

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H16-0413-25 **Applicant:** Country Court Care Ltd.

Proposal: 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

Location: Ashwood Nursing Home 43 Spalding Common Spalding

Terminal Date: 11th August 2025

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
06	Developer Contributions
11	Distribution of New Housing
17	Providing a Mix of Housing
28	The Natural Environment
29	The Historic Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
32	Community, Health and Well-being
33	Delivering a More Sustainable Transport Network
35	Delivering the Spalding Transport Strategy
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework December 2024

Section 5 - Delivering a Sufficient Supply of Homes
Section 8 - Promoting healthy and safe communities
Section 9 - Promoting sustainable transport
Section 12 - Achieving well-designed and beautiful places
Section 14 - Meeting the Challenge of climate change, flooding and coastal change
Section 15 - Conserving and enhancing the natural environment.

Representations:

	Object	Support	No Obj.	Comments
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WARD MEMBER	1	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1
HISTORIC ENVIRONMENT OFFICER	0	0	0	1
WELLAND AND DEEPINGS INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	0
OTHER STATUTORY BODIES	0	0	0	1

CASE OFFICER ASSESSMENT

Description of Proposal

This application is made under Section 73 of the Town and Country Planning Act, 1990, seeking amendments to Condition 2 of H16-0437-24, relating to approved plans. It is proposed that the south-eastern boundary would be moved northwards by approximately 2m to 4m. As a result, the south-eastern portion of the extension has had to be reorientated to be slightly angled. There would be no change to the number of rooms etc proposed as a result of this, with the changes instead being enabled by alterations in the layout of internal shared amenity spaces.

In addition to the above, 113 photovoltaic (PV) panels are proposed along the south facing roofs throughout the site.

Site Description

The site is within the settlement boundaries of Spalding, as outlined within the South East Lincolnshire Local Plan, 2019. The application site is located to the eastern side of Spalding Common, the B1172, which is a radial road linking the A1175 from the south to Spalding Town Centre to the north. Spalding Common runs parallel to Cradge Bank and the River Welland, both of which are to the east, and both head north into Spalding. The application site is some 1.8 miles south of Spalding town centre.

Ashwood Care Home itself is a mix of single and 2-storey structures, which are adjoined to the rear, and linked to the front with 2 flat roofed structures that form 'quiet lounges' within. The care home is constructed in light buff bricks, with brown concrete roof tiles and white windows. The existing care home provides 47 bedrooms and associated space, over 2 main floors of development, with the first floor of development being much smaller than the ground floor.

The site is located within the settlement boundary of Spalding on an allocated site STM004. The care home is adjacent to a housing site that has been built out in recent years and appears to be nearing completion. The care home is set at a lower level than the adjoining housing. The nearest

neighbouring property is 2 Petrel Close which is a small dwelling set against the eastern boundary of the care home. This belongs to a short row of dwellings, all set at a higher level.

Relevant History

H16-0771-00 - Full. Single Storey extension to front of Care Home. Refused 4.8.2000.

H16-0157-01 - Full. Proposed Bedroom Extension to provide 10 additional bedrooms. Allowed on appeal 1.10.2001. (Not implemented).

H16-0407-05 - Permission Renewal. Proposed Bedroom Extensions (Renewal of Full Application H16-0157-01). Approved 9.5.2005.

H16-0405-08 - Full. Additional bedroom accommodation in one and two stories, together with lounge spaces, staff accommodation and spaces for additional uses. Approved 18.09.2008

H16-0399-10 - Condition discharge. Details of means of foul water disposal. Approved 12.07.2010.

H16-0437-24 - Full. Erection of two storey rear extension to provide additional bedrooms, day space, storage, nurses station, assisted bathrooms and additional car parking spaces. Approved 09.12.2024

H16-0359-25 - Condition discharge. Details of written scheme of archaeological investigation (Condition 8 of H16-0437-24). Approved 06.05.2025

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:

Anglian Water

"We have reviewed the submitted documents with the variation of condition and there are no drainage related documents therefore we are unable to make comments on the above application"

Environment Agency

"We did not recommend Condition 2 on application H16-0437-24 and therefore have no comment to make on this application."

Historic Environment Officer

"Thank you for consulting us on this application. This office previously provided comments on Application H16-0437-24 and recommended that, if permission were granted, an archaeological condition be included requiring a mitigation strategy to appropriately address the archaeological potential of the site. This would comprise a phased approach to archaeological investigation and mitigation. As a result, SHDC Conditions AR01, AR02, and AR03 were attached to the decision notice for H16-0437-24. A Written Scheme of Investigation (WSI) was subsequently submitted and formally approved for the evaluation works, which are scheduled to begin in early June 2025. We raise no objection to the proposed Modification of Condition 2"

Highway and Lead Local Flood Authority

"The proposal is for minor amendments to 2 that already has approval under H16-0437-24. The minor amendments proposed will not have an adverse impact upon the public highway or surface water flood risk."

Cllr Ashby

Objection - "The parking, the outside space is all being used for accommodation and other rooms for staff etc. There is no space on this site for any further development. This is over development of the site"

Environmental Protection

"No comments"

Welland and Deepings Internal Drainage Board

"Thank you for your consultation on the above application. Since my previous comments made under H16-0437-24 I have had informal discussions with a new consulting engineer and surface water disposal provisions have been revised slightly so please see my most current comments.

Firstly, a CCTV survey will need to be undertaken to investigate and prove the integrity of the receiving piped watercourse to accept any additional flow until it reaches a free outfall.

If the pipeline is proven to be blocked or not fit to receive the additional flows, then either some remedial works will need to take place to bring the pipeline up to standard, or connection will be refused by the Board and soakaways will need to be installed.

If a connection into the frontage pipeline is proven agreeable in principle then an application for consent to discharge surface water will need to be submitted which carries a £50 application fee as well as payment of the relevant development contribution. Based on the currently submitted information of a proposed total impermeable area of 0.17 ha and a maximum flow restricted to two litres per second, a development contribution of £5,505.62 is payable in advance of connection. Please note that development contributions are subject to annual increase in line with RPI"

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, no letters of representation have been received.

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.

Evaluation - Section 73

The proposal relates to the variation of Condition 2 of H16-0437-24, 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 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.

This is a Section 73A application, seeking to vary Condition 2 of H16-0437-24. The proposal seeks to reorientate the proposed extension, and would not increase the quantum or scale of development. In light of this, the principle of developing this site has been established within the earlier approvals. As such there is no objection in principle with the development.

The proposal is considered to be in accordance with the requirements of Policy 1 of the South East Lincolnshire Local Plan when viewed in principle given the aforementioned extant permissions on site. This is subject to an assessment of the relevant considerations, namely pollution and residential amenity.

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 proposal would provide a less orthodox arrangement than is currently the case. That being said, the orientation would not necessarily be harmful to the overall appearance of the development. The change has been well integrated into the proposed design, minimising its impacts.

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.

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 change in the positioning of the extension would not result in any additional overlooking occurring. Windows in this section face north and south currently. The change in orientation would not result in these windows gaining additional or intrusive views into the neighbouring dwellings. Likewise, the change in positioning would not result in additional overshadowing, as ample distance to neighbouring dwellings is still maintained.

The solar panels are not considered to have an unacceptable amenity impact. Any glint or glare which may emerge from the panels would be minimal, by virtue of their design which aims to minimise these aspects.

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. The proposal would not alter the number of bedrooms proposed, nor would it impact upon parking arrangements. As such, the parking arrangements proposed are considered

acceptable. The comments of the Councillor are noted; however, the proposal would not impact upon on site parking, which has previously been considered acceptable, as such, it would be inappropriate to resist the application on this basis.

The proposed panels would not impact upon highway safety.

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 most, with a hazard depth of up to 1m.

The proposed amendment would not increase the vulnerability of the site to the impacts of flooding. Nor would it exacerbate the risk of flooding elsewhere.

The previously requested conditions relating to site drainage are considered appropriate here. Drainage details are yet to be finalised, and therefore, it cannot be said that the proposed changes

would prevent the viability of any proposed drainage strategy.

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.

Impacts of Climate Change

In respect of the climate emergency, Section 14 of the NPPF states that new development should be planned for in ways that: "avoid increased vulnerability to the range of impacts arising from climate change" with care taken to ensure that, where development is brought forward in areas which are vulnerable, "risks can be managed through suitable adaptation measures, including through incorporating green infrastructure and sustainable drainage systems; and help to reduce greenhouse gas emissions, such as through its location, orientation and design".

Paragraph 166 of the NPPF details that when determining planning applications, Local Planning Authorities should "expect new development to: a) comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and b) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption", with 'significant weight' given to "the need to support energy efficiency and low carbon heating improvements to existing buildings, both domestic and non-domestic (including through installation of heat pumps and solar panels where these do not already benefit from permitted development rights)".

Policy 31, Part B of the SELLP outlines the considerations surrounding applications for renewable energy infrastructure, including solar panels. Policy 31 states: "with the exception of Wind Energy the development of renewable energy facilities, associated infrastructure and the integration of decentralised technologies on existing or proposed structures will be permitted provided, individually, or cumulatively, there would be no significant harm to:

1. visual amenity, landscape character or quality, or skyscape considerations;
2. residential amenity in respect of: noise, fumes, odour, vibration, shadow flicker, sunlight reflection, broadcast interference, traffic;
3. highway safety (including public rights of way);
4. agricultural land take;
5. aviation and radar safety;
6. heritage assets including their setting; and
7. the natural environment."

The proposed panels are considered to conform to the above criteria. As the development would be located on the roof of the building, there would be no impact upon land take or the natural environment through the loss of habitat. As outlined above, it is not considered that the proposed panels would impact upon visual or residential amenity or highway safety. There are no heritage assets which would be impacted by the proposal. Finally, due to the nature of the proposal, the proposed panels are not anticipated to have any impact upon aviation or radar safety.

The repositioning of the extension would not increase the environmental impacts compared to the existing approved extension.

The proposal is therefore considered to be in accordance with the provisions of Section 14 of the NPPF and Policy 31 of the SELLP. The

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.

The proposal would not impact upon the requirements of the previous application to demonstrate a net gain of 10%. The area which the repositioned extension would sit within was not a designated biodiversity area, and therefore, it is not considered that the works would detrimentally affect the ability for the required 10% gain to be demonstrated.

Conditions

17 conditions were placed upon the original application. It is considered appropriate to reapply all conditions, with the exception of Condition 8, which has been discharged under H16-0359-25, and Condition 9, where it has been evidenced that the requisite notification has occurred.

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.

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, 6, 11, 17, 28, 29, 30, 31, 32, 33, 36 and 36 of the SELLP, as well as Sections 5, 8, 9, 12, 14, and 15 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.