

## DECISION DELEGATED TO HEAD OF PLANNING

**Application No:** H16-0276-25      **Applicant:** Mr C Bond  
**Proposal:** 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  
**Location:** 11 Tower Lane Spalding  
**Terminal Date:** 13th May 2025

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### 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
- 28 The Natural Environment
- 29 The Historic Environment
- 33 Delivering a More Sustainable Transport Network
- 36 Vehicle and Cycle Parking
- APPENDIX 6 Parking Standards

### National Guidance

#### National Planning Policy Framework December 2024

- Section 9 - Promoting sustainable transport
- Section 12 - Achieving well designed places
- Section 14 - Meeting the challenge of climate change, flooding and coastal change
- Section 15 - Conserving and enhancing the natural environment
- Section 16 - Conserving and enhancing the historic environment

### Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	1	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1

SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	0
RESIDENTS	5	0	0	1

## CASE OFFICER ASSESSMENT

### **Description of Proposal**

This is a Section 73 application, seeking to modify condition 2 of planning approval, H16-0423-18. Condition 2 relates to the 'Approved Plans' and this Section 73 seeks to alter the approved plans through providing additional bedrooms and a side extension.

It is proposed that the attic would be converted to allow for two additional bedrooms, taking the dwelling's total to six. To facilitate these changes, five rear windows, in the form of roof lights, and three dormer windows to the front are proposed.

A mono-pitched side extension, measuring 3.15m (width) by 3.75m (depth) is proposed. It would have a height to the eaves of 2.75m, rising to 4.3m at its apex. Two front facing windows and a rear door are proposed. All materials would match the host. To facilitate the change, a previously proposed boundary wall would be removed from the plans.

### **Site Description**

The site is within the settlement boundaries of Spalding, as outlined within the South East Lincolnshire Local Plan, 2019. The proposal is located on the former site of Leathercote House in Spalding, a Grade II Listed Building that stood relatively close to a number of listed buildings and heritage assets in the Conservation Area.

To provide further context, the house previously on site was subject to a fire in 2016 and was considered to be unsalvageable. The report accompanying H16-0423-18, detailed: *The property that previously occupied this site was almost entirely destroyed in a fire... The building was very extensively damaged by the fire (in 2016) and was considered unsafe, therefore, was partially demolished. Areas of the ground floor still remained at the last site visit. The remains of the dwelling are no longer fit for habitation and continued to remain unsafe.*

### **Relevant History**

H16-1026-17 - Listed Building Consent. Demolish remaining building which has already been largely demolished due to fire- Approved 22/01/18.

H16-0423-18 - Full. Replacement dwelling following permission for demolition of existing dwelling - Approved 27/12/18.

H16-0420-19 - Condition Compliance. Details of Conditions 3, 4, 7 (Part (i)), 8, 13, 14 & 16 of H16-0423-18 - Approved 13/06/19.

H16-1330-21 - Condition Compliance. Details of final report & notification in relation to archaeology (Conditions 5 & 6 of H16-0423-18) - Approved 13/01/22.

H16-0656-24 - Condition Compliance. Details of contamination (Conditions 7ii and 7iii of H16-0423-18) - Approved 02/09/24.

## Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

### Cllr Ashby

"Support - I think this is a bit large for this plot"

### Highway and Lead Local Flood Authority

"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. The Highways and Lead Local Flood Authority response is in relation to the impact the proposed development would be expected to have on the operation of the Public Highway. Tower Lane is a private road, and the highway authority has no jurisdiction over the use of this road. With regard to this application, we have considered the safety and impact of these proposals on Adopted Road B1173 and its junction with Tower Lane. It is for the Local Planning Authority to determine whether the access provided by the private road is safe and suitable for all users. Access to the site will be gained along Spalding Public Footpath No. 28 (Tower Lane).

The route in question is very well-used and connects residential areas with Cowbit Road and Spalding town centre. Whilst it is unlikely that the development will permanently affect the public footpath, it is likely that there will be a significant impact on the route during the construction phase. Careful consideration should therefore be given to the management of public access during construction including the temporary closure of the footpath if public access cannot be safely accommodated."

### Environmental Protection

Initial comments, received 22/04/25:

"I request a standard land contamination condition be applied at this location."

Further comments, received 25/04/25:

"No comments regarding amendment 1. My previous comment remains the same."

### Environment Agency

"We did not recommend Condition 2 on application H16-0423-18 and therefore have no comment to make on this application."

### South Holland Internal Drainage Board

"Thank you for your consultation on the above planning application. Having screened the application, the Board has no comments to make regarding the variation of condition 2. Please refer to the Board's comments on the original application (H16-0423-18) dated 25/07/2018"

These comments have been copied here for convenience:

"The site is within the South Holland IDB Internal Drainage District (IDD) and therefore the Board's byelaws apply. The Byelaws for the Board (see link [https://www.wlma.org.uk/uploads/SHIDB\\_Byelaws.pdf](https://www.wlma.org.uk/uploads/SHIDB_Byelaws.pdf) ) and detailed maps of the district (see link [https://www.wlma.org.uk/uploads/210-SHIDB\\_Index.pdf](https://www.wlma.org.uk/uploads/210-SHIDB_Index.pdf) ) (including which watercourses are adopted by the Board) are available on our website

I note that the applicant has indicated that they intend to dispose of surface water via infiltration, however I cannot see that a drainage strategy has been provided for the site. This proposed strategy should be supported by infiltration testing in line with BRE 365. If (following testing) a strategy wholly reliant on infiltration is not viable and a surface water discharge is proposed to a watercourse, then the proposed development will require land drainage consent in line with the Board's byelaws (specifically byelaw 3). Any consent granted will likely be conditional, pending the

payment a surface water development contribution fee, calculated in line with the Board's charging policy. This policy is available using the following link  
[https://www.wlma.org.uk/uploads/WMA\\_Table\\_of\\_Charges\\_and\\_Fees.pdf](https://www.wlma.org.uk/uploads/WMA_Table_of_Charges_and_Fees.pdf)

I note the presence of a Board Adopted piped watercourse near to the site boundary (Leathercote Drain - A06). Whilst not currently proposed, should the applicant's proposals change to include works within 9 metres of the watercourse, consent would be required to relax Byelaw 10 (no works within 9 metres of the edge of drainage or flood risk management infrastructure). In addition, whilst not currently proposed, should the applicant's proposals change to include works to alter this watercourse, consent would be required under the Land Drainage Act 1991 (and Byelaw 4).

I am not aware of any other riparian owned/maintained watercourses within or adjacent to the site boundary. However, this should be confirmed by the applicant, particularly as these may be culverted. If the applicant proposes to alter any of these riparian watercourses, consent would again be required under the Land Drainage Act (and Byelaw 4)."

## 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, 9 letters of representation have been received, although several are from the same address. In total, 5 different addresses have objected to the proposal.

These can be summarised as:

- Lack of parking
- Overlooking
- Oversized for the plot
- Concerns the house will be used as a house of multiple occupancy
- Increase in traffic
- Work commenced without planning permission
- Concern access will be changed.

## **Key Planning Considerations**

### Evaluation

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

The proposal relates to the variation of Condition 2 of H16-423-18, through seeking permission under Section 73 of the Act. The purpose of an application made under Section 73 of the Town and Country Planning Act 1990 is to vary or remove conditions associated with an existing planning permission. These applications are used to allow for amendments to an approved scheme and can be made both retrospectively and prior to a permission being implemented, as long as the permission is extant.

The Act is very clear that: "On such an application the Local Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted." As such, the Local Planning Authority are not able to revisit the principle of development and only matters relevant to the specific conditions can be considered. The effect of granting permission would be to issue a new permission with Condition 2 amended, together with any other relevant conditions from the original permission, or subsequent relevant revisions since this permission.

Planning practice guidance (PPG) highlights that where less substantial changes are proposed,

amending a proposal can occur through 'Amending the conditions attached to the planning permission, including seeking to make minor material amendments'.

The PPG clarifies that "Permission granted under Section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted". There is no statutory definition of a 'minor material amendment'; but this is likely to include any amendments where its scale and/or nature results "in a development which is not substantially different from the one which has been approved".

In this instance, the subsequent amendments, submitted under this Section 73 application, have not varied the description of development.

In the case of *R (Vue Entertainment Limited) v City of York Council*, it was concluded that the decision gives clear support for use of s.73 in respect of changes to condition which go beyond 'minor' amendments. It places a clear emphasis on preserving the precise terms of the grant. If an amendment to a condition can be made which keeps the description of the development intact it may well be appropriate to make such an application under a s.73, even if the effect of the change will be significant".

### Principle of Development

Policy 1 of the SELLP sets out the settlement hierarchy in respect of delivering sustainable development, which 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 need, whilst making more sustainable use of land, and to minimise the loss of high-quality agricultural plots by developing in sustainable locations and at appropriate densities.

Policy 1 expresses this sustainable hierarchy of settlements, ranking the settlements deemed to be most sustainable in descending order. The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy 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.

The site is within the settlement of Spalding which is classed as a sub-regional centre within Policy 1. As such development will be permitted that supports Spalding's role as a service centre, helps sustain existing facilities or helps meet the service needs of other local communities.

Irrespective of such, the principle of development was established under H16-0423-18. The scheme has been commenced and as such, the permission is extant. As such, the principle of development on this site is considered acceptable, subject to other material considerations being met.

### Layout, Design, Scale and Consideration of the Character of the Area

Section 12 of the NPPF, "Achieving well-designed places", states 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.

Paragraph 135, contained within Section 12 of the NPPF, states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture 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. Developments 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, among other considerations.

Likewise, Policy 2 of the SELLP outlines sustainable development considerations for proposals; providing a framework for an operational policy to be used in assessing the sustainable

development attributes of all development proposals. Furthermore, Policy 3 of the SELLP 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.

These policies accord with the provisions of the NPPF 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. 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.

The increase in the number of bedrooms, and the intensity of use associated with this, could reasonably be achieved post completion via internal alterations which would be outside of the control, of the Local Planning Authority. Therefore, the weight attributed to the increased intensity is lessened.

The proposed inclusion of the dormer windows would broadly be consistent with the design philosophy of the development. The dormers would be well integrated into the host and of a fairly traditional style. The roof lights would only be visible from the rear of the property, thereby reducing their impact upon the character of the development. In any event, the roof lights are well integrated into the host dwelling, particularly given the somewhat more modern design approach taken to the building's rear, and would have minimal impact upon the overall appearance of the development.

The proposed extension would result in the dwelling occupying a larger proportion of the plot. To a certain extent, this would result in the development appearing more dominant and somewhat more constrained in its plot; however, it is not considered that this would be to such an extent as to be harmful to the character of the area or significantly detract from the design of the dwelling. While the change in window design does lessen the integration of the extension to a certain extent, when considered as a whole, it is considered that the extension is well enough integrated into the host as to appear as a natural addition.

Taking account of the design, scale, and nature of the development, as detailed above, 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 SELLP and Section 12 of the NPPF.

#### Heritage and Conservation

Policy 29 of the SELLP, alongside Section 16 of the NPPF, relates to the preservation of the historic environment. Both outline that all applications within the Conservation Area should preserve or enhance the setting.

In this regard, in respect of any buildings or other land in a conservation area, special attention must be paid to the desirability of preserving or enhancing the character or appearance of that area, through Section 72 the Planning (Listed Buildings and Conservation Areas) Act 1990.

The NPPF expresses the importance of considering the impact of development on the significance of designated heritage assets; advising 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.

Section 16 of the NPPF 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".

Policy 29 (The Historic Environment) states amongst other matters that the distinctive elements of the South East Lincolnshire historic environment will be conserved and, where appropriate, enhanced, in keeping with the policies in the NPPF. Development proposals will be expected to conserve and enhance the character and appearance of designated and non-designated heritage assets, including archaeology, historic buildings, conservation areas, scheduled monuments, street

patterns, streetscapes, landscapes, parks (including Registered Parks and Gardens), river frontages, structures and their settings through high-quality sensitive design.

The site is within Spalding Conservation Area, with several listed buildings in the wider area. That being said, it is not considered that the proposed amendments would cause harm to any heritage asset. The changes are well integrated to the host and are sympathetic to the overall design approach of the dwelling.

Therefore, it is considered that the proposal would preserve the Conservation Area, and as such, is considered to be in accordance with Policy 29 of the SELLP and Section 16 of the NPPF.

### Impacts Upon Resident Amenity

Paragraph 135 of the NPPF 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.

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

The dormer windows would not increase overlooking, as any views gained from them would be of the public realm. That being said, the rear windows would face towards neighbouring properties. As such, it is recommended that, in the event the proposal approved, a condition be added ensuring that the windows are non-opening and obscure glazed.

The proposed extension would not significantly increase overshadowing, due to its relatively low height.

As detailed above, the scale and design of the proposal is considered to have 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 Section 12 of the NPPF and Policies 2 and 3 of the Local Plan in terms of impact upon residential amenity.

### Highway Safety and Parking

Section 9 of the NPPF is titled 'Promoting sustainable transport'. Within this, Paragraph 116 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".

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. Policy 33 further reinforces the need for developments to be accessible via sustainable modes of transport.

Policy 36 of the SELLP, 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. In this instance, no on site parking is provided as the access is down a footpath. Considering that the access remains unchanged, it would be inappropriate to resist the application on this basis.

Access to the site remains unchanged as part of this proposal, being gained along a public footpath. The site is reasonably accessible from Spalding town centre via walking or cycling, and occupants would reasonably have access to public transport facilities within the town, thereby reducing the tangible need for a private vehicle.

As outlined above, a comparable intensity of use could be reasonably achieved via internal alterations, outside of the control of the Planning Authority. Therefore, the actual weight given to potential increases in movement is reduced somewhat. In any event, under the provisions of Policy 36 and Appendix 6, there would be no obligation to provide additional parking, as three spaces is

considered sufficient to accommodate dwellings with over four bedrooms.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Policies 2, 3, 33 and 36 of the SELLP, as well as Section 9 of the NPPF.

## Flooding Considerations

Section 14 of the NPPF requires development plans to "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: (...) applying the sequential test and then, if necessary, the exception test as set out below".

Paragraph 174 of the NPPF states "the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding". The strategic flood risk assessment provides the basis for applying this test.

Paragraph 175 of the NPPF states that "the sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk)."

If, following the application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exceptions Test can be applied if appropriate. The process for applying the Exception Test is outlined within Paragraphs 177, 178 and 179 of the NPPF. Paragraph 178 states "to pass the exception test it should be demonstrated that: a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall"

The site lies within Flood Zones 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.

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 SELLP 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.

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 SFRA as a basis to apply the sequential test.

Within the SFRA the site is classed as danger for all, with a hazard depth of over 2 metres.

It should be noted that the original application (H16-0423-18) was objected to by the Environment Agency. That being said, on this application (H16-0276-25) stated that they had no comment to make. It is not considered that the proposed alterations would significantly increase the vulnerability of the site to the impacts of flooding, or increase flood risk elsewhere. As such, it is considered that the proposal is acceptable from a flood risk perspective.

Overall, when considering the development on balance, it is considered, given the mitigation measures detailed and recommended by condition, that the proposal accords with Policies 2, 3 and 4 of the SELLP and the intentions of the NPPF with regards to flood risk.

## 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.

As a Section 73 application, where the original permission was granted prior to the introduction of Biodiversity Net Gain under the Environment Act 2021, the proposal is exempt from the standard biodiversity net gain condition.

## Pollution

Policy 30 of the SELLP concerns pollution of all kinds, including ground contamination and the pollution of controlled waters. Policy 30 states development "proposals will not be permitted where, taking account of any proposed mitigation measures, they would lead to unacceptable adverse impacts upon: health and safety of the public; the amenities of the area; land quality and condition; or surface and groundwater quality."

The relevant consultee has recommended the imposition of a contaminated land condition. This condition was previously imposed on H16-0423-18. All parts of this condition have subsequently been discharged under applications H16-0420-19 and H16-0656-24. Accordingly, it is considered unreasonable to request the condition.

## Outstanding Matters from Representations

Several representations received in the neighbour consultation exercise have cited concerns relating to the proposal being used as a house of multiple occupancy (HMO). The submitted documents have not stated that the proposed changes are to facilitate the change to a HMO; and therefore, it is purely conjecture that this change would occur. Accordingly, it would be entirely unreasonable to resist the application on this basis.

Furthermore, it should be noted that, under Schedule 2, Part 3, Class L of The Town and Country Planning (General Permitted Development) (England) Order 2015, the change of use from a C3 dwellinghouse, to a C4 small HMO, can be achieved without the need for a planning application. The original permission did not remove the right to make this alteration. Therefore, irrespective of the outcome of this application, the resultant dwelling could reasonably be used as a HMO, with internal alterations outside of the planning regime used to facilitate this. As such, it is considered that it is unreasonable to impose further conditions to remove permitted rights relating to this. Should the site be used for a HMO, beyond that which is 'permitted development', then a further formal planning application would be required, with further assessment carried out at that stage.

## Conditions

## *Re-imposed Conditions*

Eighteen conditions were placed on the host consent being varied here (H16-0423-18). A brief commentary on their reimposition here is found below.

Condition 1: As the development has been implemented, there is no requirement to reimpose the time condition.

Condition 2: An amended version of this condition, updated to reflect the updated plans, is recommended.

Condition 3: This condition was a pre-commencement condition relating to materials. As details have already been provided of these materials, it is not considered appropriate to reimpose the condition here. However, to ensure that the correct materials are used, a materials condition is recommended.

Conditions 4, 5, and 6: These conditions related to archaeological works and have since been discharged within applications H16-0420-19 and H16-1330-21. As such, there is no need to reimpose these conditions.

Condition 7: This condition related to a scheme to deal with any contamination of land or pollution of controlled waters. The details of this have been submitted under H16-0420-19 and H16-0656-24 and subsequently discharged. As such, there is no need to reimpose this pre-commencement condition.

Condition 8: The drainage scheme required here was submitted and approved under H16-0420-19. As such, a condition to ensure the development occurs in accordance with the submitted details is recommended.

Condition 9: The proposal would not alter the need for this condition, which related to the brickwork. As such, this condition should be imposed.

Condition 10: Condition 10 relates to the construction of a square of brickwork prior to commencement. However, this does not appear to have been discharged, despite development commencing onsite. That being said, the materials selected and construction appears to be acceptable. As such, there is no need to impose this condition.

Condition 11: The proposal would not alter the need for this condition, and so should be reimposed.

Condition 12: The proposal would not alter the need for this condition, which related to the window frames. As such, this condition should be imposed.

Condition 13: The requirement for detailed drawings was approved under H16-0420-19. It is recommended that a condition is imposed requiring construction in accordance with these details.

Condition 14: The details required here were approved under H16-0420-19, and have been shown again on the drawings submitted as part of this application. As such, this condition can be covered via the standard plans condition.

Condition 15: The removal of permitted development rights for extensions and alterations is still considered necessary here given the siting in the Conservation Area.

Condition 16: The details required here were approved under H16-0420-19. It is recommended that a condition is imposed requiring construction in accordance with these details, through a standard plans conditions.

Condition 17: The requirements of condition 17, preventing the removal or lopping of trees, is still considered appropriate. The proposal would not alter the need for this condition.

Condition 18: The requirements of condition 18, which restricted construction processes to prevent harm to trees, is still considered appropriate. The proposal would not alter the need for this condition.

## **New Conditions**

As outlined in the report, it is recommended that an obscure glazing condition be added to ensure the proposal would not have an unacceptable amenity impact.

## **Planning Balance**

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.

The proposal represents appropriate development within the defined settlement boundary. The development hereby proposed does not materially harm the character or appearance of the locality, or amenity of nearby residents, and provides adequate parking, whilst conforming with the SELLP and the provisions of the NPPF when viewed as a whole.

## **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 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.

## **Conclusion**

Taking these factors into consideration, the proposal is considered to comply with Policies 1, 2, 3, 4, 28, 29, 33, and 36 of the SELLP, as well as Sections 9, 12, 14, 15 and 16 of the NPPF. There are no significant factors in this case that would outweigh the benefits of the proposal; therefore, the planning balance is in favour of the proposal.

## **Recommendation**

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