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TOWN AND COUNTRY PLANNING ACT 1990 SECTION 73A CONTINUATION

Reference: H16-0276-25 **Date of Decision:** 9th May 2025
Applicant: Mr C Bond
9 Chandlers Reach
Church Street
Spalding
PE11 2QN
Location: 11 Tower Lane Spalding
Description: Replacement dwelling following permission for demolition of existing dwelling.
Approved under H16-0423-18. Modification of Condition 2 to allow amendments to previously approved plans

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

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans and/or documents:

- 3333 / 01 - Site Location Plan & Site Block Plan
- 3333 / 02 - Proposed Elevations
- 3333 / 03 - Proposed Ground Floor Plan
- 3333 / 04 - Proposed First Floor Plan
- 3333 / 05 - Proposed Attic Floor Plan

H16-0420-19

- REM 01 - Sash Details
- REM 02 - Casement Details
- REM 03 - Door Surround Details
- REM 04 - Timber Door Details

H16-0423-18

-Design and Access Statement incorporating Statement of Significance and Heritage Impact Assessment prepared by Oglesby & Limb, dated May 2018

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

- 2 The materials of the external surfaces (including brickwork, finish, roof tiles and windows) of the development hereby permitted shall be carried out in accordance with the details outlined within the application form and approved plans.

Reason: In the interests of the architectural and visual integrity of the overall development and the visual amenity of the area in which it is set.

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

- 3 The drainage scheme shown in Drw No 2900 07, contained within H16-0420-19, shall be implemented in full prior to the first occupation of the dwellinghouse hereby approved and thereafter maintained.

Reason: To ensure that the site is adequately drained, to avoid pollution, and to prevent increased risk of flooding.

This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019 and Section 14 of the National Planning Policy Framework, December 2024.

- 4 The brickwork to the development hereby permitted shall be constructed in English Garden Wall bond at a ratio of 3 courses of stretchers to every course of headers.

Reason: In the interests of the appearance of the development, and the character and visual amenity of this part of the Conservation Area in which it is set.

This Condition is imposed in accordance with Policies 2, 3 and 29 of the South East Lincolnshire Local Plan, 2019 and Sections 12 and 16 of the National Planning Policy Framework, December 2024.

- 5 The guttering to the development hereby permitted shall be of metal construction painted black, fixed to the external walls by means of gutter spikes/rise and fall brackets and no fascia boarding shall be used.

Reason: In the interests of the architectural composition and appearance of the development and the character and visual amenity of this part of the Conservation Area in which it is set.

This Condition is imposed in accordance with Policies 2, 3 and 29 of the South East Lincolnshire Local Plan, 2019 and Sections 12 and 16 of the National Planning Policy Framework, December 2024.

- 6 All new window frames, glazing bars, doors and external door frames shall be of timber construction with a painted finish and thereafter so maintained.

Reason: In the interests of the architectural composition and appearance of the development and the character and visual amenity of this part of the Conservation Area in which it is set.

This Condition is imposed in accordance with Policies 2, 3 and 29 of the South East Lincolnshire Local Plan, 2019 and Sections 12 and 16 of the National Planning Policy Framework, December 2024.

- 7 Notwithstanding the provisions of Schedule 2, Part 1, Class A and Class D of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order or Statutory Instrument revoking and re-enacting that Order), no enlargement, improvement or other alteration to the dwellinghouse, and no construction of a porch, other than those illustrated on the plans and forming part of the application hereby authorised by this permission, shall be carried out without planning permission first having been granted by the Local Planning Authority.

Reason: To ensure that the Local Planning Authority retains control of the future development, additions and alterations, in the interests of its architectural and visual integrity, levels of residential amenity and the visual amenity and character of this part of the Conservation Area within which it is set.

This Condition is imposed in accordance with Policies 2, 3 and 29 of the South East Lincolnshire Local Plan, 2019 and Sections 12 and 16 of the National Planning Policy Framework, December 2024.

- 8 Notwithstanding the provisions of Schedule 2, Part 1, Class B and Class C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order or Statutory Instrument revoking and re-enacting that Order), no window, dormer window, rooflight or other development consisting of an alteration to the roof of the property, other than those illustrated on the plans and forming part of the application hereby authorised by this permission, shall be constructed without Planning Permission first having been granted by the Local Planning Authority.

Reason: To ensure that the Local Planning Authority retains control over the future development, additions and alterations, in the interests of its architectural and visual integrity, levels of residential amenity and the visual amenity and character of the area within which it is set.

This Condition is imposed 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.

- 9 Notwithstanding the provisions of Schedule 2, Part 1, Classes A, B & C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order or Statutory Instrument revoking and re-enacting that Order), no window, dormer window, rooflight or other shall be inserted into the property, other than those illustrated on the plans and forming part of the application hereby authorised by this permission.

Reason: To prevent overlooking and to safeguard amenity of nearby occupiers, in the interests of the amenity of nearby residents.

This Condition is imposed in accordance with Policy 3 of the South East Lincolnshire Local Plan, 2019 and Section 12 of the National Planning Policy Framework, December

2024.

- 10 The finished floor levels of the dwelling hereby approved, including the landscaping of the site, shall be carried out in accordance with the details shown in Drw No 2900 07, contained within H16-0420-19.

Reason: To ensure that the Local Planning Authority retains control over the finished site and floor levels of the development, in the interests of the amenity of adjacent residents and its visual and architectural relationship with adjacent development. 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 Policies 2, 3 and 4 of the South East Lincolnshire Local Plan, 2019.

- 11 None of the existing trees on the site shall be cut down, up-rooted, destroyed, topped or lopped unless first agreed in writing by the Local Planning Authority. If any tree which is to be retained dies or is to be removed it shall be replaced within six months thereafter with a tree of such size and species which shall be first be agreed in writing by the Local Planning Authority.

Reason: To ensure the protection of existing trees on the site, in the interests of the visual amenity of the locality.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and Section 15 of the National Planning Policy Framework, December 2024.

- 12 Where trees are to be retained on site they shall be protected during construction work as follows:

- i) chestnut pale or similar fencing 1.5 metres in height shall be provided around the trees to be retained before development is commenced at a minimum distance from the trunks equal to the spread of the crowns of the trees. No materials, equipment, site huts, fuels or other items shall be placed or stored within the areas enclosed by the fencing so erected and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the Local Planning Authority;
- ii) no burning of materials or other items shall take place within 3 metres of the crown spread of any of the trees to be retained;
- iii) no services shall be routed under the spread of the crowns of the trees to be retained without the prior written consent of the Local Planning Authority;
- iv) no retained tree shall be cut down, up-rooted, destroyed, topped or lopped without the prior written consent of the Local Planning Authority and if any tree which is to be retained dies within five years beginning with the date on which the development is commenced it shall be replaced with a tree of such size and species as may be specified in writing by the Local Planning Authority.

Reason: To ensure the protection of trees on the site.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and Section 15 of the National Planning Policy Framework, December 2024.

- 13 Notwithstanding the details submitted, before any part of the development hereby permitted is occupied, the following windows shall be installed with obscure glazing (to a minimum level of Pilkington - Privacy Level 4 or an equivalent product) and shall have no opening part being less than 1.7m above the floor level immediately below the centre of the opening part.

The five north facing roof lights

Once installed, the window shall thereafter be retained as such.

Reason: To prevent overlooking in the interests of the amenity of nearby residents.

This Condition is imposed in accordance with Policy 3 of the South East Lincolnshire Local Plan, 2019 and Section 12 of the National Planning Policy Framework, December 2024.

Notes:

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 by identifying matters of concern within the application and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal.

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

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 development is exempt as the application is a Section 73 Application, the original permission was determined prior to 2nd April 2024

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.



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.