

DECISION DELEGATED TO HEAD OF PLANNING

Application No:	H13-0270-25	Applicant:	Florinee Homes Ltd
Proposal:	Change of use from residential dwelling to children's home. Approved under H13-0524-24. Modification of Condition 2 to allow amendments to previously approved plans & Condition 5 relating to car parking management plan		
Location:	29 Pipwell Gate Moulton Seas End Spalding		
Terminal Date:	14th May 2025		

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
17	Providing a Mix of Housing
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework December 2024

National Planning Policy Framework December 2023

Section 2 - Achieving sustainable development
 Section 4 - Decision-making
 Section 9 - Promoting sustainable transport
 Section 11 - Making effective use of land
 Section 12 - Achieving well-designed places
 Section 14 - Meeting the challenge of climate change, flooding and coastal change

National Guidance

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

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

CASE OFFICER ASSESSMENT

Proposal

The application seeks consent to vary conditions 2 and 5 of permission H13-0524-24. Consent is sought to vary condition 5 if it is not considered appropriate to delete the condition.

Permission H13-0524-24 granted consent for the change of use of the dwelling within the site to a children's home on 17 October 2024. The permission has not yet been implemented.

The current application seeks to alter the approved plans which were approved within condition 2. The key changes include replacing two garage doors with windows, changing one of the garages into a games room, changing the other garage into an office space, reconfiguring the external layout by changing the layout of the parking spaces, removing an existing brick wall and installing a 2m high fence approximately 7.7m north of the existing wall.

Condition 5 requires a car parking management plan to be provided showing that cars can park and turn around within the site. The current application seeks to either remove condition 5, or to change the timescale for the submission of the parking plan to prior to the occupation of the development rather than within 3 months of the decision notice. This would have been 17 January 2025 and as such the condition has already been breached.

Site Description

The application site comprises land at 29 Pipwell Gate, Moulton Seas End. The site includes a detached two storey dwelling, with a front driveway and a rear garden.

The site is within the settlement limits of Moulton Seas End, as identified by the South East Lincolnshire Local Plan 2011-2036 (March 2019) and the accompanying policies map.

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

Relevant Planning History

H13-0935-84: (Outline Application) Residential development (4 plots) - approved 20 November 1984

H13-0427-85: (Full Application) Erection of house and garage plus temporary siting of mobile home for use during building works - approved 12 June 1985

H13-0858-98: (Full Application) Alterations and extension - approved 02 November 1998

H13-1044-10: (Full Application) Proposed conversion to form annexe (retrospective) - approved 22 February 2011

H13-0524-24: (Full Application) Change of use from residential dwelling to children's home - approved 17 October 2024

An appeal was allowed to remove condition 6 from permission H13-0524-24 on 11 April 2025 (PINS ref: 3355183)

Consultation Responses

The responses received from consultees during the consultation period are summarised below. The responses can be viewed in their entirety on South Holland District Council's website.

South Holland Internal Drainage Board: I note the presence of a Board Maintained watercourse (DRN208P1504 - R15 Ugly Bridges) adjacent to the south eastern site boundary. Whilst not currently proposed, should the applicant's proposals change to include works to alter the watercourse, or if works are proposed to alter the watercourse at any time in the future, consent would be required under the Land Drainage Act 1991 (and byelaw 4). I note that the applicant intends to install new close boarded fencing (Proposed Block plan and Parking/Cycle Arrangement, Rev C - i-Lid Design Ltd, 04/03/2025) within 9 metres of the aforementioned Board Maintained watercourse. To enable this proposal, consent would be required under Byelaw 10, and I recommend that the applicant contacts this office to make an application for this consent at their earliest convenience. To avoid conflict between the planning process and the Board's regulatory regime, we recommend that the required consent is sought prior to the determination of this planning application.

Environmental Protection: No comments regarding environmental protection or land contamination.

Anglian Water: We have reviewed the submitted documents with the variation of condition and there are no drainage related documents therefore we are unable to make comments on the above application.

Lincolnshire County Council - Highways and SUDS: No objections. The minor amendments proposed will not have an adverse impact upon the public highway or surface water flood risk.

Moulton Parish Council: No response received.

Cllr T E Sneath: No response received.

Cllr A Casson: No response received.

Cllr A R Woolf: No response received.

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, one letter of representation has been received. The key matters raised within the response are outlined below:

-In the public officer report recommending consent being granted for H13-0524-24, the fact that neither the buildings or driveway were being extended/alterred was cited over and over again by the officer in support of approving the application - a total of nine times in fact. Since no circumstances have materially changed since approval was originally given under H13-0524-24 (habitation has not yet begun and no significant time has passed since), granting these plans will be in opposition to comments made by the officer in recommending consent, and without significant justification for these proposed alterations not being included in the original plans.

-For example, the officer put forward the following statements throughout the document which would be made obsolete now that the planting area in the driveway is to be excavated and the driveway extended:

oOne comment was received from Anglian Water about a pipe running through the front garden, but as there is no excavation work, this would (sic) be affected by the proposed parking layout;

oNo physical changes are required to accommodate the parking and the landscaping will remain in situ;

oA Flood Risk Assessment has been submitted - surface water drains naturally through a soakaway to the IDB drain. The eastern boundary of the site is formed by an IDB ordinary watercourse. The

site is in the South Holland district - this is a change of use application there will be no additional hardstanding.

-The applicants also state on page 4 of their planning statement that:

oPrior to commencement of the care home use, the parking layout as shown on plan 575SK03 rev C shall be implemented in full and made available for use thereafter.

-This might be out of their control, however, as the work to remove the planting in the driveway and replace with additional hardstanding appears to be well within 9 metres of DRN208P1504 - R15 Ugly Bridges watercourse. As per SHIDB byelaw 10, implementing this would only be possible following sign-off from South Holland Internal Drainage Board, and not before.

-Furthermore, the officer placed an emphasis on the fact that the current layout allows for a degree of noise and disruption separation from the immediate neighbours:

oThe premises are situated next to a residential dwelling on one side, with an IDB water course on the other. This allows a degree of separation between the application premises are (sic) the neighbour on the other side of the watercourse. Extensive screening also exists between the two properties. The bedrooms are also at first floor level and set in from that flank of the plot with both neighbours. This further separates the bedrooms spatially. The garden has the annex running along the flank of the garden with the adjoining neighbour which provides some screening from that neighbour. Given that the premises is a large four bedroom house with an adjoining annex which also contains a bedroom, with a garden, vegetable patch, chicken run, yard and sheds, given the high staff to child ratios, that they would be supervised when outside, it is not considered that the use would generate sufficient general noise and disturbance that significantly impacts neighbouring residential properties.

-Yet the new application is in direct opposition to the officer's comments in granting the original consent. The proposed games room is to be placed in the worst possible location on the site. Whereas it was previously argued that the bedrooms were at a reasonable distance away from neighbouring properties, and the location of the annex provided screening of noise from the residents on the west-facing flank, this annex is now to be juxtaposed with a games room for entertainment, just a few yards away from the elderly neighbours' living accommodation. It would surely be a derisible argument to suggest that a games room would generate less noise than the bedrooms referred to in the officer's public report above?

-We also believe that the granting of this application and increasing the living area of the site will lay the foundation for a future submission by the applicants to extend the number of children housed at the site - for which South Holland District Council have already advised that four is the maximum preferred number due to its location. If the application is to be granted regardless of all submitted objections, we would nonetheless request that conditions are attached to state that the office and games room granted within this application can only be used for the purposes applied for within H13-0270-25, and not as further bedrooms.

Key Planning Considerations

Development Plan

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 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, December 2024 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

There are no adopted Neighbourhood Plans for the area within which the site is located.

The principle of development has already been accepted through the approval of permission H13-0524-24. The current application seeks consent to alter conditions 2 and 5 and as such, it is only necessary to assess whether the proposed changes to these conditions are acceptable. The changes to each of the conditions are considered in turn below based on the following considerations:

-Condition 2: Approved Plans

-Condition 5: Car Parking Management Plan

- Biodiversity Net Gain
- Other Conditions and Considerations

Condition 2: Approved Plans

Condition 2 of permission H13-0524-24 sets out the approved plans. The current application seeks to amend the approved plans with the following key changes:

- Infill the garage door on the south-western elevation with brickwork and insert two windows.
- Insert a window on the north-western elevation which is proposed to connect to a games room.
- Infill the garage door on the south-eastern elevation with brickwork and insert a window to replace the door.
- In terms of the internal layout, a games room is proposed where there a garage was previously proposed, and an office space is proposed where another garage was previously proposed.
- Reconfiguring the external layout by changing the layout of the parking spaces.
- Removing an existing brick wall and installing a 2m high fence approximately 7.7m north of the existing wall.

The main considerations which are considered to be relevant in terms of the above referenced changes relate to the visual and amenity impact of the physical changes.

Paragraph 135 of the NPPF states that new development should function well and add to the overall quality of the area and should be visually attractive as a result of good architecture and appropriate landscaping. Paragraph 135 also 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.

Policy 2 of the Local Plan 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.

Policy 3 accords with the provisions of Section 12 of the NPPF, 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.

Policies 2 and 3 of Local Plan set out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

The visual impact of the proposed replacement of the garage doors with windows is considered to be acceptable. The submitted elevations plan sets out that the proposed infill brickwork would match the existing brickwork as closely as possible. It is considered appropriate to include a condition requiring the brickwork and mortar to match the existing brickwork for clarity and in the interests of visual amenity.

In terms of the amenity impact of the proposed windows, the proposed windows on the front elevation (south-eastern elevation) would not look directly onto the habitable rooms of neighbouring properties. The proposed window on the north-western elevation would face onto a 1.87m close board fence which separates the site from 27 Pipwell Gate. This should therefore not result in an unacceptable degree of overlooking with the neighbouring dwelling.

Within the public representation that has been received during the determination of the application, concerns have been raised due to the proposed games room that would be connected to this window. Concerns have been raised due to the potential noise disturbance that could arise in this room. It is however not considered that this room would generate significant levels of noise.

It was previously considered the proposed occupation of the site by four children, living as if in a supported family with relevant staff members, would not result in adverse levels of noise. It is likely that the noise levels generated from the games room as part of the wider care home would not be materially different than those generated from a typical dwelling. Furthermore, if the site remained as a dwelling, the room could be turned into a games room without planning permission and children within the dwelling could use the room for a similar purpose.

Children within the care home would be monitored by staff members as part of the wider functioning

of the home to manage noise levels. The maximum number of children permitted to occupy the site would remain capped at 4 children, as required by condition 3. Condition 4 also restricts the maximum number of visitors and staff members within the site to eight people at any time. These restrictions would remain in place and should protect the amenity of neighbouring dwellings. Furthermore, the council's environmental protection team have not raised any objections in terms of noise generation from this room.

There is also considered to be a suitable separation distance between the proposed window on the south-eastern elevation and the nearest dwelling to the south-east, 31 Pipwell Gate. This window would not face directly onto any habitable rooms of 31 Pipwell Gate and there is a 2m high fence between the dwellings to provide screening. As such, the proposed amendments should not result in an unacceptable degree of overlooking.

Previously, two integrated garages were proposed, whereas under the proposed plans, no integrated garages would be provided. All parking would therefore be external. One of the external planting areas is proposed to be replaced with paving to allow for the reconfiguration of the parking spaces. A 2.25m high brick wall was previously proposed to be retained next to the south-eastern elevation of the building within the site. This wall is now proposed to be removed and a 2m high close boarded fence is proposed instead which would be located approximately 7.7m to the north of the existing wall. The visual impact of this fence is considered to be acceptable and furthermore, the fence could be installed using permitted development rights.

It is noted that within the public representations, concerns are raised with the proposed site layout changes. For example, one concern raised relates to the potential conflict with an Anglian Water pipe that crosses the site. Anglian Water have been consulted on the proposals however Anglian Water have not raised any objections to the amended layout. It is therefore presumed that the proposed layout changes would not detrimentally affect Anglian Water's asset.

Another concern raised within the responses relates to the proposed fencing as this would be within 9m of a watercourse that is maintained by South Holland Internal Drainage Board (IDB). The IDB have been consulted on the proposals and have set out that their consent would be required prior to the installation of the fencing. This is separate from the planning process and the proposed fencing could be installed using permitted development rights. The local planning authority (LPA) consider that the visual impact of the fencing is acceptable and the LPA do not consider it necessary to refuse consent for the fencing due to the need for the applicant to obtain consent separately from the IDB.

Policy 36 of the Local Plan, 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. Appendix 6 of the Local Plan sets out that generally 1 space per 3 residents is required for care homes. As the care home in this instance is for children, this standard is not considered to be applicable in this case. It is therefore necessary to consider the specific circumstances of the site and whether there would be sufficient parking spaces for the proposed development.

Lincolnshire County Council's (LCC) highways team have reviewed the proposals and have confirmed that the proposed amended layout is acceptable. This includes the revised parking arrangements. Eight parking spaces would be provided for the proposed development. Previously eight external spaces were proposed and some internal parking would have been provided within one of the integrated garages. It was previously accepted during the determination of the original application that five staff members will be present during the day, and a tutor might also be present. It is therefore likely that a maximum of 6 parking spaces would be required. As such, sufficient off-street parking is proposed. The proposed alterations to the site layout are therefore also acceptable and are considered to accord with the aims of Policy 36 of the Local Plan.

Furthermore, it is considered that the proposed alterations would have an acceptable visual and amenity impact and as such, the proposals would accord with Policies 2 and 3 of the Local Plan and section 12 of the NPPF. The proposed changes to the approved plans from condition 2 are therefore considered to be acceptable.

Condition 5 - Car Parking Management Plan

Condition 5 is worded as follows:

"A car parking management plan, demonstrating how staff and visitors can enter and exit the front parking area in a forward gear without reversing onto the highway shall be submitted to and approved by the Local Planning Authority within 3 months of the date of this decision. The approved details shall be maintained thereafter for the duration of the use."

The application seeks to either remove condition 5 or change the timescale requirement of this condition to allow the parking management plan to be submitted and approved prior to the first occupation of the development, rather than within 3 months of the decision notice. This would have been 17 January 2025 and as such the condition has been breached.

As set out above, LCC's highways team have set out that the proposed amended layout is acceptable. The amended layout shows eight parking spaces and there is therefore room for parking and turning within the site. As such, it is considered appropriate to remove condition 5 as the condition is no longer considered to be necessary.

Biodiversity Net Gain

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.

"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".

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.

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.

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. When taking the above into account, the development in this instance the application is exempt from the statutory 10% Biodiversity Net Gain requirements.

Other Conditions and Considerations

There were no legal agreements associated with permission H13-0524-24. There is therefore no need to vary any previous legal agreements.

According to the submitted application form, the development has not yet started. As such, it is considered necessary to retain condition 1 which requires the permission to be implemented within three years of the original permission (by 17 October 2027).

Condition 2 is proposed to be amended as set out above. The updated plans will be referenced instead of the previously approved plans.

Conditions 3 and 4 will be retained and remain unchanged.

As set out above, condition 5 is proposed to be deleted as this condition is no longer considered to be necessary.

Condition 6 required a scheme showing the provision of a 1.8m wide footway, outside of 2 Pipwell Gate, to connect the development to the existing footway network, to be submitted to and approved in writing by the LPA within 6 months of the date of this decision. As set out previously, an appeal has been allowed to allow for the deletion of this condition. The inspector considered that the condition was not necessary. As such, condition 6 is proposed to be deleted.

As set out previously, is it considered appropriate to add a condition requiring the proposed infill brickwork to match the existing brickwork as closely as possible. This condition is now condition 5.

Planning Balance

As detailed above, Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the LPA makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise. The development hereby proposed does not materially harm the character or appearance of the locality, or amenity of nearby residents. The proposed development therefore accords with the Local Plan and the NPPF. 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.

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

