton). 13th May 1970

Relevant Planning History

H12-0310-24 - Demolition of existing school buildings and redevelopment to provide a new three storey building for educational purposes (Use Class F1), revised internal vehicular and pedestrian circulation routes (including creation of revised vehicular drop off / pick up areas for buses and cars), sports and informal recreational spaces, landscaping, drainage, parking areas (including temporary parking provision during the construction phase) and all associated works. Approved 27-06-24

H12-0381-26 - Demolition of existing school buildings and redevelopment to provide a new three storey building for educational purposes (Use Class F1), revised internal vehicular and pedestrian circulation routes (including creation of revised vehicular drop off / pick up areas for buses and cars), sports and informal recreational spaces, landscaping, drainage, parking areas (including temporary parking provision during the construction phase) and all associated works - approved under H12-0310-24. Modification of Condition 2 to allow amendments to previously approved plans. Pending

H12-0264-25 - Details of construction specification (Condition 4 of H12-0310-24). Approved 07-04-25

H12-0256-25 - Details of photographic building recording (Condition 8 of H12-0310-24). Approved 29-04-25

H12-0926-24 - Details of archaeological investigation and external materials (Conditions 6 and 10 of H12-0310-24). Approved 20-12-24

H12-0347-26 - Details relating to pitch construction specification and maintenance (Condition 3 of H12-0310-24). Approved 15-05-26

H12-0139-26 - Details of External Lighting (Condition 17 of H12-0310-24). Approved 25-03-26

H12-0140-26 - Details of boundary treatments, including those associated with the MUGA, including a schedule of fencing levels, heights & materials (Condition 11 of H12-0310-24). Approved 10-04-26

H12-1181-25 - Details of proposed hours of operation (Condition 18 of H12-0310-24). Approved 26-01-26

H12-0756-24 - Details of Demolition Environmental Management Plan (Condition 19 of H12-0310-24). Approved 10-10-24

H12-0685-24 - Details of bat mitigation (Condition 14 of H12-0310-24). Approved 25-09-24

Representations

This application has been advertised in accordance with the Development Management Procedure Order 2015 (as amended). No representation have been received.

Consultation Responses

Sport England

Thank you for consulting Sport England on the above application to vary condition number 4 attached to planning permission ref: H12-0310-24. The proposal relates to amendments to the wording of the condition to allow the new school building to be occupied before the MUGA is constructed. The MUGA would be sited on the existing school building which would be demolished once the new school building is occupied.

The amended condition would read:

Condition: Prior to work commencing above foundation level of the new school building hereby approved, a written construction specification including elevation drawings and a programme of implementation for the Multi-Use Games Area (MUGA) hereby approved shall be submitted to and approved in writing by the Local Planning Authority in consultation with Sport England. The approved MUGA scheme shall then be carried out in full with construction to be undertaken in accordance with the following timescales:

·Occupation of the new school building - 01.06.2026
·Demolition of existing school building - 01.06.26 - 24.09.2026
·MUGA and associated services construction - October 2026 - 02.02.2027

The MUGA shall thereafter be maintained in accordance with the scheme and made available for sports use in accordance with the scheme. Reason: To ensure that the development is fit for purpose and sustainable. This condition is imposed in accordance with Policy 32 of the South East Lincolnshire Local Plan (2019) and to accord with Paragraph 104 of the NPPF. From the information which accompanies the variation of condition planning application, it is considered that the amended proposal would meet exception 4 of Sport England's Playing Fields Policy and the requirements of Paragraph 104 of the NPPF (2024).

Sport England's Position Given the above,

Sport England raises no objection to the variation of condition 4 attached to planning permission ref: H12-0310-24 with the wording proposed.

Highways & Suds Support

Thank you for consulting Lincolnshire County Council on this condition variation. Condition 4 was not requested by Lincolnshire County Council and so it is for the LPA to assess/determine.

Evaluation

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.

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms 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 (December 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.
Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals.

Evaluation - Section 73

The proposal relates to the variation of Conditions 4 of the original approval through seeking permission under Section 73 of the Act. The purpose of an application made under Section 73 of the Town and Country Planning Act 1990 is to vary or remove conditions associated with an existing planning permission. These applications are used to allow for amendments to an approved scheme and can be made both retrospectively and prior to a permission being implemented, as long as the permission is extant.

The Act is very clear that: "On such an application the Local Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted." As such, the Local Planning Authority are not able to revisit the principle of development and only matters relevant to the specific conditions can be considered.
The effect of granting permission would be to issue a new permission with Condition 4 amended, together with any other relevant conditions from the original permission, or subsequent relevant revisions since this permission.

Planning practice guidance highlights that where less substantial changes are proposed, amending a proposal can occur through 'Amending the conditions attached to the planning permission, including seeking to make minor material amendments'. The PPG clarifies that "Permission granted under Section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions.

The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted".

There is no statutory definition of a 'minor material amendment'; but this is likely to include any amendments where its scale and/or nature results "in a development which is not substantially different from the one which has been approved". In the case of R (Vue Entertainment Limited) v City of York Council, it was concluded that the decision gives clear support for use of s.73 in respect of changes to conditions which go beyond 'minor' amendments.

It places a clear emphasis on preserving the precise terms of the grant. If an amendment to a condition can be made which keeps the description of the development intact it may well be appropriate to make such an application under a s.73, even if the affect of the change will be significant".

Planning Considerations

The development is underway on site and is being phased so as to minimised disruption to existing students. All dischargeable conditions relating to the original permission (H12-0310-24) (except for condition 5, which is currently pending) have been discharged (see planning history).

This Section 73 seeks to amend the wording inherent in condition 4, which prevents occupation of the new school building until the MUGA is built. This condition has proved difficult as the location of the MUGA to be underneath the footprint of the current school buildings which are to be demolished as part of the redevelopment scheme. The applicant has therefore proposed alternative wording.

It is considered given the nature of the changes that there is no reason to revisit matters of planning principle. The following are key considerations in this assessment:

·The effect of rewording condition 4
·Reattachment of conditions associated with H12-0310-24
·Planning Balance

The effect of rewording condition 4

Condition 4 attached to planning permission H12-0310-24 currently requires the approved Multi Use Games Area (MUGA) to be fully constructed and available for use prior to occupation of the new school building.

The wider redevelopment scheme is, however, being delivered on a phased basis in order to

minimise disruption to the continued operation of the school during construction works. The approved phasing arrangements show that the MUGA is to be located partially beneath the footprint of the existing school buildings which are to remain operational until the new replacement school building is complete and capable of occupation.

As a consequence, the MUGA cannot physically be constructed until the existing school buildings have been vacated and demolished. The existing wording of Condition 4 therefore creates a practical conflict within the delivery sequence of the approved development, as occupation of the new building is necessary before demolition of the existing buildings can occur, whilst demolition itself is required before the MUGA can be delivered.

The applicant has therefore sought to amend the wording of the condition to allow occupation of the new school building prior to completion of the MUGA, whilst still securing the delivery of the approved sports provision within a defined implementation programme.

Officers note that the overall phasing strategy associated with the approved redevelopment remains unchanged from that previously assessed under the parent permission. The proposal does not seek to remove the MUGA from the development, reduce its specification, alter its approved location or prevent its future delivery. Instead, the amendment seeks to revise the timing of implementation to reflect the practical realities of the construction sequence.

The proposed wording would continue to require:

· submission and approval of detailed construction specifications and implementation programme for the MUGA in consultation with Sport England;
· demolition of the existing school buildings within a defined timeframe following occupation of the new school building;
· construction of the MUGA and associated services within a specified implementation period; and
· ongoing maintenance and availability of the MUGA for sporting use thereafter.

The amended wording would therefore continue to secure the long-term delivery and retention of the approved sports facilities whilst allowing the wider redevelopment project to proceed in a logical and deliverable manner.
In assessing the proposal, significant weight is afforded to the consultation response from Sport England, who raise no objection to the amended wording and confirm that the proposal would continue to comply with Exception 4 of Sport England's Playing Fields Policy together with Paragraph 104 of the National Planning Policy Framework.

Sport England specifically acknowledge that the revised condition wording appropriately reflects the phased nature of the redevelopment and continues to secure delivery of replacement sports provision through an agreed programme of implementation.

It is also material that the details required under the first part of Condition 4, relating to the MUGA construction specification and implementation programme, have already been approved by the Local Planning Authority under application H12-0264-25.

Furthermore, officers note that the wider development is substantially advanced and that the majority of dischargeable conditions attached to planning permission H12-0310-24 have already been formally discharged. The redevelopment is therefore actively progressing in accordance with the approved scheme and approved phasing arrangements.

In these circumstances, officers are satisfied that the proposed amendment represents an appropriate and proportionate revision to the wording of Condition 4 and would not undermine the overall delivery of the approved sporting provision or wider redevelopment scheme.

Reattachment of conditions associated with H12-0310-24

Section 73 permissions result in the grant of a new standalone planning permission. As such, where permission is granted under Section 73, it is necessary for the Local Planning Authority to reconsider which conditions from the original permission remain relevant and should be reattached to the new consent.

Planning permission H12-0310-24 was originally granted subject to 19 conditions.

Since the grant of that permission, a number of conditions requiring the submission of further details have been formally discharged under separate discharge of condition applications. These include conditions relating to:

· photographic building recording (Condition 8);
· archaeological investigation and external materials (Conditions 6 and 10);
· playing pitch specification and maintenance (Condition 3);
· external lighting (Condition 17);
· boundary treatments including MUGA fencing (Condition 11);
· hours of operation relating to the MUGA (Condition 18);
· demolition environmental management plan (Condition 19); and
· bat mitigation measures (Condition 14).

Where details have already been approved by the Local Planning Authority, it is neither necessary nor reasonable to re-impose conditions requiring the re-submission of identical details. Instead, these conditions can appropriately be converted into compliance conditions requiring the development to be carried out in accordance with the approved details.

This approach reflects the guidance contained within the Planning Practice Guidance and the Circular 11/95 principles regarding the necessity and reasonableness of planning conditions.

Conditions 1, 2, 4, 5, 9, 12, 13, 15 and 16 remain relevant to the implementation and operation of the development and are therefore recommended to be reattached to any Section 73 permission.

Condition 4 is recommended to be re-imposed in amended form consistent with the wording sought through the current application.

Condition 5 is also recommended to be reattached in its original form notwithstanding the pending discharge of condition application, as confirmation of the required highway improvement works has not yet been received from Lincolnshire County Council Highways.

All other condition are compliance that will be reinstated (with the extension of the time limit condition 1).
Officers are therefore satisfied that the proposed schedule of reattached and amended conditions appropriately secures the continued implementation of the development whilst reflecting the discharge of details already approved by the Local Planning Authority.

Planning Balance

Section 73 of the Town and Country Planning Act 1990 enables the Local Planning Authority to consider whether planning permission should be granted subject to conditions differing from those attached to an existing planning permission.

The principle of the wider redevelopment scheme has already been established under planning permission H12-0310-24 and is not a matter for reconsideration as part of the current application.

The proposal instead relates solely to the amendment of Condition 4 to allow occupation of the new school building prior to completion of the approved MUGA.

The evidence submitted demonstrates that the current wording of Condition 4 creates a practical conflict within the approved construction sequence, as the MUGA cannot physically be constructed until the existing school buildings have been vacated and demolished.

Importantly, the proposal does not seek to remove, reduce or materially alter the approved sports provision. The amended wording would continue to secure the delivery, implementation, maintenance and future availability of the MUGA through an agreed programme of works.

Significant weight is afforded to the consultation response from Sport England who raise no objection to the amended wording and confirm that the proposal would continue to accord with national policy and Sport England's Playing Fields Policy.

It is also material that the relevant technical details associated with the MUGA have already been approved under discharge of condition application H12-0264-25 and that the wider development is

actively progressing on site in accordance with the approved redevelopment scheme.

Officers are therefore satisfied that the proposed amendment represents a pragmatic and proportionate revision to the wording of Condition 4 which facilitates the deliverable implementation of the approved redevelopment without giving rise to unacceptable impacts upon sports provision, residential amenity, highway safety or wider planning policy objectives.

The proposal is therefore considered to accord with Policies 2, 3 and 32 of the South East Lincolnshire Local Plan (2019) together with Paragraph 104 of the National Planning Policy Framework (2024).

Conclusion

The application seeks permission under Section 73 of the Town and Country Planning Act 1990 to amend the wording of Condition 4 attached to planning permission H12-0310-24.

The proposed amendment is required to facilitate the phased delivery of the approved redevelopment scheme and reflects the practical sequencing of demolition and construction works associated with the approved development.
The proposal would continue to secure the delivery, maintenance and future availability of the approved Multi Use Games Area through an agreed programme of implementation and does not alter the principle or extent of the approved sports provision.

Sport England raise no objection to the amended wording and officers are satisfied that the proposal would not result in unacceptable impacts upon sports provision, residential amenity, highway safety or the wider objectives of the approved redevelopment scheme.

Accordingly, the proposal is considered to accord with Policies 2, 3 and 32 of the South East Lincolnshire Local Plan (2019) together with Paragraph 104 of the National Planning Policy Framework (2024). It is therefore recommended that planning permission be approved subject to appropriate reattached and amended conditions.

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.