DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-0816-26**	**Applicant:**	**Denco Alliance**
Proposal:	Demolition of existing agricultural barns and greenhouse and erection of residential development - approved under H16-0689-24. Modification of Condition 3 to allow ground floor to be used as private gym and utility		
Location:	Land At Water Lane Nurseries Low Road Spalding		
Terminal Date:	30th October 2026		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development
04	Approach to Flood Risk

National Guidance

National Planning Policy Framework August 2026

Section 14: Achieving well-designed places
Section 18: Managing flood risk and coastal change

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1
SHDC INTERNAL	0	0	1	0

CASE OFFICER ASSESSMENT

Proposal

This application seeks planning permission under Section 73 of the Town and Country Planning Act 1990 to vary Condition 3 of planning permission H16-0689-24, which approved the demolition of

existing agricultural barns and a greenhouse and the erection of residential development.

Condition 3 restricts the ground floors of the approved properties to use as garages, garden stores and WCs, excluding habitable accommodation in the interests of flood safety. The application seeks to broaden the permitted ground-floor uses to include private domestic gyms and utility rooms ancillary to the respective dwellings. It does not seek permission for ground-floor bedrooms or separate residential accommodation.

Revised floor plans and elevations have been submitted for Plot 1 (661.PD3.01), Plots 2 and 7 (661.PD4.01), Plots 5 and 6 (661.PD5.01) and Plots 8 and 9 (661.PD6.01). These illustrate the proposed ground-floor arrangements and associated external alterations, including the replacement of garage doors with glazed doors in some instances.

The application concerns the use and detailed treatment of the approved ground floors, rather than an increase in the number of dwellings or an extension to the approved buildings.

Site Description

The application site lies outside the settlement boundary for Spalding, on the eastern bank of the Coronation Channel. It adjoins the wildlife corridor and the cycle and pedestrian route which follow the eastern bank of the Channel.

The site comprises agricultural and horticultural buildings, including glasshouses, with demolition forming part of the approved residential redevelopment. Access is from Low Road via the existing access serving Water Lane Nurseries.

The site is within Flood Zone 3 on the Environment Agency's Flood Map for Planning. The South East Lincolnshire Strategic Flood Risk Assessment modelling for 2115 identifies areas of the site within the 'Danger for Some' and 'Danger for Most' hazard categories.

History

H16-0689-24 - Demolition of existing agricultural barns and greenhouse and erection of residential development. Approved 2nd April 2025.
H16-0211-11 - Proposed extension and alterations to bungalow. Approved 18th May 2011.
H16-0415-12 - Proposed new glasshouses. Approved 20th July 2012.

Consultation Responses

Environment Agency

No objection, provided that the amended condition continues to restrict the ground floor to non-habitable uses to the satisfaction of the Local Planning Authority.

Environmental Protection
No comments regarding the modification of Condition 3. The previous comments on application H16-0689-24 remain applicable.

Representations

The application has been advertised in accordance with the Development Management Procedure Order 2025 (as amended). No objections have been received.

Planning Considerations

Evaluation - Section 73

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications to be

determined in accordance with the development plan unless material considerations indicate otherwise. The relevant development plan policies include Policies 2, 3 and 4 of the South East Lincolnshire Local Plan 2019.

The National Planning Policy Framework is also a material consideration. Section 73 enables the Local Planning Authority to grant permission for development subject to conditions differing from those attached to an existing permission.

The assessment concerns the conditions under which the development may proceed and the planning effects of the amendments sought. The established principle of residential redevelopment is not being reconsidered afresh, although relevant current policies and material considerations must inform the assessment of the proposed changes.

A grant under Section 73 constitutes a separate planning permission. The decision must therefore include the conditions necessary to control the development as a whole. In this case, Condition 3 would be varied to address the proposed ground-floor uses and Condition 2 would require a consequential update to the approved drawings. Condition 1 must preserve the commencement period attached to the original permission rather than introduce a fresh three-year period.

Assessment

The principal issue is whether the proposed additional ground-floor uses can be accommodated without undermining the flood-risk safeguards upon which the original permission was granted. The original restriction allows garages, garden stores and WCs but excludes habitable accommodation, with the stated purpose of preventing sleeping or vulnerable living accommodation at ground-floor level.

The assessment must therefore consider the actual nature of the proposed gym and utility uses, rather than rely solely on the room labels shown on the drawings. The associated changes to openings also require consideration in terms of their effect on the appearance of the development and neighbouring amenity. The extent to which the existing conditions remain necessary is addressed below. The main considerations are flood risk, character and design, residential amenity and the conditions to be attached to any new permission.

Flood Risk

Policy 4 of the South East Lincolnshire Local Plan seeks to ensure that development in areas at risk of flooding is appropriately located and incorporates the safeguards necessary to protect people and property. Policy F7 of the National Planning Policy Framework requires development to be safe throughout its lifetime, with residual risks appropriately managed and without increasing flood risk elsewhere. The site's flood-risk context makes the continued restriction of ground-floor accommodation necessary.

Whilst a private gym or utility room would be occupied during use, the proposal would not introduce sleeping accommodation or relocate the principal day-to-day living accommodation to the ground floor. Utility rooms would serve domestic laundry and related ancillary functions, and the gyms would be for private exercise associated with the respective dwellings.

The Environment Agency has raised no objection, subject to the Council being satisfied that the amended condition continues to exclude habitable ground-floor uses. This is a qualified response and does not remove the need for a planning judgement on the suitability of the proposed arrangements. In this instance, the limited ancillary functions proposed are considered capable of being distinguished from bedrooms, living rooms, dining rooms and kitchens. Their acceptance will therefore be secured through the amendment of condition 3, allowing the use of teh ground floor as a GYM, but retaining the exclusion that primary living can been provided on ground floors.

Condition 3 will therefore continue to restrict the ground floors to the garages, garden stores, WCs, private domestic gyms and utility rooms shown on the updated approved plans, with the gym and utility uses remaining ancillary to the respective dwellings. It will prohibit their use as bedrooms, living rooms, dining rooms, kitchens or separate residential accommodation.

The existing permitted development restrictions on extensions and other alterations would also be

retained to safeguard the approved approach. Subject to these controls, the variation is considered to retain the essential purpose of the original condition and would not introduce an unacceptable change in the vulnerability of the approved accommodation. The proposal is therefore considered acceptable in relation to Policy 4 of the Local Plan and the relevant flood-safety requirements of the National Planning Policy Framework.

Character and Design

Policies 2 and 3 of the South East Lincolnshire Local Plan require consideration of the character, appearance and design of development and its relationship with its surroundings. Policy DP3 of the National Planning Policy Framework similarly seeks development which responds appropriately to its context and achieves a coherent and attractive design. The external changes are limited to the detailed treatment of the approved ground floors, including the substitution of glazed doors for some garage doors.

These alterations would not increase the scale or massing of the buildings and would remain consistent with the residential character of the approved scheme. They are not considered to undermine its overall architectural approach or result in an incongruous appearance when viewed from the surrounding area, including the adjacent pedestrian and cycle route. Condition 11 (submission of external materials) would be reattached to secure approval of the external materials, ensuring that the detailed finishes form a coherent part of the development.

Subject to this control, the changes are considered acceptable in accordance with Policies 2 and 3 of the Local Plan and Policy DP3 of the National Planning Policy Framework.

Amenity

Policies 2 and 3 of the South East Lincolnshire Local Plan seek to protect residential amenity through appropriate design and relationships between development and neighbouring uses. Policy P3 of the National Planning Policy Framework also requires acceptable living conditions and the avoidance or mitigation of unacceptable pollution, including noise.

The proposed changes would not enlarge the approved buildings and would therefore not introduce additional built form giving rise to an overbearing effect or additional overshadowing. The amended openings are at ground-floor level and, having regard to the relationships described in the submitted scheme, are not considered to introduce unacceptable overlooking or loss of privacy.

They would not create new elevated views towards neighbouring properties or their private amenity areas. The gym and utility uses would remain private domestic activities ancillary to the dwellings.

On that basis, their nature and scale are not considered likely to give rise to unacceptable additional noise or disturbance. Environmental Protection has raised no specific concern regarding the variation. Subject to the restriction of the proposed uses, the development is considered acceptable in amenity terms and consistent with Policies 2 and 3 of the Local Plan and Policy P3 of the National Planning Policy Framework.

Previously Attached Conditions

No applications to discharge the original conditions have been received. The conditions remain relevant and will be reattached, retaining the controls over flood risk and permitted development, drainage, highway works, biodiversity net gain and habitat management, contamination, refuse collection and external materials. Condition 1 will be worded to preserve the original commencement deadline, Condition 2 will be updated to identify the revised approved plans, and Condition 3 will be varied to permit the specified ancillary gym and utility uses whilst maintaining the prohibition on sleeping and other habitable ground-floor accommodation.

Planning Balance

The proposal would provide greater flexibility in the ancillary use of the approved dwellings and would result in limited alterations to their ground-floor appearance. This represents a modest benefit

to future occupiers. The benefits of the residential redevelopment itself have already been considered under the original permission and are not additional benefits arising from this assessment.

The principal consideration is the protection of future residents from flood risk. For the reasons set out above, the proposed uses are considered acceptable subject to a clearly defined and enforceable restriction on ground-floor accommodation. The limited external alterations would preserve the overall design of the approved scheme and would not result in unacceptable harm to neighbouring amenity.

The remaining conditions would continue to secure the safeguards required for the development as a whole. The proposed variation is therefore considered to accord with the relevant development plan policies, with no material consideration identified that would justify a decision otherwise than in accordance with the development plan.

Conclusion

The proposed private domestic gym and utility uses, together with the associated alterations to the ground-floor openings, are considered acceptable subject to the continued restriction of sleeping and other habitable accommodation at ground-floor level.

The amendments would retain the essential flood-risk safeguards of the original permission and would not cause unacceptable harm to the character of the area or residential amenity. It is therefore recommended that planning permission be granted under Section 73, subject to the reattachment of the existing conditions, with Conditions 1, 2 and 3 amended as set out above.

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.