

SOUTH HOLLAND DISTRICT COUNCIL

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

To: Planning Committee - 10 September 2025

(Author: Jacob Bryan - Planning Officer)

Purpose: To consider Planning Application H12-0474-25

Application Number: H12-0474-25

Date Received: 19 May 2025

Application Type: FULL

Description: Increase number of children from 16 to 21 in connection with current child minding business (Modification of Condition 3 of H12-0598-22) and siting of log cabin in association with business

Location: 2 SCHOOL LANE LUTTON SPALDING

Applicant: Mr M Ludlam

Agent: Mr M Ludlam

Ward: Long Sutton

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

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

<http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H12-0474-25>

1.0 REASON FOR COMMITTEE CONSIDERATION

- 1.1 The previous permission on site raised issues that warranted consideration by members and the application was referred to Planning Committee by Chairman's Panel.

2.0 PROPOSAL

- 2.1 This is a full application seeking permission to increase the number of children in connection with the current child minding business, from 16 to 21. In addition, the proposal also seeks permission for the siting of a log cabin in association with the business at 2 School Lane, Lutton.
- 2.2 The business would remain as a childminding facility. The cabin itself would measure at 6500mm by 4000mm, with a height of 2677mm. It would be constructed from cedar, redwood or Marley external cladding and EPDM roof.
- 2.3 There would be no extra staff required for the increase in children, and the business would remain as a childminding facility, with the drop offs and collection times staggered between the hours of 07:00am - 09:30am and 13:00pm - 18:00pm.

3.0 SITE DESCRIPTION

- 3.1 The site is located within the defined settlement boundary of Lutton as outlined in the South East Lincolnshire Local Plan, 2019 (SELLP). The property is a 3 bed dwelling, which is neighboured by the Village Hall, located on School Lane.

- 3.2 The dwelling is brick built with white window frames. The immediate area, other than the Village Hall, is primarily residential, comprising a mixture of single and two storey dwellings.

4.0 RELEVANT PLANNING POLICIES

4.1 The Development Plan

South East Lincolnshire Local Plan, March 2019

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, as amended, states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Policy 01 - Spatial Strategy
Policy 02 - Development Management
Policy 03 - Design of New Development
Policy 04 - Approach to Flood Risk
Policy 30 - Pollution
Policy 36 - Vehicle and Cycle Parking
APPENDIX 6 - Parking Standards

4.2 National Guidance

National Planning Policy Framework (NPPF), December 2024

Section 4 - Decision making
Section 9 - Promoting sustainable transport
Section 12 - Achieving well designed places

5.0 RELEVANT PLANNING HISTORY

- 5.1 H12-0001-22 - Proposed conservatory to rear of dwelling - Approved
- 5.2 H12-0598-22 - Change of use from residential to residential/child minding business - Approved

6.0 REPRESENTATIONS

6.1 Councillor J Tyrell

This is within my ward. I see no reason for it to be refused, and I fully support small businesses.

6.2 Environment Agency

This proposal comes under cell D8 of the local flood risk standing advice and does not appear to fit any other criteria on our consultation checklist, 'When to consult the Environment Agency'.

It was therefore not necessary to consult us; please consider the proposals against the guidance of the standing advice.

We do not need to be consulted further on this application.

6.3 Lincolnshire County Council Highways Authority

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.

Comments:

Increase number of children from 16 to 21 in connection with current child minding business (Modification of Condition 3 of H12-0598-22) and siting of log cabin in association with business. The increase in children and the erection of a log cabin will not have an adverse impact on the public highway. As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to drainage and surface water flood risk on all Major applications. This application is classified as a Minor Application and it is therefore the duty of the Local Planning Authority to consider the surface water flood risk and drainage proposals for this planning application.

6.4 South Holland District Council Environmental Protection

We note that the proposed increase in numbers has now been reduced. The proposed cabin is likely to have a shielding effect and reduce noise to neighbouring properties. In addition we would advise that access to the boundary with the nearest property on Ropers gate is restricted for children to reduce any potential impact and disturbance.

6.5 Sir John Hayes

I write regarding the above planning application to increase the number of children from 16 to 21 at this child minding business and the siting of a log cabin.

As you will be aware, I have objected in the past to the various planning applications for the expansion of this business. Whilst I appreciate there may be a need for the service Mr & Mrs Ludlam provide, the impact this latest increase in child numbers will have on their neighbours must also be taken into account.

Saying that, I have been contacted by a number of constituents who have raised their concerns about this latest proposal. Firstly, in an earlier application - H12-0598-22 - Mr Ludlam advised South Holland District Council by email that one family member would be residing at 2 School Lane; he went on to categorically state that the application for 16 places would be the absolute maximum and there was absolutely no intention for the business to grow above this number in the future. I have been advised that this statement, in part, resulted in some neighbours supporting this application in 2022.

I have been told that the family member no longer lives at 2 School Lane so this property is not a domestic property anymore and may need to be considered for a business rate assessment only.

My constituents say that the noise from the business is already excessive, reporting that they avoid going into their gardens during opening hours due to the constant squealing and shouting. Therefore, they are worried that this noise will increase further by the addition of 5 more children.

With regard to the 14 parking spaces detailed on the application, I have been advised that there is, in fact, only 2 spaces belonging to 2 School Lane, with the remaining spaces actually part of the village hall. My constituents question where village hall users are expected to park if they are attending a function.

I would, therefore, be grateful if you could treat my letter as an objection to this latest proposal.

6.6 Public Representation

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, ten letters of representation have been received, these have been summarised below:

- Object to the expansion of the business
- Noise concerns - increase in children and staff
- Concerns over highway safety and parking
- Applicant initially said to have had no intentions of expanding the business but is doing so in this application
- The business is not a residential property
- Concerns over exposure to abuse behaviours

- Concerns over siting of log cabin
- Privacy concerns
- Environmental Impact
- Mental Health/Health Concerns
- Impacts on house price
- Boundary disputes.

7.0 CONSIDERATIONS

7.1 Key Planning Considerations

7.2 The main issues and considerations in this case are (but are not limited to):

- Principle of Development and Sustainability
- Layout, Design, and Impact on the Character of the Area
- Impact on Neighbouring Residents/Land Users/Land Uses
- Highway Safety and Parking
- Flood Risk and Drainage
- Biodiversity Net Gain

7.3 Evaluation

7.4 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.

7.5 In this case, the 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.

7.6 The policies and provisions set out in the National Planning Policy Framework (updated December 2024) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

7.7 Planning Considerations

7.8 Principle of Development and Sustainability

7.9 The South East Lincolnshire Local Plan (2019) sets out the settlement hierarchy in respect of delivering sustainable development that 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 housing need, whilst making more sustainable use of land and to minimise the loss of high-quality agricultural land by developing in sustainable locations and at appropriate densities.

7.10 Policy 1 of the South East Lincolnshire Local Plan (2019) sets out a spatial strategy for delivering sustainable development across South East Lincolnshire to 2036. Policy 1 (Spatial Strategy) expresses this sustainable framework of settlements, ranking the settlements deemed to be most sustainable in descending order.

7.11 The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy in respect of sustainable development 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.

7.12 The application site in this instance is within the settlement of Lutton, an 'Other Service Centre', as detailed by Policy 1. As such, with the proposal being located within a settlement boundary, it is considered to be in a sustainable location and the principle is acceptable.

- 7.13 Notwithstanding this, in context of the proposal before us, the principle of development within this location is considered to be established in any event, due to the previous permission granted on site. Whilst it is noted that the previous permission granted approval for a maximum of 16 children, with this application seeking an increase of five children to quantify 21 children in total, the resultant use of the site remains unaltered and therefore, would operate as an existing and established business.
- 7.14 The principle of such development is considered to be appropriate, comprising an appropriate form of development for the location.
- 7.15 As such, the proposal is considered to be acceptable with the requirements of the South East Lincolnshire Local Plan (2019) when viewed in principle. This is subject to the assessment against site specific criteria; including (but are not limited to) the impact of the proposal on the character or appearance of the area, impact on the residential amenities of neighbouring occupiers, and impact on highway safety, which are discussed in turn as follows.
- 7.16 Layout, Design and Consideration of the Character and Appearance of the Area
- 7.17 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.
- 7.18 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.
- 7.19 Development proposals should also ensure that 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.
- 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 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.
- 7.23 The proposed cabin would be located 2m from the neighbouring boundary, shared with No.15 Ropers Gate, and No. 4 School Lane in the south west corner of the plot. This would ensure that the majority of the cabin remains concealed from view of both roads nearby, and would not result in an unacceptable impact upon the street scene. Due to the proposal being concealed, this ensures that the design and materials used would also not cause harm to the surrounding context or character.

- 7.24 The size of the cabin is considered to be suitable within this location. The cabin would be 6500mm by 4000mm, resulting in the built form occupying less than 26sqm of the total garden area, and would therefore appear proportionate within the plot itself. Furthermore, in an instance where the property was residential in use (Use Class C3), a cabin of a similar size could have been erected under permitted development. As such, the this aspect of the proposal, when viewed solely in respect of its built form, in respect of its impact upon the character of the area, is considered to be acceptable.
- 7.25 Taking account of the appropriateness of the design, scale and nature of the cabin, as detailed above; the cabins proposed position within the site; and the existing use of the site, 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 South East Lincolnshire Local Plan (2019) and Section 12 of the National Planning Policy Framework (December 2024).
- 7.26 Impact on Residential Amenity/Land Users
- 7.27 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.
- 7.28 Policies 2 and 3 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.
- 7.29 The main concerns surrounding this application, is the increase in the number of children on site and the resulting potential harm to the residential amenities of neighbouring occupiers, through an increase in noise pollution.
- 7.30 The proposal would result in an overall increase from 16 to 21 children on site, utilised as a childminding business; however, no extra staff would be required to accommodate this, given the current legislation, which itself lies outside of the planning regime. Therefore, there would be a net increase of only five children on site, when viewed in comparison to the extant permission on site.
- 7.31 Whilst it is evident that this would result in an increase, comprising an approximate increase of 31%, the resultant quantum of children is not considered to give rise to a significant adverse or detrimental impact upon the residential amenities of neighbouring occupiers.
- 7.32 This increase, given the likelihood/potential of individuals being from differing households from those currently utilising the site, would see an increase in vehicle movement to and from the site. Any impact caused as a result of this, is aimed to be lessened through the staggering arrangements for 'drop-offs' and 'collections', with the site utilising different times between the hours of 07:00am - 09:30am and 13:00pm - 18:00pm. This offers a fairly wide window to allow for vehicles to arrive and leave, and ensure that not all 21 children would arrive, or be collected, at the same time.
- 7.33 The siting of the cabin on the direct neighbours boundary has been proposed as such, 'to ensure that the noise produced from the cabin itself would be projected away and towards areas where there are no adjoining properties'. SHDC's Environmental Protection team have been consulted as part of this application process and have stated that the cabin is 'likely to have a shielding effect and reduce noise to neighbours'.
- 7.34 Based on this, Environmental Protection have raised no concerns surrounding a potential material increase in noise pollution, and consider that the increase in children is unlikely to be harmful to the direct neighbours and surrounding area, in comparison to that already permitted on site.
- 7.35 It is important to note that there is also a school in close proximity to this site and during the

case officers site visit, the noise generated from this nearby school was heard clearly, meaning this is an existing matter for all neighbouring sites, including the host site.

- 7.36 The hours of operation for the childminding business itself would comprise earlier starts and later finishes than that of a 'typical' school arrangement; however, it is expected that the number of children on site would be at the lowest during these times. As such, the noise concerns in this regard are not considered to be unacceptable, particularly when compared to that generated by the extant permission.
- 7.37 Policy 30 of the SELLP discusses pollution by way of noise, amongst other things. This policy goes on to state that development will not be permitted where, taking account of any proposed mitigation measures, they would lead to unacceptable adverse impacts upon the amenities of the area by way of noise. Within this policy it is outlined that noise assessments will be required where it is considered that there is a risk of noise disturbance; however, in this instance Environmental Health have not recommended such a report, and given the existing use, is not considered to be required. As such, there is not considered to be a harmful increase in noise pollution following the increase from 16 to 21 children.
- 7.38 At most, there would be five extra vehicles coming and going to the site. This is not considered to give rise to a harmful increase in noise pollution. In any case, the car park is used for the village hall and therefore there could be similar levels of vehicle movements through events held on site.
- 7.39 Concerns have been raised regarding the siting of the log cabin, not only due to the location along the neighbouring boundary, but through the potential for overshadowing to occur. Firstly, the siting of the cabin in this instance ensures it acts as a barrier, as raised by Environmental Protection, whilst also ensuring that any noise produced from inside the cabin would be projected away from the direct neighbour.
- 7.40 Finally, there should be no material overlooking as there are no windows on the rear elevation and whilst the cabin is 2.6m tall, meaning there would be 600mm of the structure located sitting above the fence, this is not considered to cause any material concern. Any overshadowing that would arise would be in the morning when the sun is rising and would quickly reduce as the sun rises throughout the course of the day. In any case, if the property was residential they would be able to erect an outbuilding of the same size due to it being 2m away from the boundary, under permitted development. As such, there are considered to be no concerns surrounding the cabin in this instance.
- 7.41 Despite the plethora of objections which have been received on the grounds of noise concerns (staff and children), privacy concerns and the overall expansion of the business, it is not considered that there would be a material harm through noise pollution and overshadowing/overlooking and the proposal to increase the number of children should not be materially harmful.
- 7.42 As detailed above, the scale and design of the proposal is considered to be such that there would be 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 provisions of Section 12 of the National Planning Policy Framework (December 2024), and Policies 2 and 3 of the South East Lincolnshire Local Plan (2019).
- 7.43 Highway Safety and Parking
- 7.44 Section 9 of the National Planning Policy Framework (December 2024) specifically relates to 'Promoting sustainable transport'. Paragraph 116 of the National Planning Policy Framework (December 2024) advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios".
- 7.45 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.

- 7.46 Further, Policy 36, to be read in conjunction with Appendix 6, of the South East Lincolnshire Local Plan (2019), 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.
- 7.47 As previously stated, the parking arrangements for drop-off and collections are to be staggered to ensure that the village hall has enough capacity for vehicles and also so that there is not a significant influx at any one time.
- 7.48 Should this application be approved, a condition would be attached to the decision notice, definitively outlining the time periods when parents/guardians are able to drop off and collect their children, with the need for such provision to be maintained at all times that the business is in operation.
- 7.49 Furthermore, parking will solely be limited to the village hall, this has been highlighted within 'Drop Off/Collection Parking' plan - a condition shall be included to enforce this also. This should be read in conjunction with 'Clarification of Parking Arrangements' which goes into slightly more detail surrounding this topic.
- 7.50 The document outlines *'It is not considered that cars are to be parked in the area for any more than the time taken to drop off or collect children from the setting. This car park provides vehicle access to the setting at number 2 School Lane. It is considered safe and away from moving road traffic'*. Photos have also been provided showing the car park and road leading up to it, it must be noted that during the officers site visit, parking was clearly identified in the village hall as well as the fact that the road could support vehicles passing alongside each other.
- 7.51 To further reinforce the belief that there would be no material harm to the highway, Lincolnshire County Council Highways have been consulted on this application. Through this process they raised no objections. Their comments state *'The increase in children and the erection of a log cabin will not have an adverse impact on the public highway'*. It is therefore considered that the increase in vehicle movements following the additional children should not cause harm to the highway.
- 7.52 Public representation has raised many objections, with concerns over the highway safety and the village halls inability to support a high number of additional vehicles. Whilst these have been taken into account, it is considered that due to the reasons outlined above, through the fact that drop-off and collection times are staggered, the village hall has parking and the no objection received from LCC Highways, there is not considered to be any material impact to the highway and safety of the highway and its users.
- 7.53 It is of the LPA's understanding that the car park is owned by The Church of England in connection with the Lutton Village Hall. It is considered that if the parking agreement between the applicant and The Church of England was to end, then this could disrupt the comings and goings to the site, meaning people would have to park elsewhere. Therefore, a condition will be imposed to ensure that if the parking agreement was to cease at any stage, then the business shall cease its use until a new or different agreement can be arranged.
- 7.54 The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Policies 2, 3 and 36 of the South East Lincolnshire Local Plan (2019), and Section 9 of the National Planning Policy Framework (December 2024).
- 7.55 Flood Risk
- 7.56 Section 14 of the National Planning Policy Framework (December 2024) explains that "Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development

is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere".

- 7.57 This goes on to state, within Paragraph 172, that all plans "should 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: a) applying the sequential test and then, if necessary, the exception test as set out below".
- 7.58 It is important to note that whilst minor developments such as householders must meet the requirements for site-specific flood risk assessments, they should not be subject to the sequential test, nor the exception test, as outlined in Paragraph 176 and to be read in conjunction with footnote 62.
- 7.59 The site lies within Flood Zone 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.
- 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 Local Plan; including the spatial strategy and the assessment of housing and employment sites. Policy 4 of the South East Lincolnshire Local Plan (2019) 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.
- 7.61 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 South East Lincolnshire Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test.
- 7.62 The property and site is within Flood Zone 3 and Danger for Most within the SFRA. Notwithstanding this, it should be noted that the cabin would not be a permanent habitable room and if flooding were to occur, there is the option to use the first floor of 2 School Lane as safe refuge. As such, there would not be any significant harm raised and it would not materially increase the flood risk for the site and surrounding area.
- 7.63 Overall, when considering the development on balance, it is considered that given the mitigation measures detailed and recommended by condition, the proposal accords with Policies 2, 3 and 4 of the South East Lincolnshire Local Plan (2019) and the intentions of the National Planning Policy Framework (December 2024) in this regard.
- 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 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". 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.
- 7.69 For applications that are submitted prior to the introduction of this requirement, the development would be exempt from the mandatory 10% requirement and as such, the Biodiversity Gain Condition would not apply. However, this application was submitted following the introduction of this legislation. As such, unless comprising development that is exempt from this mandatory Biodiversity Net Gain (10%), a condition would be required, as mandatorily set.
- 7.70 Biodiversity Net Gain (BNG) is a way of creating and improving natural habitats, it makes sure development has a measurably positive impact (net gain) on biodiversity. Developers must deliver a BNG of 10% on site and means a development will result in more or better quality natural habitat than there was before development. There are a list of exemptions from the need for BNG with the developer in this instance believing they are exempt for the following reason(s) -
- 7.71 - The garden cabin is to be located on an existing area of garden currently used as a garden shed and greenhouse. No biodiversity land will be disturbed or lost in the siting of the proposed garden cabin. The total internal size of the garden cabin is 24.142sqm (under 25sqm)
- 7.72 Whilst the internal measurements of the cabin are below the 25sqm requirements, when measured externally this sits at 26sqm meaning it cannot be exempt for this reason. Notwithstanding this, the cabin would be located on land which is currently stones and gravel and is therefore not considered to be habitat that would be impacted. The cabin and proposal are therefore exempt from the statutory need for biodiversity net gain.
- 7.73 **Planning Balance**
- 7.74 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.
- 7.75 The proposal represents appropriate development inside the defined settlement boundary. The principle of development has already been established through a previous application, whilst the cabin itself does not materially harm the character or appearance of the locality.
- 7.76 The flood risk on site has relevant mitigation measures and options for safe refuge in the event of a flood whilst the development remains exempt from Biodiversity Net Gain.
- 7.77 Finally, the concerns surrounding impacts to the amenity of nearby residents and parking are considered to have been justified and resolved. Overall, it conforms to all relevant policies of the South East Lincolnshire Local Plan (2019) and the provisions of the National Planning Policy Framework (December 2024) when viewed as a whole.
- 7.78 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.
- 7.79 **Additional Considerations**
- 7.80 Public Sector Equality Duty
- 7.81 In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:
A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited

by the Act

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

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

- 7.82 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.83 The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 7.84 It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.
- 7.85 Human Rights
- 7.86 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).
- 7.87 It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.
- 7.88 **Conclusion**
- 7.89 Taking the above considerations into account, the proposal is considered to be in accordance with Policies 1, 2, 3, 4, 30 and 36 (including Appendix 6) of the South East Lincolnshire Local Plan (2019), along with the identified sections contained within the National Planning Policy Framework (NPPF) (December 2024). Whilst concerns have been raised throughout the assessment of the application, mostly due to noise and parking, they are not considered to be 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.

8.0 RECOMMENDATIONS

- 8.1 Based on the assessment detailed above, it is recommended that the proposal should be approved under Delegated Authority.

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:
- Site Location Plan
 - Block Plan
 - Planning Statement
 - 01A-05A - Cabin Master Plans of Cabin - Roof Plan, Floor Plan, High & Low Side Elevation, Left & Right Elevations & Construction Information
 - Floor Plan of Dwelling
 - BNG Exemption Statement
 - Clarification of Parking Arrangements
 - Drop Off/Collection Parking

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

3. This permission shall operate for the benefit of the occupants of 2 School Lane, Lutton, PE12 9HW, and the use hereby approved shall be terminated at such time as the occupants cease to occupy the property (2 School Lane, Lutton, PE12 9HW).

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. The development hereby permitted shall not be used or operated as a childminding business, outside the hours of:

-07:00am to 18:00pm Monday - Friday.
- The use hereby permitted shall not take place on Saturday, Sunday and 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.

5. The maximum number of children to be cared for at the property shall not exceed 21 children at any one time.

Reason: To ensure that the Local Planning Authority retains control over the number of children at the site.
This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

6. The maximum number of staff at the property shall not exceed 6 at any one time.

Reason: To ensure that the Local Planning Authority retains control over the number of children at the site.
This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

7. The use of the property as a childminding business, shall be carried out strictly in accordance with the following requirements:-

- i. the childminding business (main building and cabin) shall be occupied by a maximum of 21 children and 6 staff at any one time, during the hours set out in Condition 4 above.
- ii. the use of the property and cabin shall be for a childminding business only.
- iii. the owner/operator shall maintain an up to date register of the names and contact details of all parents/guardians and children dropped off on site. The register shall also contain information on the date and time of when the child was present on site, and this register shall be made available to the Local Planning Authority on request.

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.

8. Any persons dropping off, and/or collecting children from site, must park within the drop off and collection areas shown on the plan referenced 'Drop Off/Collection Parking' at all times and under no circumstances should they park anywhere outside of the 'hashed area' within this plan. This should also be read in accordance with the document labelled 'Planning Statement - Clarification of Parking Arrangements'

Reason: In the interest of public and highway safety.

This Condition is imposed in accordance with Policies 2, 3 and 36 (Appendix 6) of the South East Lincolnshire Local Plan, 2019 as well as Section 9 of the National Planning Policy Framework (NPPF, December 2023).

9. If the parking arrangements, as agreed with The Church of England and as specified within Condition 8 above, in connection with the use of the Lutton Village Hall car park, shall be revoked or cease, the use of the site as a child minding business must cease and shall not operate until a new arrangement has been submitted to and agreed in writing with the Local Planning Authority.

Reason: In the interest of public and highway safety.

This Condition is imposed in accordance with Policies 2, 3 and 36 (Appendix 6) of the South East Lincolnshire Local Plan, 2019 as well as Section 9 of the National Planning Policy Framework (NPPF, December 2023).

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

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

11. 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 cabin would be located on an area currently featuring a shed and greenhouse with the surrounding land being stones and gravel currently.

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

Name and Post: Nick Atkinson - Lead Development Management Planner (Interim) - BBC & SHDC

Telephone Number:

Email: nick.atkinson@sholland.gov.uk

Appendices attached to this report:

Appendix A - Plan A

MapThat Scale Print Title

