

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Development Manager

To: Planning Committee - 05 October 2022

(Author: Greg Watkinson - Planning Conservation Officer)

Purpose: To consider Planning Application H16-0704-22

Application Number: H16-0704-22

Date Received: 13 July 2022

Application Type: FULL

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

Location: Ayscoughfee Hall Museum & Gardens Church Gate Spalding

Applicant: South Holland District Council **Agent:** Oglesby and Limb Ltd

Ward: Spalding St Marys **Ward Councillors:** Lord Porter
Cllr H T Drury

You can view this application on the Council's web site at

<http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H16-0704-22>

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 The Applicant is South Holland District Council.

2.0 PROPOSAL

2.1 This Planning Application is for the installation of the Mary Ann Johnson drinking fountain alongside protective railings and surround base within Ayscoughfee Hall Gardens.

2.2 The Mary Ann Johnson drinking fountain was previously sited within Ayscoughfee Hall Gardens where the existing new WW2 memorial is situated. The fountain was installed in this location in 1956, having previously been dismantled from its former position in Hall Place where it had stood since its erection in 1874. Most recently, the fountain was dismantled once again in 2018 to make way for the current WW2 memorial. It is now proposed to locate the fountain within the historic 'paddling pool' feature which is situated to the North East of the former position within Ayscoughfee Hall Gardens.

2.3 In order to facilitate the locating of the fountain in its proposed position, the existing stone planter will be moved to the small lawn to the south. It is additionally proposed to erect a 1.1m tall simple frame and rail set of metal railings outside of the paddling pool stonework which will trace the exterior outline of the pool feature in orientation. The area surrounding the fountain within the pool will be planted with tulip beds additionally, information boards will be placed at the Eastern and Western ends of the pool, inside the railings giving information on the fountain.

3.0 SITE DESCRIPTION

3.1 Ayscoughfee Hall is a Grade I listed Manor House, originally built by Sir Richard Aldwyn dating

back to the 1450s (according to dendrochronological survey of the roof timbers). The building has historically been remodelled on several occasions throughout its history, most recently in 1845, by architect William Todd, who was also responsible for the design of Gamlyn's Almshouses (to the north of Ayscoughfee, along Church Street). The Property sits on roughly 5.5 acres of protected park and garden, which is itself listed to a grade II level, and contains the also-separately, Grade I listed Lutyens War Memorial.

- 3.2 Ayscoughfee Hall was upgraded from Grade II* level of listing to Grade I (most important) in 2012, and has been in the ownership of the Local Government since 1902, when it was donated to the people of Spalding by the Bonner family as a celebration of the coronation of George VI, since operating as a school, and a museum. The site was most recently refurbished 2003-2006.
- 3.3 The area of the gardens in which this set of proposals is situated is located on the Eastern side of the property, adjacent to the Aviary. Located within the central turfed area is the historic, likely C19th, water feature, referred to in this application as a 'paddling pool'. To the eastern end of this section of the gardens is the shelter and to the west is the WW2 memorial garden.
- 3.4 The Mary Ann Johnson was previously sited within Ayscoughfee Hall Gardens where the existing new WW2 memorial is situated. The fountain was installed in this location in 1956, having previously been dismantled from its former, original position in Hall Place where it had stood since its erection in 1874. Most recently, the fountain was dismantled once again in 2018 to make way for the current WW2 memorial.
- 3.5 The Historic England listing description describes the external elements of Ayscoughfee like so:
- 3.6 *"the entrance front (west elevation) has a five-bay, two-storey central range with advanced gables to the north and south cross-wings. Linking the cross-wings at the front of the central range is a five-bay loggia with pointed arch-headed openings and arcade piers with shallow stepped buttresses. These extend upwards through a shallow ashlar parapet pierced by quatrefoils to form low domed pinnacles. Behind the loggia are tall pointed arched windows which flank a centrally-placed doorway with slender attached columns to its surround and two-panelled double doors beneath an arched head. Above are five, two-light Y-traceried windows with cusped heads to the lights, set below a corbelled string course. Above this is a low crenellated parapet with a wide shallow broken pediment to its centre which supports a coat of arms surmounted by a stone eagle. The crenellated parapet is returned along the inner side walls of the advanced cross-wings which have elaborate Dutch gables. These have full-height canted bays incorporating mullioned windows with ogee-headed lights and shallow crenellated parapets. To the north of the north cross-wing is a substantial C15 tower which is square in plan and of three storeys, with a much taller stair turret at its south-west corner. The turret, extended in the C19, has a crenellated parapet set above machicolations. The tower's west elevation has a tall transomed C19 two-light window to each of the upper floors below a deep parapet. Its north wall has a wide projecting chimney breast supported by stone corbels. The rear (south) elevation is more representative of the building's many phases of development. The steeply-pitched gables of the cross-wings are plainly detailed, that to the north end now partially hidden behind mid-C19 extensions to the east of the cross-wing and to the tower further to the north. The gable has a first-floor three-light mullioned window set beneath a hood mould. To the left is a section of the rear wall of the former open hall and a much-restored medieval canted oriel window which originally lit the upper 'high' end of the open hall. The surrounding medieval brickwork here rises from a shallow and now much-decayed stone plinth and C19 crenellations have been added to the wall head and to the oriel. Further to the left is an advanced C19 extension to the hall with an ashlar turret to the right-hand corner, a ground floor doorway and an upper floor two-light mullioned window. To the left of this is a wide Tudor-arch-headed doorway with a three-pane rectangular over-light. The east gable of the south cross-wing has a ground floor Venetian window with narrow side lights and intersecting glazing bars to the central section and an enlarged and altered window opening at first-floor level which retains elements of the surrounds to two earlier openings, including a hood mould. The south elevation to the seven-bay two-storied section of the south cross-wing rises from a much earlier low stone plinth. It has late-C19 two-pane sash windows to the five western ground-floor bays and C19 two-light mullion and transom windows with hood moulds to the upper floor, all beneath a crenellated parapet. The remaining two-bay section has no visible openings, a single-storey garden room having been built against the east end of the cross-wing in the late C19."*

4.0 RELEVANT PLANNING POLICIES

4.1 **The Development Plan**

South East Lincolnshire Local Plan, March 2019

If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, Section 38 (6) to the Town and Country Planning Act as amended by the 2004 Act states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Policies:

- 01- Spatial Strategy
- 02 - Development Management
- 03 - Design of Development
- 29 - The Historic Environment

National Guidance

National Planning Policy Framework (NPPF), 2021

Section 12 - Achieving well-designed places

Section 16 - Conserving and enhancing the historic environment

Planning Practice Guidance (PPG)

5.0 **RELEVANT PLANNING HISTORY**

5.1 H16-0705-22

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

5.2 H16-0624-22

Repair and redecoration of the gates to the north of Ayscoughfee Hall at the east end of The Chestnut Avenue. Approved on 26-07-22.

5.3 H16-0495-22

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

5.4 H16-0496-22

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

5.5 H16-0494-22

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

5.6 H16-0493-22

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

5.7 H16-0497-22

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

- 5.8 H16-0498-22
Demolition of C20 greenhouse, erection of timber fencing, erection of timber pergola & replacement door to gardeners store building - retrospective. Approved on 26-07-22.
- 5.9 H16-0084-22
Removal of sliding timber gate, 20th Century timber door & panelling, repairs to brickwork & installation of new gates to boundary wall on east side of site. Approved on 10-03-22
- 5.10 H16-0085-22
Removal of sliding timber gate, 20th Century timber door & panelling, repairs to brickwork & installation of new gates to boundary wall on east side of site. Approved on 10-03-22
- 5.11 H16-0058-20
Gazebo style seating area for cafe. Approved on 30-11-20
- 5.12 H16-1202-18
Internal and external works to Ayscoughfee Hall. Approved on 15-02-19
- 5.13 H16-0540-13
Removal of existing storage, panel and tube heaters and installation of new energy efficient electric oil filled radiators in their place. Approved on 06-01-14
- 5.14 H16-0199-09
Details of new stonework, use of hand tools, replacement bricks, details of mortar, bonding, mortar colour and pointing style and photographic record of gate pier before dismantling (Conditions 2,3,4,5,6 and 7 of H16/0471/08). Approved on 16-04-09
- 5.15 H16-0471-08
Dismantle and rebuild of gate pillar at Ayscoughfee Hall. Approved on 04-07-08
- 5.16 H16-0280-04
Details for supporting vaulted undercroft below room F13 (Condition 2 of H16/1034/02). Approved on 10-03-04.
- 5.17 H16-1034-02
Demolition of 2 single storey additions, internal alterations, new lead roofs and new doors to garden room. Approved on 20-12-02.
- 5.18 H16-0771-01
Reinstatement of passage link between garden Education Room & Main Hall (south wing). Approved on 21-11-01

6.0 REPRESENTATIONS

6.1 Spalding and District Civic Society

The Spalding and District Civic Society submitted a consultation response on 16 August 2022 stating that they had not yet formulated their full consultation response which would be forthcoming at a later date. This response outlined that their full comment would object to the

proposal by covering the following points;

- Standard of the information submitted in support of the application
- Aspects of the National Planning Policy Framework and South East Lincolnshire Local Plan not considered by the applicant.
- Our concerns as to why only two locations (Ayscoughfee Gardens and Hall Place) have been considered by the applicant.
- The limited consultation undertaken by the applicant.
- The lack of public engagement undertaken by the applicant.
- Lack of transparency from the applicant.
- The sustainability of the heritage asset not considered by the applicant.
- The security concerns expressed by the applicant.

The Case Officer has also been made aware of a petition conducted by the Spalding and District Civic Society which is not specifically related to this application and was commenced several months prior to its submission. The petition called upon SHDC to place the fountain in Hall Place and had been signed several hundred times. However, at the time of the finalisation of this report (23 August 2022), the Spalding and District Civic Society had not yet submitted this to the LPA, citing data protection concerns.

Subsequent to the initial consultation response from the the Civic Society, they issued a further formal objection in the form of a substantial document which can be viewed at Appendix B of this report. The comment objects to the application on the following grounds;

- Accuracy of the Heritage Impact Assessment
- Lack of community engagement prior to submission of the application
- The extent and nature of expert advice sought
- The sequential test which lead to the proposed location being considered
- Missed heritage-led regeneration opportunities
- Climate change and preparedness impact of the development
- Impact upon and supposed lack of consideration of the Fountain's significance
- Validity of concerns regarding security
- Unsuitability of Ayscoughfee Hall gardens as a viable location for the fountain
- Fountain would be better situated elsewhere, in the town centre.

Given the extent of the objection and the fact that a number of the points raised relate to matters outside of the process of this application and outside the inherent knowledge of the case officer, the objection was sent to the applicant for a chance to reply to the points of the objection. The applicant's response can be read at Appendix C to this report.

6.2 Historic England

Historic England commented on the proposals by stating that whilst they usually advise that such public works would preferably be reinstated in their original position, they understand that due to road layout and modern infrastructure this is no longer possible. Additionally, because the fountain has a long history of also being situated in the Ayscoughfee Hall Gardens, they consider the proposed location to be appropriate and would afford the fountain its due prominence without distraction from other important features.

Historic England did object to the originally proposed railing layout, which was to be a circle surrounding the fountain which overlapped the stone pool outline. The application has since been amended to their exact recommendation for an acceptable alternative.

In accordance with the above, Historic England wished to raise no further objections, adding that they felt that the Local Planning Authority should carefully assess the justification for siting the fountain in the proposed location and that as part of that assessment, they should be aware that Historic England considered the proposal to enhance the significance of the Grade II listed park and garden.

6.3 Lincolnshire Gardens Trust

LGT Trustees welcome the proposal and considers the proposed location to be wholly appropriate and smart, bringing the unused Victorian paddling pool back into prominence.

6.4 Lincolnshire County Council Historic Environment Officer

This office welcomes the intention to re-erect the fountain, which is an architecturally and historically important piece of monumental sculpture. If it had survived in its original location the Fountain would almost certainly have merited formal designation as a Listed Building. All of the monuments discussed above are Listed, with the exception of the Lincoln fountain which was also relocated during the 20th century.

The developer has provided a detailed and well-researched Heritage Impact Assessment, which should provide sufficient information to enable the Local Planning Authority to make a reasoned decision regarding the potential impacts of the proposed development. It is evident that great care has been taken when selecting the proposed location within the Gardens. The proposed location reuses an existing feature of the disused paddling pool, and would provide an attractive historic focal point to this part of the Gardens which are underutilised and currently dominated by the modern timber band stand/seating canopy at the east end. It also avoids potential conflicts with existing historical features within the Gardens and does not impact on any important designed views of the Hall, which could harm its setting. This location within an area that has previously been disturbed in order to create the paddling pool also reduced the potential for impacts on below ground archaeological remains associated with the Hall and Gardens, as these will already have been removed or disturbed during the pool's construction. The recent amendment to the designs so that the proposed railings follow the outline of the former paddling pool stonework is an improvement to the initial plans where they would have overhung the stonework. The proposals to include interpretation boards explaining the history of the fountain is also to be welcomed as this would help to enhance and better reveal its significance and that of the Hall and Gardens, in accordance with the National Planning Policy Framework (section 16, paragraph 206).

It is recommended that it would not be proportionate to require archaeological monitoring during the groundworks for the fountain as it is unlikely that any meaningful information would be produced given the presence of the existing paddling pool. However, we recommend that the developer be required by condition to submit a report on the conservation work during the re-erection of the Johnson Fountain. The work required to re-erect the fountain in its new location is understood to involve cleaning, repairs and the replacement of some original stonework and therefore has the potential to reveal new evidence that could advance our understanding of its original methods of construction and the mechanics of its operation as a public water fountain. This report should be produced by the conservators or the architect, and include photographs and a written description of the work they have undertaken to conserve it and any observations regarding its methods of construction and the operation as a water fountain. It should be submitted for approval in writing by the local planning authority within one month of the fountain having been re-erected. A copy of the report should also be deposited with the Lincolnshire Historic Environment Record.

The report should be used to inform the content of the new interpretation boards that form part of the development. It is recommended that the developer be required to submit the designs for the interpretation boards for approval by the Local Planning Authority prior to their installation, in order to ensure that they enhance and better reveal the significance of the Grade II Listed Gardens and the setting of the Grade I Listed Hall.

6.5 Public

7 objections were received from 4 Local Residents. These can be summarised like so;

- The Fountain should be placed in Hall Place instead.
- The Council is taking the easy option by putting the fountain in Ayscoughfee Gardens.
- The proposal has not been properly costed.
- Costs are too high for the proposal to be viable.
- FOI requests regarding this topic have not been addressed within the statutory 20 day period
- Safety railings are not needed.
- Circular railings should not have been proposed in the first place and calls into question the professionalism of the consultant who was employed to formulate this proposal.
- The Fountain should be made to work, with running water.
- Placing the fountain away from the town-centre is 'short-sighted'.
- Global warming will mean that the paddling pool is required for children's use.
- The fountain is too heavy for the soil and ground treatment.
- Report carried out by Skillingtons suggests the fountain is lighter than initial predictions. Why the difference in weight?
- Fountain would be seen by more people if it were in the town centre.

7.0 **CONSIDERATIONS**

7.1 Planning Considerations

7.2 Heritage Impact

- 7.3 The Local Planning Authority does not consider there to be any risk to the value or significance of any associated heritage asset. As corroborated by the comments of Historic England, the Lincolnshire Gardens Trust and the LCC Historic Environment Officer, it is considered that the proposed location is a fully appropriate location for the siting of the fountain according to Policy considerations.
- 7.4 Policy 29, Section A, Paragraph 3 of the South East Lincolnshire Local Plan (2019) states the following; *"Proposals that affect the setting of a Listed Building will be supported where they preserve or better reveal the significance of the Listed Building."* The fountain structure has a long history of being situated within the grounds of Ayscoughfee Hall and was situated within visual range of the proposed location until relatively recently and was on site at the time of the designation of the registered park and garden, meaning that it forms a part of the recorded historic context of the gardens. Therefore, it cannot be said that the fountain is an alien or out of character addition to the hall which represents a form of development which is of detriment to the site's character. As the statutory consultees for this application highlighted because of the above fact, the reinstatement of the fountain to the grounds of Ayscoughfee Hall does assist in better revealing the significance of the listed building due to its role in the history of the gardens and its record for having been on-site for over half a century. Furthermore, the proposal to add information boards to the feature yet further assist in revealing the significance of the asset.
- 7.5 The extant stone planter is not original to the gardens and is not a fixed feature, its relocation to a site within visual range will not materially impact upon that asset and will not detract from its significance, as it will still be visible and a prominent feature within the gardens.
- 7.6 For the above reasons, it is considered that this location is an acceptable and viable choice for locating the Mary Ann Johnson fountain.
- 7.7 The proposed railings would be oriented in a way which does not harm the visual remains of the paddling pool or the fountain. The railings would be constructed of black metal and would be minimal in scale such that they should not harm the appreciation of the fountain or the wider historic setting and context at large.
- 7.8 For the reasons listed above, the Local Planning Authority considers the proposed development to assist in enhancing the historic environment in accordance with the requirements of Section 16 of the National Planning Policy Framework (2021) by reinstating a historic feature of the Ayscoughfee Hall registered park and gardens which represents an attractive and contextually interesting addition to this portion of the gardens.
- 7.9 Objection of the Spalding and District Civic Society.
- 7.10 Over the span of 2 objections, the Civic Society raised a broad range of objections to this application. These are approached, in order as they were summarised above in the 'representations' section of this report.
- 7.11 -Accuracy of the Heritage Impact Assessment:
- The Civic Society raises objections to the current HIA document based upon inaccuracies included within a previous incarnation of the HIA which were addressed and not included in the document submitted in supplement to this application. Errors in a previous, unrelated document are not grounds upon which to suspect negligent fulfilment of this HIA. The civic society further objects on the grounds that they were not credited for the corrections - this is immaterial to the consideration of this application and is a private matter between the agent and the civic society.
- 7.12 The Civic Society also objects to the statement that it is difficult to ascertain exactly where the fountain once stood in Hall Place. As the agent makes clear in the response to the comments (Appendix C), this was a reference to the fact that OS maps at the time are not pinpoint accurate and therefore it is difficult to know precisely (to exact measurements) where the

fountain once was. Again, this is not a material reason upon which to balance a determination.

7.13 -Lack of Community engagement prior to submission of the application

The civic society objects to the supposed lack of engagement with community stakeholders prior to submission of this application. On a principle level, discussions between the applicant and stakeholders prior to and outside of the planning process are considered immaterial to the consideration of this application.

The civic society raises Paragraph 39 of the National Planning Policy Framework (2021) which states; *" Early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties. Good quality preapplication discussion enables better coordination between public and private resources and improved outcomes for the community."*

As the applicant states in their response (Appendix C) Para. 39 of the NPPF (2021) is simply a guidance statement, outlining best practice for applicants. The NPPF does not suggest that failure to conduct pre-application consultations is relevant to the Planning Authority in determining an application and it does not suggest that it is grounds upon which to form a reason to refuse an application.

7.14 - The extent and nature of expert advice sought

The Civic Society claims that members of South Holland District Council stated that specialist advice would be sought for guiding the application and that they are not satisfied that this was the case. Again, the matter of what advice the applicant sought prior to submitting the application is considered immaterial to the LPA's consideration of this application.

7.15 The accompanying Heritage Impact Assessment was conducted by an individual who is qualified with an MA in Architectural Conservation, and is a Member of the Royal Institute of Chartered Surveyors (MRICS), an Associate Member of the Chartered Institute of Archaeologists (ACiFA) and a Member of the Institute of Historic Building Conservation (IHBC). The Local Planning Authority is confident that the author of the report is more than suitably qualified in accordance with the standards set out for HIA authors under Para. 194 of the NPPF (2021) and has no reason to doubt the professionalism or expertise of the author.

7.16 Historic England were consulted prior to the submission of the application on the positioning of the fountain, and again, twice, as part of the application process. The applicant is under no obligation to have consulted with Historic England any more than this and therefore a perceived lack of consultation is considered immaterial to this application.

7.17 -The sequential test which lead to the proposed location being considered

The existence of other potential sites for this proposal is considered immaterial to the determination of the application if there is no planning reason for the proposal to not take place where it has been proposed. The LPA is asked, specifically, by this application to determine whether or not, based purely on planning policy, this specific proposal is acceptable.

7.18 -Missed heritage-led regeneration opportunities

The Civic Society states that the NPPF, amongst other planning guidance and policies, requires all proposals wherever possible to meet standards set out by NPPF paragraphs; 8, 92, 189, 190 & 197 as well as SELLP paragraph 2.6. and that siting the fountain in the town centre would much better promote those standards of boosting the quality, appearance, use and viability of public spaces and would offer better regeneration opportunities. Again, as above, the LPA is asked, specifically, by this application to determine whether or not, based purely on planning policy, this specific proposal is acceptable. Nothing about the development as proposed is considered to run contrary to any of the policy points raised here and it could be said that it in fact does have those desired effects, but simply in another location. The possibility that some may believe those opportunities to be better suited to other locations is considered immaterial to the LPA's determination of this application.

7.19 -Climate change and preparedness impact of the development

The Civic Society raises the fact that the NPPF (2021) states at Para. 153 that plans should take a proactive approach to mitigating and adapting to climate change and that at Para. 11 it states that there should be "a presumption of sustainable development where plans promote a sustainable pattern of development" that seeks to "mitigate climate change and adapt to its effects." - similar sentiments are reinforced under the SELLP additionally.

- 7.20 This application does not cause any perceptible harm to the environment, nor does it risk substantially contributing to climate change and therefore, there is no effect against which to mitigate. Nothing about the proposal can be considered to be 'unsustainable' either. The Paddling Pool is currently unused and filled in. It has been this way for a substantial period of time, as it currently stands, it cannot be considered to be an active asset which the removal or reuse of would be harmful to the community. The Local Planning Authority cannot make judgements on this application based upon hypothetical future requirements, and ample swimming facilities already currently exist within Spalding.
- 7.21 As stated elsewhere in this report, of course, the favourable situation would have been to restore the non-designated heritage asset to full functioning order. However, its functioning use would have a negligible impact upon the effects of climate change and the proposal to not restore running water to the feature does not materially harm the character or value of the asset in a manner in which it would be appropriate to base a refusal upon.
- 7.22 Additionally, the Civic Society suggests that the proposal does not meet the SELLP's requirements for the improvement of health, social and cultural wellbeing. This proposal is not considered to risk harm to any of those characteristics and does not do anything to obstruct the enablement of healthy lifestyles.
- 7.23 -Impact upon and supposed lack of consideration of the Fountain's significance
- The Civic Society states the following;
- "Both NPPF and SELLP make clear above that the role of a heritage asset is far more than just to exist. More particularly, the NPPF states heritage assets should be conserved "in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations" (Para.189) . Development should take account of "the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation" (Para.190,(a)). Should "guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs" (Para.93 (c)). The SELLP requires applications "to enhance heritage assets" (Policy 2.8)."*
- 7.24 The objection accuses the proposal of not meeting any of the above.
- 7.25 The LPA recognises that to erect the fountain in working condition would not be an objectionable proposal and would be considered a positive step towards the fountain's conservation. However, the LPA is not being asked to consider alternative proposals, instead, it is being asked to judge whether the proposal is acceptable as it is on policy grounds. It is felt that reassembly of the fountain is far more important to the value and significance of the Non-designated heritage asset than to insist in this instance that it be restored to functionality as a fountain. The granting of consent in this circumstance does not necessitate the proposed works and nor does it preclude the applicant from exploring alternative proposals to the fountain in the future.
- 7.26 The fountain is significant, in part because of it's aesthetic qualities. It is considered a fallacy to state that should a working fountain ever run dry, even temporarily, its significance as a heritage asset is in any way diminished in a manner which is relevant to any section of the NPPF from a built heritage conservation perspective. The applicant argues that from their perspective it is unsustainable to rebuild the fountain in working order. From its current. unassembled state, it is an enhancement to the asset's significance to rebuild it, even if not in working order, particularly as it is proposed to also include information boards regarding the asset's history which in turn will better reveal the asset's significance.
- 7.27 The proposal to remove the fountain from storage and position it within the gardens of

Ayscoughfee Hall does not diminish, remove or otherwise alter the provision of any facilities or services.

7.28 -Validity of concerns regarding security

The Civic Society objects to the applicant's analysis of security concerns in Hall Place and the assumption that railings are required.

7.29 This is immaterial to the LPA's consideration, as there is no planning requirement for the applicant to have undertaken any security analysis, accurate or not, and the LPA is simply asked to determine whether or not the proposal is acceptable in its proposed format, including railings and positioning. The LPA does not consider the railings to be objectionable under any planning policy or guidance and security concerns or lack thereof at alternative possible sites are immaterial to the consideration of this site as proposed.

7.30 -Unsuitability of Ayscoughfee Hall gardens as a viable location for the fountain

The Civic Society claims that Ayscoughfee Hall gardens is an unsuitable location for the fountain because the Johnson family branch that lived at Ayscoughfee was not that of Mary Johnson who donated the fountain and that the decision to move it to Ayscoughfee in the C20th was controversial at the time and that placing the fountain in Ayscoughfee denies its original history.

7.31 The Civic Society claims that it is 'immaterial' that the Fountain was situated in Ayscoughfee Hall Gardens since the 1950s. It is not immaterial. The fountain has been located in Ayscoughfee Hall gardens for such a period that several generations of Spaldonians have known the gardens to have been the location of the fountain, furthermore, the fountain was in position within the gardens of Ayscoughfee at the time that the gardens were listed as a registered park and garden and again within the grounds of the Hall itself when the listing was amended to Grade I in 2012 - this means that the fountain is actually listed as a part of the setting of Ayscoughfee Hall and gardens and therefore, its positioning in another setting could in some senses be considered to be of detriment to the character of 2 active listings. The Fountain was never listed in its former setting. Furthermore, when consulted, neither Historic England nor the Gardens trust raised a single objection to the re-positioning within Ayscoughfee Hall gardens.

7.32 Perceived greater relevance to another site is again, considered irrelevant to this consideration when there also exists valid arguments for the development to take place in the proposed location, as the LPA is asked by this application, specifically, to determine if the specific proposal is acceptable in policy terms.

7.33 -Fountain would be better situated elsewhere, in the town centre.

Perceived greater suitability to another site is again, considered irrelevant to this consideration when there also exists valid arguments for the development to take place in the proposed location, as the LPA is asked by this application, specifically, to determine if the specific proposal is acceptable in policy terms.

7.34 Local Resident Objections

7.35 Several letters of objection were received, most of which followed a similar theme suggesting that instead, the fountain should be erected within Hall Place. This request/concern does not fall within the jurisdiction of what the Local Planning Authority is being asked to consider in this application. This application, is a proposal to site the fountain structure within the proposed location, and the Local Planning Authority is asked to come to a determination as to whether that specific proposal is acceptable in policy terms. The granting of consent for the siting of the fountain in the proposed location does not necessitate the proposed works and does not preclude the applicant from considering alternative possible locations. It is not a material planning consideration in this instance that there are potentially alternative locations for the structure referred to by this application

7.36 Aside from the proposed location of the fountain, a number of other sources of objection were

referred to. These are addressed, below;

- 7.37 - The proposal has not been properly costed / the proposal will cost too much to be viable:

The finances surrounding the proposal are not a material planning consideration. The Local Planning Authority is not asked, by this application, to make a judgement of the validity of the costing or upon the cost of the proposal to the applicant.

- 7.38 - An FOI to the applicant has not been responded to in the appropriate amount of time:

Communications outside of the specific planning process between objectors and the applicant are not of material concern to the consideration or outcome of this application

- 7.39 - The safety rails are not needed:

This application does not request that the LPA make a value assessment as to the supposed 'need' of each part of the proposal. The LPA is instead asked to consider if the proposal as a whole is acceptable in policy terms.

- 7.40 - Circular railings should not have been proposed in the first place and calls into question the professionalism of the consultant who was employed to formulate this proposal:

The original proposal was selected by the applicant out of a selection of several alternative proposals set forth by the agent which included the proposal as amended. Following consideration by the Conservation Officer in discussion with the Agent, the applicant agreed to amend the proposal to the alternative which had previously been proposed internally as an option.

- 7.41 - The Fountain should be made to work, with running water:

The LPA recognises that to erect the fountain in working condition would not be an objectionable proposal and would be considered a positive step towards the fountain's conservation. However, the LPA is not being asked to consider alternative proposals, instead, it is being asked to judge whether the proposal is acceptable as it is on policy grounds. It is felt that reassembly of the fountain is far more important to the value and significance of the Non-designated heritage asset than to insist in this instance that it be restored to functionality as a fountain. The granting of consent in this circumstance does not necessitate the proposed works and nor does it preclude the applicant from exploring alternative proposals to the fountain in the future.

- 7.42 - Global Warming will create a need for the paddling pool to be used as such:

The Paddling Pool is currently unused and filled in. It has been this way for a substantial period of time, as it currently stands, it cannot be considered to be an active asset which the removal or reuse of would be harmful to the community. The Local Planning Authority cannot make judgements on this application based upon hypothetical future requirements, and ample swimming facilities already currently exist within Spalding.

- 7.43 - The Fountain is too heavy for the ground / the Skillingtons report assesses a weight much lesser than that which is predicted in the Heritage Impact Assessment:

The weight of the extant fountain structure is not a material consideration in this circumstance. Some subsurface alterations may be necessary to facilitate the structure, but these will not impact upon the value or significance of any nearby heritage asset as they would not be visible above ground and no visible alterations are proposed by this application. The fountain was previously sited within visual range of its proposed location without reported issues relating to its weight. The difference in weight as suggested in the various documents accompanying this application is not of concern to the application and does not alarm the case officer - the writer of the Heritage Impact assessment simply reported a figure which it was thought the weight would be in the region of and should not be given any weight of consideration in the presence of an alternative figure assessed by Skillingtons as part of an informed report on the condition of the fountain - this report was carried out by a suitably trained/qualified and renowned building conservationist and gave a weight based on observations made in accordance with the

accepted standard weights of Granite and Sandstone, which are 2.6 tonne per m³ (Granite) and 2.5 tonne per m³ (Sandstone).

7.44 Planning Balance

7.45 The Local Planning Authority does not consider there to be any detracting factors against which to balance a recommendation to approve. The proposal is fully in accordance with the requirements set forth by Policy 23, Section A, Para. 3 of the South East Lincolnshire Local Plan (2019) as well as Section 16 of the National Planning Policy Framework. It could perhaps be suggested that the removal of the stone planter to an alternative location is regrettable, however, its new location is not an inappropriate one and does not detract from appreciation of it, or the wider setting of the garden. Overall, the proposal is aesthetically sensitive and appropriate to the setting and fully meets the standard requirement of all works in the setting of listed buildings, in that it does enhance and better reveal the significance of the associated heritage asset, as well as the Non-designated heritage asset (the fountain).

7.46 Conclusion

7.47 Taking into consideration these factors, the proposal is considered to comply with Policies 1, 2,3 and 29 of the South East Lincolnshire Local Plan, 2019, plus advice within the National Planning Policy Framework, 2021

7.48 **Additional Considerations**

7.49 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.

7.50 Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the

submitted application based on the considerations set out in this report.

8.0 RECOMMENDATIONS

8.1 Grant planning permission subject to those conditions listed at Section 9.0 of this report.

9.0 CONDITIONS

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

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:

Application Form
Report on condition of proposed rebuilding of Fountain
A1572F-01 Rev P2
A1572-02 Rev P6
A1572F-HIA rev P6 Final Version

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

3. Within 1 month of the fountain having been re-erected a report outlining the conservation works carried out in the process of its re-erection shall be submitted and approved in writing by the local planning authority. A copy of the report should also be deposited with the Lincolnshire Historic Environment Record.

This report should be produced by the conservators or the architect, and include photographs and a written description of the work they have undertaken to conserve the fountain and any observations regarding its methods of construction and the operation as a water fountain.

Reason: To ensure that a recording is made of the works conducted to this important non-designated heritage asset, which is of significance to the history of Spalding and to better inform understanding of it as a structure.

This condition is imposed in accordance with Section 16 of the National Planning Policy Framework (2021).

4. The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise, and subsequently determining to grant planning permission.

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

Background papers:- Planning Application Working File

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Appendices attached to this report:

Appendix A Plan A

Appendix B Civic Society Formal Letter of Objection

Appendix C Applicant's Response to Civic Society Objection

