SOUTH HOLLAND DISTRICT COUNCIL

Report of: **Development Manager**

To: **Planning Committee - 08 May 2024**

(Author: **Greg Watkinson - Planning Conservation Officer)**

Purpose: **To consider Planning Application H16-0248-24**

Application Number:	H16-0248-24	**Date Received:**	18 March 2024
Application Type:	LISTED BUILDING		
Description:	Installation of French Drain and associated works to Spalding War Memorial		
Location:	Ayscoughfee Hall Museum and Gardens Church Gate Spalding		
Applicant:	South Holland District Council	**Agent:**	Oglesby and Limb Ltd
Ward:	Spalding St Marys	**Ward Councillors:**	Cllr M E Le Sage Cllr D R Ashby

You can view this application on the Council's web site at
http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H16-0248-24

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 The applicant is South Holland District Council.

2.0 PROPOSAL

2.1 This Listed Building Consent application is for the installation of a French Drain and associated works.

3.0 SITE DESCRIPTION

3.1 The proposal site is the Grade I listed Spalding War Memorial. The memorial is situated within the Gardens of the separately Grade I listed Ayscoughfee Hall, and the gardens themselves are listed as a registered Historic Garden. This means that the site and its surroundings form such a concentration of extremely important listed property, that it likely forms the most sensitive and significant heritage setting within the South Holland Area.

3.2 The architect, Edwin Lutyens was responsible for some 58 war memorials in both the UK and abroad, including the Cenotaph in Whitehall. The Spalding War Memorial is an outlier in Lutyens' works in that its Tuscan pavilion design is a precursor to the shelter buildings built in the cemeteries of the Western Front by the then Imperial (now Commonwealth) War Graves Commission for whom Lutyens was one of the principal architects. The principal elements of the memorial, the Tuscan pavilion and the Stone of Remembrance, stand within a memorial garden - an exceptional departure for Lutyens among his English memorials, marking the Spalding War Memorial as a unique and therefore extraordinarily important piece of nationally significant architecture.

3.3 Historic England describes the war memorial like so:

"At the head of the memorial garden is the Temple of Remembrance, a brick pavilion with three Tuscan stone arches to the front and a single arch to each side; it has a solid rear wall. The roof is hipped, and clad in red pantiles. The floor has panels of red herringbone brickwork with stone surrounds. On the rear wall are two painted stone flags - the Union Flag (left) and White Ensign (right). The tops of the flagpoles are ornamented with pinnacles and encircled by laurel wreaths. The bases of the flagpoles are currently (2015) missing; these should rise from the shallow corbels set against the wall for that purpose. Three panels are set on the inner rear wall: the central one with the dedication and names added in 2015, the outer panels with the names of the fallen in the First World War.

The principal dedication incised on the central panel, between the two flags, reads IN LOVE AND HONOUR/ OF THOSE WHO/ GAVE THEIR LIVES/ FOR THEIR COUNTRY/ IN/ THE YEARS OF WAR/ MCMXIV - MCMXIX/ THIS MEMORIAL IS RAISED/ IN THEIR HOME/ BY THE MEN AND WOMEN/ OF/ SPALDING. This panel also bears names added in 2015. The 224 names originally inscribed on the memorial are listed on the two panels either side of the flags. Around the frieze inside the pavilion is carved ETERNAL REST GRANT TO THEM O LORD AND LET LIGHT PERPETUAL SHINE UPON THEM.

In front of the pavilion, raised on a platform of three steps, stands a Stone of Remembrance (designed by Lutyens for the Imperial (now Commonwealth) War Graves Commission). The inscription on the north face reads THEIR NAME LIVETH/ FOR EVERMORE with 1914/ 1918 to the left and 1939/ 1945 to the right.

Extending from the Stone of Remembrance, and at a slightly lower level, is the axial canal approached by stone steps. The canal, which appears on the John Grundy map of 1732, was re-worked by Lutyens to act as a reflecting pool for the memorial with ashlar side walls and a flagged surround. Three low but elaborate stone fountains stand along the length of the canal; photographic evidence suggests these are a later installation. Square beds at the south-west and south-east corners of the canal contain mature yews, and the garden is surrounded by mature yew hedging.

Asphalt paths that lead around the garden perimeter, and iron-work arches of circa 1994, which lead through the eastern yew hedge to the contemporary Peace Garden beyond, are not of special interest and are excluded from the listing."

4.0 RELEVANT PLANNING POLICIES

4.1 **Planning (Listed Buildings and Conservation Areas) Act 1990**

The Development Plan

South East Lincolnshire Local Plan, March 2019

02 - Development Management
03 - Design of Development
29 - The Historic Environment

4.2 **National Guidance**

4.3 National Planning Policy Framework (NPPF), December 2023

4.4 Section 12 - Achieving well-designed places
Section 16 - Conserving and enhancing the historic environment

4.5 Planning Practice Guidance (PPG)

5.0 RELEVANT PLANNING HISTORY

5.1 H16-0826-23

Proposed rebuild of damaged gate pillar and boundary wall. Approved 15-11-23.

5.2 H16-0705-22

Installation of historic stone drinking fountain together with protective railings and surround base etc within Ayscoughfee Hall Gardens - re-submission of H16-0388-22. Approved 06-10-22.

5.3 H16-0704-22

Installation of historic stone drinking fountain together with protective railings and surround base etc within Ayscoughfee Hall Gardens - re-submission of H16-0387-22. Approved 06-10-22.

5.4 H16-0624-22

Repair and redecoration of the gates to the north of Ayscoughfee Hall at the east end of The Chestnut Avenue. Approved on 09-08-22.

5.5 H16-0495-22

Emergency repair works to the boundary wall between Ayscoughfee Hall Museum & Gardens and 12 Church Gate including reducing the height of the wall locally - retrospective. Approved on 26-07-22.

5.6 H16-0496-22

Emergency repair works to the boundary wall between Ayscoughfee Hall Museum & Gardens and 12 Church Gate including reducing the height of the wall locally - retrospective. Approved on 26-07-22.

5.7 H16-0494-22

Repair works to shelter and demolition of dwarf walls adjacent to former paddling pool - retrospective. Approved on 26-07-22.

5.8 H16-0493-22

Repair works to shelter and demolition of dwarf walls adjacent to former paddling pool - retrospective. Approved on 26-07-22.

5.9 H16-0497-22

Demolition of C20 greenhouse, erection of timber fencing, erection of timber pergola & replacement door to gardeners store building - retrospective. Approved on 26-07-22.

5.10 H16-0498-22

Demolition of C20 greenhouse, erection of timber fencing, erection of timber pergola & replacement door to gardeners store building - retrospective. Approved on 26-07-22.

5.11 H16-0084-22

Removal of sliding timber gate, 20th Century timber door & panelling, repairs to brickwork & installation of new gates to boundary wall on east side of site. Approved on 10-03-22.

5.12 H16-0085-22

Removal of sliding timber gate, 20th Century timber door & panelling, repairs to brickwork & installation of new gates to boundary wall on east side of site. Approved on 10-03-22.

5.13 H16-0058-20

Gazebo style seating area for cafe. Approved on 30-11-20.

5.14 H16-1202-18

Internal and external works to Ayscoughfee Hall. Approved on 15-02-19.

5.15 H16-0540-13

Removal of existing storage, panel and tube heaters and installation of new energy efficient electric oil filled radiators in their place. Approved on 06-01-14.

5.16 H16-0199-09

Details of new stonework, use of hand tools, replacement bricks, details of mortar, bonding, mortar colour and pointing style and photographic record of gate pier before dismantling (Conditions 2,3,4,5,6 and 7 of H16/0471/08). Approved on 16-04-09.

5.17 H16-0471-08

Dismantle and rebuild of gate pillar at Ayscoughfee Hall. Approved on 04-07-08.

5.18 H16-0280-04

Details for supporting vaulted undercroft below room F13 (Condition 2 of H16/1034/02). Approved on 10-03-04.

5.19 H16-1034-02

Demolition of 2 single storey additions, internal alterations, new lead roofs and new doors to garden room. Approved on 20-12-02.

5.20 H16-0771-01

Reinstatement of passage link between garden Education Room & Main Hall (south wing). Approved on 21-11-01.

6.0 REPRESENTATIONS

6.1 Cllr Ashby - Ward Member

Supports the proposal.

6.2 Historic England

No comments. Defers to the Local Planning Authority's conservation specialist for an assessment of the impact of the proposal.

6.3 War Memorials Trust

The Trust has recently been in discussion with South Holland District Council regarding a potential grant application relating to these works and has previously grant-funded this war memorial. In 2019, a grant of £630 was offered through War Memorials Trust Grants Scheme towards a condition survey and report with recommendations to inform necessary conservation and repair works, which was undertaken by a Keith Hamilton AABC Dip Cons ARB of DarntonB3 Architecture.

The proposals in this application concur with the recommendations of Keith Hamilton's report, namely that the introduction of 'French drains to the remaining soft perimeter on 4 sides will reduce the continued erosion of the structure base.' Given the consensus between these two condition surveys, the Trust would support this proposal. The Trust would consider the visual impact of this proposal to be minimal, and significantly outweighed by the benefit of addressing the current issues with water retention.

As per the aforementioned report, the Trust would highlight Keith Hamilton's advice that any

new soakaways should be constructed 'ideally at least 5 metres away from the side of the pavilion'. We would also recommend that a condition is introduced to ensure that the gravel surrounding the drain is of a material and colour appropriate for the historic setting.

6.4 Lincolnshire County Council Historic Places Team

The site lies in the Spalding (DLI10607) Conservation Area and in an area of medieval settlement of archaeological potential associated with Medieval and Post-Medieval activity. The site is within the Medieval Settlement of Spalding (MLI23602) and the Post-Medieval Settlement of Spalding (MLI23604).

The proposed development is in the Registered Park Garden of Ayscoughfee Hall (MLI98387) and close to the Parish Church of St Mary and St Nicholas (listed building 1359547) built as the parish church in approximately 1284, on the site of a Norman Chapel. In 2008, NAU Archaeology undertook a scheme of archaeological trench evaluation (ELI9374) at Ayscoughfee Hall gardens in Spalding, Lincolnshire, commissioned by South Holland District Council. This aimed to better understand the gardens' history and aid in the partial restoration of selected areas. Late Saxon, medieval and post-medieval deposits were revealed. This includes pits indicative of domestic occupation, walls, brick culverts and a possible hothouse or stove.

In 1998, Lindsey Archaeological Services undertook an archaeological watching brief (ELI3571) to the south of the Parish Church of St Mary and St Nicholas while a foul sewer trench was being excavated. Circa thirteen burials were exposed as a result of this work. The proposed development comprises the installation of a French drain, soakaway and associated works. Groundworks associated with the development will have a significant impact on any surviving archaeological remains, resulting in total or partial loss, if present. I recommend that if permission is granted, there be an archaeological condition for a mitigation strategy to effectively deal with this site. This will comprise a phased programme of archaeological mitigation work including, but not limited to continuous archaeological monitoring (watching brief), to enable any remaining archaeology which currently survives on this site to be properly recorded during the construction phase, prior to its alteration or destruction.

This should be secured by South Holland District Council's standard conditions AR01, 02 and 03 and is in accordance with National Planning Policy Framework paragraphs 200 and 211.

6.5 Gardens Trust

No comment.

6.6 Lincolnshire County Council as Lead Local Highways and Flood Authority

No objections.

7.0 CONSIDERATIONS

7.1 **Planning Considerations**

7.2 Evaluation

7.3 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.

7.4 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.

7.5 The policies and provisions set out in the National Planning Policy Framework, NPPF are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

7.6 Local Planning Authorities are also required to be mindful of their duty in determining matters in respect of Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The Planning (Listed Buildings and Conservation Areas) Act 1990 requires a local planning authority to:

- have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses (Section 16).

The objective of preservation is to cause no harm, and is a matter of paramount concern in the planning process. Beyond this, where harm would be caused, there is a necessity to establish the extent of that harm, and consider this within the policy context.

7.7 Heritage Impact

7.8 Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Local Planning Authority to have special regard to the desirability of preserving listed buildings, their setting, or any features of special architectural or historic interest which they possess.

7.9 Sections 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 require decision makers to have special regard to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they possess as well as the desirability of preserving or enhancing the character or appearance of conservation areas. Any adverse effect on a heritage asset, even if slight or minor, would not preserve the asset or its setting.

7.10 Furthermore, the importance of considering the impact of development on the significance of designated heritage assets is expressed in the National Planning Policy Framework (December 2023) (NPPF). The NPPF advises that development and alterations to designated assets and their settings can cause harm. These policies ensure the protection and enhancement of the historic buildings and environments. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance should be treated favourably.

7.11 Section 16 of the National Planning Policy Framework (December 2023) states that "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance".

7.12 Finally, Policy 29 of the South East Lincolnshire Local Plan (2019) (SELLP) confirms that in order to respect South Holland's historical legacy all proposals shall conserve and enhance the character and appearance of designated heritage assets. Additionally, Section A of that policy confirms that proposals that affect the setting of a Listed Building will only be supported where they preserve or better reveal the significance of the Listed Building, and that proposals that seek to alter a listed building shall be granted where the LPA is satisfied that the proposal is in the interest of the building's preservation and does not involve alterations that are prejudicial to the special architectural or historic interest of the Listed Building or its setting.

7.13 Taking the above into account, and assigning this site the appropriate assessment of significance, in this case extreme weight must be given to the preservation and conservation of the asset. As confirmed by the consultation response of the War Memorials Trust, this work is proposed as a result of recommendations made by a report previously conducted, that concludes that the installation of a French Drain is in the interests of the physical preservation of the asset which sits lower than its surroundings, causing damage by means of uninterrupted flow of water into the base of the memorial. The rationale behind the proposal is supported by the necessity to preserve the condition of the asset, and the visual impact of the proposal shall be so minimal as to not unduly influence the manner in which the asset is visually appreciated in any meaningful way. Because of this, the proposal can be considered to be in the interests of the preservation of the asset in a manner which is not prejudicial to the special architectural and historic interest of the Listed Building and the wider setting.

7.14 Therefore, the proposal satisfies Policy 29 of the SELLP, in addition to Section 16 of the NPPF. The impact upon the historic environment is, therefore, acceptable.

7.15 Planning Balance

7.16 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.

7.17 The proposal can be considered to be in the interests of the preservation of the asset in a manner which is not prejudicial to the special architectural and historic interest of the Listed Building and the wider setting. Therefore, the proposal satisfies Policy 29 of the SELLP, in addition to Section 16 of the NPPF.

7.18 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.

7.19 **Additional Considerations**

7.20 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.

8.0 RECOMMENDATIONS

8.1 Approve the application subject to the conditions listed at Section 9.0 of this report.

9.0 CONDITIONS

1. The works must be begun not later than the expiration of three years beginning with the date of this consent.

Reason: As required by Section 18 of the Planning (Listed Buildings and Conservation Areas) 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:

Application Form
A1660-01 Rev P1
A1606-03 Rev P1
A1606-04 Rev P1
A1660 - HIA Rev P1

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

3. No development shall take place until a written scheme of archaeological investigation has been submitted to and approved in writing by the Local Planning Authority. This scheme should include the following and should be in accordance with the archaeological brief supplied by the Lincolnshire County Council Historic Environment advisor on behalf of the Local Planning Authority:

1. An assessment of significance and proposed mitigation strategy (i.e. preservation by record, preservation in situ or a mix of these elements).
2. A methodology and timetable of site investigation and recording
3. Provision for site analysis
4. Provision for publication and dissemination of analysis and records
5. Provision for archive deposition
6. Nomination of a competent person/organisation to undertake the work
7. The scheme to be in accordance with the Lincolnshire Archaeological Handbook.
The archaeological site work shall only be undertaken in accordance with the approved written scheme.

Reason: To ensure the preparation and implementation of an appropriate scheme of archaeological mitigation in accordance with Section 16 of the National Planning Policy Framework, December 2023. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.
This Condition is imposed in accordance with Policy 29 of the South East Lincolnshire Local Plan, 2019.

4. The applicant shall notify the Lincolnshire County Council Historic Environment Department in writing of the intention to commence at least fourteen days before the start of archaeological work required in connection with Condition 3 above in order to facilitate adequate monitoring arrangements.

Reason: To ensure satisfactory archaeological investigation and retrieval of archaeological finds in accordance with Section 16 of the National Planning Policy Framework, December 2023.
This Condition is imposed in accordance with Policy 29 of the South East Lincolnshire Local Plan, 2019.

5. A copy of the final report required in connection with Condition 3 above shall be submitted within three months of the work being carried out to the Local Planning Authority and the Lincolnshire Historic Environment Record. The material and paper archive required as part of the written scheme of investigation shall be deposited with an appropriate archive in accordance with guidelines published in The Lincolnshire Archaeological Handbook.

Reason: To ensure satisfactory arrangements are made for the recording of possible archaeological remains in accordance with Section 16 of the National Planning Policy Framework, December 2023.
This Condition is imposed in accordance with Policy 29 of the South East Lincolnshire Local Plan, 2019.

6. 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

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Background papers:- Planning Application Working File

Lead Contact Officer

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Appendices attached to this report:

Appendix A Plan A

MapThat Scale Print Title



SOUTH HOLLAND DISTRICT COUNCIL

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MAP SCALE 1:1000
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