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TOWN AND COUNTRY PLANNING ACT 1990

SECTION 73 MODIFICATION

Reference: H13-1002-24 **Date of Decision:** 21st January 2025

Applicant: Virtue Therapeutic Care & Education (East Sussex) Ltd.
Moran House, Suites 7 & 8
449 - 451 High Road
Wilesden
New Malden
KT3 3LE

Location: Holly Cottage Fen Gate Moulton Chapel Spalding

Description: Change of use of a (C3a) dwelling to a children's home & garage conversion into habitable games room - approved under H13-0767-24. Modification of Condition 4 to restrict the number of vehicles rather than staff on site at any one time, provision of Travel Plan & Parking Management Plan

South Holland District Council hereby give notice that permission has been GRANTED (or equivalent) subject to the following condition(s):

- 1 The development must be begun not later than the expiration of three years beginning from 20th November 2024 which is the date of the original permission reference: H13-0767-24

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:

H13-1002-24
Application Form
Site Location Plan
BL-301.2 Rev 5
Parking Management/Travel Plan dated 26/11/2024 by Virtue Therapeutic Care &

Education (East Sussex) Limited

Covering Letter dated 26/11/2024 by Virtue Therapeutic Care & Education (East Sussex) Limited

Design and Access Statement by Rose Consulting - Planning & Regeneration dated 09/01/2025

H13-0767-24

Application Form

BL-300.1 Rev 3

BL-300.2 Rev 3

EP-300.2 Rev 1

EP-301 Rev 2

EP-301.2 Rev 2

EP-300.1 Rev 2

EP-301.1 Rev 2

EP-303.1 Rev 2

Details of Electric Charger

Details of Bike Store by the Bike Shed Company - undated

BNG Exemption Statement

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

- 3 The maximum number of children permitted to reside at the children's home hereby approved is 5.

Reason: To ensure that the Local Planning Authority retains control over the number of children residing at the home.

This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

- 4 The maximum number of vehicles present at the site at any one time shall not exceed 5.

Reason: To ensure that the Local Planning Authority retains control over the use and to limit noise and disturbance to surrounding residential amenity.

This Condition is imposed in accordance with Policies 2, 3, 30 and 36 of the South East Lincolnshire Local Plan, 2019.

- 5 The revised external layout, including revised car and cycle parking as shown on drawing BL-301.2 Rev 5 as is approved by the Local Planning Authority shall be carried out and completed in its entirety prior to occupation of the children to be cared for as part of the C2 use. The approved layout shall be retained thereafter for the lifetime of the use.

The measures in the Car Parking Management Plan and Travel Plan hereby approved shall be carried out in accordance with the approved details and maintained as such for the lifetime of the development.

Reason: To ensure that the Local Planning Authority retains control over car and cycle parking, to prevent parking on the public highway and to encourage more sustainable forms of travel to and from the site.

This Condition is imposed in accordance with Policies 2, 3, 31 and 36 of the South East

- 6 The replacement tree as shown on drawing BL-301.2 Rev 5 as is approved by the Local Planning Authority shall be carried out and completed in its entirety during the first planting season following occupation of the development. The tree shall be maintained by the owner of the land on which they are situated for the period of five years beginning with the date of occupation and during that time period any losses shall be made good as and when necessary.

Reason: To ensure that the development is adequately landscaped, in the interests of its visual amenity and that of the area in which it is set, and that Biodiversity Net Gain will be achieved.

This Condition is imposed in accordance with Policies 2, 3 and 28 of the South East Lincolnshire Local Plan, 2019 and the Environment Act 2021.

Notes:

Biodiversity Net Gain

The applicant's attention is drawn to the following Biodiversity Net Gain requirement.

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 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: -

BNG (Biodiversity Net Gain) currently only applies to applications for planning permission under Part 3 of the 1990 Act, not other types of permission and not in relation to developments which are changes of use with no physical alternations. In addition, this application is a section 73 application which is exempt.

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.

The permitted development requires the formation of a new/amended vehicular access.

These works will require approval from the Highway Authority in accordance with Section 184 of the Highways Act. Any traffic management required to undertake works within the highway will be subject to agreement. The access must be constructed in accordance with a current specification issued by the Highway Authority. Any requirement to relocate existing apparatus, underground services, or street furniture because of the installation of an access will be the responsibility, and cost, of the applicant and must be agreed prior to a vehicle access application. The application form, costs and guidance documentation can be found on the Highway Authority's website, accessible via the following link:

<https://www.lincolnshire.gov.uk/licences-permits/apply-dropped-kerb>.

Please contact the Lincolnshire County Council Streetworks and Permitting Team on 01522 782070 to discuss any proposed statutory utility connections, Section 50 licences and any other works which will be required within the public highway in association with the development permitted under this Consent. This will enable Lincolnshire County Council to assist in the coordination and timings of these works. For further guidance please visit the Highway Authority's website via the following link: Traffic Management - <https://www.lincolnshire.gov.uk/traffic-management>

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>



Phil Norman
Assistant Director - Planning and Strategic Infrastructure
South Holland District Council

BUILDING REGULATIONS:

This decision refers only to planning permission as granted under the Town and Country Planning Act 1990. The works that you are proposing may also require Building Regulations and this planning permission does not give authority under Building Regulations to commence work. Please contact the Building Control section for further information on 01775 764557 or bcadmin@sholland.gov.uk

RIGHTS OF APPEAL

Appeals to the Secretary of State

If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or grant consent subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990 or Section 20 of the Planning (Listed Building and Conservation Areas) Act 1990.

Timescales for appealing

The deadlines for appeals are calculated from the **date of decision** and are as follows for the types of applications below:

12 Weeks	6 Months	8 Weeks
Householder Applications	Planning Permission	Consent to Display Adverts
Minor Commercial Development	Listed Building Consent	
Agricultural Determinations	Other Prior Approval Applications	
Householder Prior Approval Applications		

<https://www.gov.uk/appeal-householder-planning-decision>

<https://www.gov.uk/appeal-planning-decision>

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planning-inspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

Enforcement Notices

If an enforcement notice was served prior to the planning application being determined then the deadline for appealing is 28 days from the date of the **planning refusal**.

If an enforcement notice is served after the planning application is determined then the deadline for appealing is 28 days from the date of the **enforcement notice** OR the **timescales stated above for each application type** from the date of the planning refusal - whichever is sooner.

Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in

giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under the order.

Purchase Notices

If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grant it subject to conditions the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of the Part VI of the Town and Country Planning Act 1990 or Section 32 of the Planning (Listed Building and Conservation Areas) Act 1990.

Compensation

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.

These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Building and Conservation Areas) Act 1990.