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## TOWN AND COUNTRY PLANNING ACT 1990 SECTION 73 MODIFICATION

**Reference:** H16-0413-25 **Date of Decision:** 6th August 2025  
**Applicant:** Country Court Care Ltd.  
Olympus House  
Staniland Way  
Peterborough  
Cambridgeshire  
PE4 6NA  
**Location:** Ashwood Nursing Home 43 Spalding Common Spalding  
**Description:** Erection of two storey rear extension to provide additional bedrooms, day space, storage, nurses station, assisted bathrooms and additional car parking spaces - approved under H16-0437-24. 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 must be begun not later than the 9th December 2027.

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:

H16-0413-25

002 Rev 4A - Proposed Site Plan  
001 Rev 3B - Site Location Plan  
001 Rev 3E - Proposed Ground Floor Layout

002 Rev 3E - Proposed First Floor Layout  
001 Rev 3D - Proposed Elevations  
002 Rev 3D - Proposed Courtyard Elevations  
PV Panels Brochure (Vertex S)  
Covering letter, dated 28 April 2025 produced by the Planning Hub

H16-0437-24

Covering Letter dated 10 May 2024 by The Planning Hub  
RSE\_8039\_BIAB\_0524\_V1R2 - BIA Baseline Habitat Plan  
RSE\_8039\_BIAP\_0524\_V1R2 - BIA Proposed Habitat Plan  
RSE\_8039\_BIAR\_0524\_V1R2 - BIA Retention Habitat Plan  
Planning Statement by The Planning Hub dated 22 April 2024  
Flood Risk Assessment by Roy Lobley Consulting reference RLC/1117/FRA01 dated 25 May 2023  
Parking Appraisal by Bancroft Consulting dated February 2024  
Preliminary Ecological Appraisal Report (Pear) reference RSE\_8039\_R1\_V1\_PEAR dated April 2024 by RammSanderson  
Biodiversity Metric Calculation Tool

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

- 3 The development hereby permitted shall be carried out in accordance with the measures set out in the Flood Risk Assessment by Roy Lobley Consulting reference RLC/1117/FRA01 dated 25 May 2023 forming part of H16-0437-24, unless otherwise agreed in writing by the Local Planning Authority, in particular the following mitigation measures shall be fully implemented before the property is first occupied:

-Finished floor levels shall be set no lower than 3.20 metres above Ordnance Datum (mAOD).

-Flood resistant and resilient construction shall be to a minimum of 3.50 mAOD.

These mitigation measures shall be fully implemented prior to occupation and subsequently shall be retained and maintained thereafter throughout the lifetime of the development.

Note: The above approved plan does not constitute final approval of detailed site levels or finished floor levels.

Reason: To ensure that the development does not increase the risk of flooding or be at risk of flooding.

This Condition is imposed in accordance with Policies 3 and 4 of the South East Lincolnshire Local Plan, 2019 and Section 14 of the National Planning Policy Framework, December 2024.

- 4 The eaves and ridge height of the extension hereby approved shall be no higher above existing ground level than as shown in the cross sectional drawing 002 Rev 3D (Proposed Courtyard Elevations), unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the external height of the extension does not adversely affect the external residential amenity of the adjoining property by reason of loss of light or outlook. This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

- 5 No external lighting shall be erected on the eastern or southern flank elevations of the extension without the prior consent in writing of the Local Planning Authority.

Reason: To protect amenities of nearby residential properties and to avoid light pollution. This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

- 6 The brickwork and roofing tiles of the development hereby permitted shall match as closely as possible those of the principal existing Care Home on the site.

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 and Section 12 of the National Planning Policy Framework, December 2024.

- 7 Before the commencement of the development hereby permitted beyond oversight, the approval of the Local Planning Authority is required to a scheme of landscaping and tree planting for the site (including screening of bin collection points) indicating, inter alia, the number, species, heights on planting and positions of all the trees, together with details of post-planting maintenance. Such scheme as is approved by the Local Planning Authority shall be carried out and completed in its entirety during the first planting season following practical completion of the development. All trees, shrubs and bushes shall be maintained by the owner or owners of the land on which they are situated for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.

NOTE: The submitted landscaping proposals shall demonstrate that Biodiversity Net Gain will be achieved on site, using the Biodiversity Metric 4 (or any successor).

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.

- 8 A copy of the final report required in connection with the scheme of archaeological investigation approved under H16-0359-25, 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 2024.

This Condition is imposed in accordance with Policy 29 of the South East Lincolnshire Local Plan, 2019.

- 9 Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of the extension, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme.

Reason: To prevent environmental and amenity problems arising from flooding.

This Condition is imposed in accordance with Policies 2, 3, 4 and 30 of the South East Lincolnshire Local Plan, 2019 and Section 14 of the National Planning Policy Framework, December 2024.

- 10 The permitted development shall be undertaken in accordance with a surface water drainage scheme which shall first have been approved in writing by the Local Planning Authority.

The scheme shall:

- be based on the results of evidenced groundwater levels and seasonal variations (e.g. via relevant groundwater records or on-site monitoring in wells, ideally over a 12-month period);
- be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development;
- provide flood exceedance routing for storm event greater than 1 in 100 year;
- provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;
- provide attenuation details and discharge rates which shall be restricted to the existing runoff rate;
- provide details of the timetable for and any phasing of implementation for the drainage scheme; and
- provide details of how the scheme shall be maintained and managed over the lifetime of the development, including any arrangements for adoption by any public body or Statutory Undertaker and any other arrangements required to secure the operation of the drainage system throughout its lifetime.

No dwelling/ no part of the development shall be occupied until the approved scheme has been completed or provided on the site in accordance with the approved phasing. The approved scheme shall be retained and maintained in full, in accordance with the approved details.

Reason: To ensure that the permitted development is adequately drained without creating or increasing flood risk or pollution to land or property adjacent to, or downstream of, or upstream of, the permitted development.

This Condition is imposed in accordance with Policies 2, 3, 4 and 30 of the South East Lincolnshire Local Plan, 2019 and Section 14 of the National Planning Policy Framework, December 2024.

- 11 The development hereby permitted shall be undertaken in accordance with a Construction Management Plan and Method Statement that shall first be approved in writing by the Local Planning Authority. The Plan and Statement shall indicate measures to mitigate the adverse impacts of vehicle activity and the means to manage the drainage of the site during the construction stage of the permitted development. It shall include;
- the phasing of the development to include access construction;
  - the on-site parking of all vehicles of site operatives and visitors;
  - the on-site loading and unloading of all plant and materials;
  - the on-site storage of all plant and materials used in constructing the development;
  - wheel washing facilities;
  - the routes of construction traffic to and from the site including any off-site routes for the disposal of excavated material and;
  - strategy stating how surface water run off on and from the development will be managed during construction and protection measures for any sustainable drainage features. This should include drawing(s) showing how the drainage systems (temporary or permanent) connect to an outfall (temporary or permanent) during construction.

Reason: In the interests of the safety and free passage of those using the adjacent public highway and to ensure that the permitted development is adequately drained without creating or increasing flood risk to land or property adjacent to, or downstream of, the permitted development during construction.

This Condition is imposed in accordance with Policies 2, 3, 4, 30 and 36 of the South East Lincolnshire Local Plan, 2019 and Section 14 of the National Planning Policy Framework, December 2024.

- 12 Prior to any occupation of the extension, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority. Those parts of the approved Travel Plan that are identified therein as being capable of implementation after occupation shall be implemented in accordance with the timetable contained therein and shall continue to be implemented for as long as any part of the development is occupied.

Reason: In order that the Local Planning Authority conforms to the requirements of the National Planning Policy Framework, a Travel Plan has been conditioned to ensure that access to the site is sustainable and reduces dependency on the car.

This Condition is imposed in accordance with Policies 2, 3, and 36 of the South East Lincolnshire Local Plan, 2019 and Section 14 of the National Planning Policy Framework, December 2024.

- 13 A car parking management plan, demonstrating how visitors and staff travel to and park on site, shall be submitted to and approved in writing by the Local Planning Authority prior to occupation of the approved extension. The management plan shall include measures to manage visits and deliveries to the site, promote staggered starts, manage visiting times, promote car sharing and measures to encourage staff travelling to the site using more sustainable modes of transport in conjunction with the Travel Plan as required by

Condition 14, in order to minimise and avoid on street and overspill car parking patterns on the surrounding public highway. The details so approved shall be maintained thereafter.

Reason: To prevent overspill parking on the adjoining public highway.

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

- 14 Prior to occupation of the extension hereby approved, the number, design, dimensions and position of secure cycle parking shall be submitted to and approved in writing by the Local Planning Authority. The details so approved shall be retained thereafter.

Reason: In order to promote active travel in accordance with the National Planning Policy Framework, December 2024.

This Condition is imposed in accordance with Policy 36 of the South East Lincolnshire Local Plan, 2019.

- 15 Prior to any vegetation clearance (defined as the deliberate removal of any semi-natural vegetative habitat e.g., grassland, trees, and native shrubs); or prior to the commencement of any development hereby permitted (whichever comes first); a written 30-year Habitat Management and Maintenance Plan (HMMP) for the Site in question shall be submitted to and approved in writing by the Local Planning Authority.

The approved HMMP shall be strictly adhered to and implemented in full for its duration and shall contain:

A) Aims, objectives and targets for management, including habitat target conditions matching the Statutory Biodiversity Metric submitted with the application.

B) Descriptions of the management operations necessary to achieving aims and objectives.

C) Preparation of a works schedule, including timescales for habitat clearance and habitat creation and/or enhancement.

D) Details of monitoring needed to measure the effectiveness of management.

E) Details of the persons responsible for the implementation and monitoring.

F) Mechanisms of adaptive management and remedial measures to account for changes in the work schedule to achieve required targets.

Reason: To meet the requirements of mandatory biodiversity net gain and to ensure net gain in biodiversity is provided on site.

This Condition is imposed in accordance with Schedule 7A of the Town and Country Planning Act (1990, as amended) and Policy 28 of the South East Lincolnshire Local Plan, 2019.

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.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be South Holland District Council.

This permission will require the submission and approval of a Biodiversity Gain Plan and Habitat Management and Monitoring Plan (HMMP before development is begun). This is over and above the information submitted and considered as part of this application, and will be required before development is begun, because none of the statutory exemptions or transitional arrangements listed below are considered to apply.

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>.

For clarity, the Local Planning Authority do not consider that any of the exemptions apply

in this case. As such, the development hereby permitted will 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.

### Note on Biodiversity Net Gain Requirements

When the pre-commencement condition for 10% BNG is submitted for condition discharge, this will require an additional 0.07 biodiversity units to achieve 10% BNG (which assumes the condition of the neutral grassland in the South East corner of the site is classified as "poor"). A way to achieve this onsite would be to ensure the 0.007 ha of the grassland in the South East corner is replaced with mixed scrub to meet the metric's



trading rules regarding habitat distinctiveness. This will leave a small unit shortfall. Planting an additional 7 more trees along the eastern boundary should bring the development up to the 10% requirement. These matters should be included within the details associated with the BNG HMMP condition.

#### Informative from Anglian Water

Desktop analysis has suggested that the proposed development will lead to an unacceptable risk of flooding downstream. We therefore highly recommend that you engage with Anglian Water at your earliest convenience to develop in consultation with us a feasible drainage strategy.

If you have not done so already, we recommend that you submit a Pre-planning enquiry with our Pre-Development team. This can be completed online at our website <http://www.anglianwater.co.uk/developers/pre-development.aspx>

Once submitted, we will work with you in developing a feasible mitigation solution. As a foul/surface water condition is applied by the Local Planning Authority to the Decision Notice, Anglian Water will require a copy of the following information prior to recommending discharging the condition:

#### Foul water:

Feasible drainage strategy agreed with Anglian Water detailing the discharge solution including:

- Development size
- Proposed discharge rate (Should you require a pumped connection, please note that our minimum pumped discharge rate is 3.8l/s)
- Connecting manhole discharge location (No connections can be made into a public rising main)

Notification of intention to connect to the public sewer under S106 of the Water Industry Act (More information can be found on our website)

Feasible mitigation strategy in agreement with Anglian Water (if required).

#### Informative from Welland and Deepings Internal Drainage Board

The IDB notes that foul water is to discharge ultimately to the mains system but the proposed discharge of surface water will require an application for consent to discharge surface water being submitted to the Board which is subject to the agreement of technical details, payment of the £50 application fee and payment of the relevant development contribution sum. Based on the information provided via informal discussions with the consulting engineers the development contribution payable to the Board prior to connection to any watercourse is £2,378.10.

#### Highway Informative 03

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>.



**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](mailto: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](mailto: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.