DECISION DELEGATED TO HEAD OF PLANNING

| | | | |
|---|---|---|---|
| **Application No:** | **H16-0923-25** | **Applicant:** | **Castle Events Limited** |
| **Proposal:** | Erection of a freestanding, fully reversible outdoor servery unit to function as a coffee/bar area within the courtyard - Retrospective | | |
| **Location:** | The Sessions House Sheep Market Spalding | | |
| **Terminal Date:** | 20th March 2026 | | |

**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 |
| 09 | Promoting a Stronger Visitor Economy |
| 24 | The Retail Hierarchy |
| 25 | Supporting the Vitality and Viability of Boston and Spalding Town Centres |
| 29 | The Historic Environment |
| 30 | Pollution |
| 32 | Community, Health and Well-being |
| 36 | Vehicle and Cycle Parking |
| APPENDIX 6 | Parking Standards |

**National Guidance**

**National Planning Policy Framework December 2024**

Section 4 - Decision making
Section 7 - Ensuring the vitality of town centres
Section 9 - Promoting sustainable transport
Section 12 - Achieving well designed places
Section 16 - Conserving and enhancing the historic environment

**Representations:**

| | Object | Support | No Obj. | Comments |
|---|---|---|---|---|
| WARD MEMBER | 1 | 0 | 0 | 1 |
| HIGHWAYS & SUDS SUPPORT | 0 | 0 | 0 | 1 |
| SPALDING & DISTRICT | 0 | 0 | 0 | 1 |

| | | | | |
|---|---|---|---|---|
| CIVIC SOCIETY | | | | |
| SHDC INTERNAL | 0 | 0 | 1 | 3 |
| OTHER STATUTORY BODIES | 0 | 0 | 0 | 2 |
| RESIDENTS | 5 | 0 | 0 | 1 |

## CASE OFFICER ASSESSMENT

### Proposal

This is a full planning application seeking permission for the erection of a freestanding, fully reversible outdoor servery unit to function as a coffee/bar area within the courtyard at The Sessions House, Sheep Market, Spalding.

The building is located in the eastern corner of the site and has a total height of 2.79m with a length of 7m and width of 2.3m (approximate measurements). Furthermore, it is constructed from external timber cladding over the visible area of the repurposed steel container and with a felt roof.

### Site Description

The site is located within the defined settlement boundary of Spalding as outlined in the South East Lincolnshire Local Plan, 2019 (SELLP). The building is located within the Spalding Conservation Area.

The Sessions House is a Grade II listed building, described like so:

*"by Charles Kirk. Massive stone structure in the form of a castle. 2 crenelated side towers and recessed centre of 2 storeys, of 3 bays divided by buttresses, centre heraldic beast finials. 3 windows between buttresses with 'Perpendicular' tracery. Central 4-centred doorway. Royal Arms to centre of crenelated parapet. Side towers of 3 storeys, with oriels to 1st floor, 4-centre doorways, carved spandrels. Clock to left tower. Side elevation in pale brick. See also Police Station."*

The Sessions House is situated on the sheep market, which forms one of the principle character areas of the Spalding Conservation Area. The site is also adjacent to the similarly Grade II listed former police station, and is considered to form part of a character group of local interest buildings with that site in addition to Nos 32 and 33 The Crescent.

Within its setting, The Sessions House is the most prominent building and defines the area's character.

### History

H16-0166-95 - Re-slating (Welsh Slate) of main south facing roof slope - Refused

H16-0426-09 - Reinstatement of wall and cast iron railings and entrance gate to front of courthouse - Approved

H16-1018-16 - Change of use of Sessions House to residential, including internal alterations - Approved

H16-1017-16 - Change of use of Sessions House to residential, including internal alterations - Approved

H16-1166-17 - Removal of wooden court dock - Approved

H16-0512-18 - Change of use of part of residential dwelling to D2 use (assembly and leisure) - Approved

H16-0154-19 - Removal of disused painted stone fireplace, removal and bricking up of kitchen serving hatch and dismantling of wood and glass entrance way. Works to the exterior front of the building including installation of an external light and replacement of a doorbell - Approved

H16-0034-20 - Change of use of part of residential dwelling to D2 use (assembly and leisure) - approved under H16-0512-18. Modification of Condition 3 to allow more versatility and offer a wider range of uses - Approved

H16-0209-25 - Removal of tiered benching viewing gallery in the old courtroom - Approved

**Consultation Responses**

Spalding & District Civic Society

There is not enough information in the way of details of the building or materials to be used to consider this application properly. The facility is up and running, so the application should be considered retrospective. The materials used conflict with those stated in the application.

Lincolnshire County Council Highways & SuDS

Recommendation: No Objections

Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network or increase surface water flood risk and therefore does not wish to object to this planning application.

Comments:

This proposal is for erection of a freestanding, fully reversible outdoor servery unit to function as a coffee/bar area within the rear courtyard and the access and parking arrangements remain unchanged; therefore, it is considered that the proposals would not result in an unacceptable impact on highway safety.

As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to drainage and surface water flood risk on all Major applications. This application is classified as a Minor Application and it is therefore the duty of the Local Planning Authority to consider the surface water flood risk and drainage proposals for this planning application.

Lincolnshire County Council Historic Places

Thank you for consulting us on this.

Having reviewed the application documents and the updated available Historic Environment information for this application, the proposal is unlikely to have an impact on significant archaeological remains. Consequently, no further archaeological input is necessary for this application. It is not necessary to consult us on this application again, unless there are material changes to the proposals. However, if you would like advice from us, please contact us to explain your request.

Finally, as the proposal includes alterations within the curtilage of The Sessions House (Grade II listed building, MLI94250) and lies within the Spalding Conservation Area, the SHDC Conservation Officer should be consulted prior to determination, given the potential impacts on setting.

*Comments After Amendments*

Thanks for consulting us on this amendment. We reiterate our previous comments dated 16-01-26

We reiterate our previous comments dated 16-01-26.

South Holland District Council Licensing

On receipt of the planning consultation - noted that the premises holds a premises licence under the Licensing Act 2003. If there are any variations to this licence as a result of the amendments please contact the licensing team to discuss.

South Holland District Council Environmental Protection

No comments regarding land contamination.

The use of this external area has the potential to increase the risk of noise nuisance to neighbouring residential properties.

I would therefore recommend that the use of this building is restricted to daytime use only and retained for use as beverages/take away snack use only.

*Further Comments*

The use of the outdoor servery as a bar is likely to change the character of the usage of the external area from an area used occasionally for consumption of alcohol supplied elsewhere in the premises. The restriction of the hours to those proposed by the applicant should reduce the likelihood of complaints but will need to be carefully managed and appropriate controls need to be in place and maintained and monitored by the applicant.

South Holland District Council Conservation Officer

I write to confirm my view of the proposed development, which whilst including some caveats, should be taken as no objections at this stage.

Para. 212 of the NPPF confirms that when considering the impact of a proposed development on the significance of a designated heritage asset (DHA), great weight should be given to the asset's conservation. It furthermore categorises harm as 'substantial', 'total loss', and 'Less than substantial'

Para. 213 of the NPPF confirms that any harm to or loss of the significance of a DHA, should require clear and convincing justification.

Para. 215 of the NPPF later confirms that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Furthermore, in relation to development concerning Listed Buildings, Policy 29 of the SELLP confirms, at section A(3), "Proposals that affect the setting of a Listed Building will be supported where they preserve or better reveal the significance of the Listed Building." In assessing this case, it is quite clear that the development comprises a form of harm, owing to the construction of a modern and aesthetically commercial temporary building in the grounds of a listed building in a location which is visible from the public realm, and to a lesser degree also blocks views of the former police station (also listed) from the sheep market (although the primary view - through the side gate - remains intact, and the affected views were already partially obscured by the original courtyard wall). In this case, I would ascribe the level of 'less than substantial harm' as 'substantial harm' is a high test, not met by a relatively small, temporary structure, which although negatively impacts upon the setting of the Listed Building(s), is partially hidden from public view to the best of the site's capacity and is relatively minor in the overall scale of the site. However, It should be made clear that under typical circumstances, such a proposal would be outright refused consent as a result of this harmful character effect.

In strict accordance with Para. 213 of the NPPF, it would appear that no justification for these works has been provided. I would therefore suggest we would need the applicant's justification and rationale for needing / wanting this development to be formally submitted. However, on the basis of

Para. 215, and the importance of this site to the town centre's character, I might suggest that the less than substantial harm identified could be mitigated via this development contributing to the optimum viable use of the site, allowing the operating commercial enterprise to develop a foothold whilst wider works are carried out to the main listed building.

With the above in mind, I would suggest that a temporary consent, of no more than 3 years could be justifiable if all else is satisfied, although this will require the applicant's justification in line with Para. 213 of the NPPF. There is harm identified and it is therefore imperative that the development not be allowed to become a permanent addition to the townscape, and so I would also advise that the applicant be made aware that the LPA would be extremely unlikely to support any additional extension or renewal of that consent if granted. Moreover, I would recommend an additional condition requiring the removal of the temporary structure and utility connections and the making good of remaining external surfaces before a date no later than the expiry of the consent.

Public Representation

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, 13 letters of representation have been received.

These can be summarised as follows:

- Concerns over residential amenity, increase in noise and disturbance with alcohol being served until 23:00pm 7 days a week
- Likely to generate significant noise from customers, raised voices and event activity
- The application fails to demonstrate how noise will be adequately mitigated or enforced in practice
- Potential to harm the Grade II listed former Police Stations
- Would harm the setting and character of the Sessions House, detracts from the historic character of the courtyard
- Courtyards often form an integral part of the setting of listed buildings and the proposed overtly commercial use is visually incongruous
- If approved it should be subject to strict conditions to protect residential amenity and the heritage setting. These should include limiting the use to a daytime cafe only
- Concerns over development potentially needing Listed Building consent as it falls within the curtilage of a Grade II Listed Building and is immediately adjacent to a wall
- The unit is higher than the original wall of the Sessions House which is itself an important historical feature of the Sessions House and which is detrimentally affected by this development
- Includes hedging directly in front of the old Police Station that is clearly intended to obscure it so would be detrimental to its character and significance
- The unit has plumbing, electrics and drainage so is not reversible
- The opening hours are not in keeping with the ambiance of the local area as the whole market square is quiet after 6pm
- Concerns over retrospective nature of the application
- Concerns over the size and look/materials of the cabin
- Creates visual clutter and makes the area looks messy and industrial
- People in community lose ability to see and enjoy local heritage which causes harm

## Key Planning Considerations

The main issues and considerations in this case are (but are not limited to):
- Principle of Development and Sustainability
- Layout, Design and Impact on the Character of the Area
- Heritage Impact
- Impact on Neighbouring Residents/Land Users/Land Uses
- Highway Safety and Parking
- Flooding Risk Considerations and Drainage
- Biodiversity

## 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.

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms 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 (updated December 2024) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

## Planning Considerations

### Principle of Development and Sustainability

The South East Lincolnshire Local Plan (2019) sets out the settlement hierarchy in respect of delivering sustainable development that meets the social and economic needs of the area whilst protecting and enhancing the environment; whilst making more sustainable use of land and to minimise the loss of high-quality agricultural land by developing in sustainable locations and at appropriate densities.

Policy 1 of the South East Lincolnshire Local Plan (2019) sets out a spatial strategy for delivering sustainable development across South East Lincolnshire to 2036. Policy 1 (Spatial Strategy) expresses this sustainable framework 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 in respect of sustainable development are areas of limited development opportunity including 'Minor Service Centres', with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location.

The application site in this instance is within Spalding, a 'Sub-Regional Service Centre', and lies within the defined settlement boundaries as detailed by Policy 1. In context of this, the principle of development within this location is considered to be appropriate. This can also be supported through the previous permissions on site which granted a change of use for The Sessions House to be used as D2 (assembly and leisure), with H16-0034-20 extending the use of the previous 2018 permission to a total of fifteen different event types. It is therefore considered that the use of the site and building as a business is well established and has been used in this manner since at least 2018.

Whilst the siting of this outdoor servery would introduce a new element to the business, this is not vastly dissimilar to existing aspects on site. Those who attend events at The Sessions House or rent the building out for such a purpose would use the existing bar area inside therefore outlining that a similar use is already provided on site. An outdoor version of this would extend the premises to a day time use as well as purely for events and thus create an extra revenue source for the owners whilst also providing a benefit to the public. It is within a prime location for this with it being just outside the Spalding Town Centre Boundary and nearby to existing community facilities. The location is vastly sustainable as a result of this and comprises an appropriate form of development for the location and would therefore be in accordance with the overall principles of the spatial strategy.

As such, the proposal is considered to be in accordance with the requirements of Policy 1 of the South East Lincolnshire Local Plan (2019) when viewed in principle. This is subject to the assessment against site specific criteria; including (but are not limited to) the impact of the proposal on the character or appearance of the area, impact on the residential amenities of neighbouring occupiers, impact on highway safety and flood risk, which are discussed in turn as follows.

### Layout, Design and Consideration of the Character and Appearance of the Area and Heritage Impacts

Section 12 of the National Planning Policy Framework (December 2024) specifically relates to 'Achieving well-designed places' and details 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 National Planning Policy Framework (December 2024), states that new development should function well and add to the overall quality of the area (beyond the short term and over the lifetime of the development) and should be visually attractive as a result of good architecture, layout 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.

Development proposals should also ensure that developments 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 South East Lincolnshire Local Plan (2019) outlines sustainable development considerations for development proposals, providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 accords with the provisions of Section 12 of the National Planning Policy Framework (December 2024), in that it 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 National Planning Policy Framework (December 2024) 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 application site in this instance is within the Spalding Conservation Area and The Sessions House itself is a Grade II Listed Building. Not only this, it is within close proximity to multiple other Listed Buildings, most notably the Grade II listed former Police Station.

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

In assessing proposals of this nature, the Local Planning Authority must ensure special regard to preserving the Listed Buildings and their settings in relation to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act'). No harm should be caused with the historical assets and their surroundings requiring to be preserved or enhanced.

The National Planning Policy Framework (NPPF) (December 2024) expresses the importance of considering the impact of development on the significance of designated heritage assets; advising that development and alterations to designated assets and their settings can cause harm. These policies ensure the protection and enhancement of the historic buildings and environments. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance should be treated favourably.

Section 16 of the National Planning Policy Framework (December 2024) states that "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance".

Policy 29 (The Historic Environment) states amongst other matters that the distinctive elements of the South East Lincolnshire historic environment will be conserved and, where appropriate, enhanced, in keeping with the policies in the National Planning Policy Framework (December 2024). Development proposals will expected to conserve and enhance the character and appearance of designated and non-designated heritage assets, including archaeology, historic buildings, conservation areas, scheduled monuments, street patterns, streetscapes, landscapes, parks

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

As outlined above, the building would have a total height of around 2.79m with a length of 7m and a width of 2.3m. It should be noted that these measurements are all approximate and were taken on site by the case officer accompanied by the applicant, due to the issues with the scaling of the plans. Furthermore, the building is constructed from black external timber cladding and a felt roof.

The overall height of the building causes it to be visible over the external walls of The Sessions House. The building, given this and its siting, is such that the proposal building would be visible, including through views towards The Sessions House, and The Former Police Station.

Given this visual impact, coupled with the unsympathetic and uninspiring design of the structure, it is considered that harm would arise to these heritage assets, by virtue of the resultant imapct upon the area and setting of these nearby listed buildings. The character assessment cannot be carried out without first discussing the conservation and wider heritage aspects.

The Sessions House is a Grade II Listed Building which is listed under '1063960' and was first listed in 1975. Alongside this, this building was listed in conjunction with the Grade II listed Police Station, listed under '1169618'. It is considered that The Sessions House is the most prominent building within its setting and defines the area's character, in any case, the Police Station itself is an important building within the context of the area and should be held with high weight.

As a result of the historic significance of the area and the buildings nearby, the Conservation Officer has been consulted on the application with their comments holding substantial weight in the determining of this application. Firstly, in line with what has been detailed above, it is considered that the development comprises a *"form of harm"*.

This is as a result of the modern and aesthetically commercial style of the building within the grounds of a listed building which is also in a position making it visible from the public realm. It is also sited to a lesser degree which blocks the views of the Former Police Station.

Due to these aforementioned issues, the Conservation Officer ascribes the development as having 'less than substantial harm'. This extent of harm is considered agreed. These comments also make note that under typical circumstances the proposal would be refused outright as a result of the harm to the character identified. In this case, the opportunity has been provided to allow these concerns to be addressed.

Paragraph 213 of the NPPF details that any harm to the significance of a designated heritage asset requires clear and convincing justification. No justification for the works in line with this were initially provided with it being suggested that the LPA needs justification from the applicant for the need/want of this development within this area.

Although it must be suggested and evidenced by the applicant, the Conservation Officer discusses Paragraph 215 of the NPPF. This paragraph states that where a development leads to less than substantial harm, this should be weighed against the public benefits of the proposal. With the comments specifically going on to say that *"the importance of this site to the town centre's character, I might suggest that the less than substantial harm identified could be mitigated via this development contributing to the optimum viable use of the site, allowing the operating commercial enterprise to develop a foothold whilst wider works are carried out to the main Listed Building"*.

The opportunity was therefore then provided to the Applicant to submit justification in line with the above mentioned NPPF paragraphs in order to allow the LPA to ascertain whether a public benefit, which outweighs the less than substantial harm, can be achieved.

The statement outlines that the building faces a critical viability challenge with the building not merely being a commercial addition, but also a conservation intervention to secure the assets future. Due to the confidential nature of this statement, specific details will not be mentioned as to running costs of either the building or the proposal. The applicant carries on by saying that The Sessions House has *"fixed heritage maintenance and operating costs"* with the current business model making losses due to seasonality, high overloads and market distortion, as such, without a diversified revenue stream the building faces a financial deficit. The courtyard is currently an underutilised private space which is only sporadically used for private functions and thus the building allows the asset to generate revenue for its upkeep throughout the year, rather than for

these specific events.

Alongside this, the applicant makes the point that *"The proposal delivers a significant public benefit by bringing a private heritage asset into general public use. It allows the community to access, view, and enjoy the architecture of the courtyard daily"*. As previously outlined, the main use of The Sessions House is to host events such as weddings etc, the statement clearly identifies that this model/use is currently loss-making due to overheads and being a highly seasonal business.

As such, the cafe/bar creates additional higher-margin revenue streams and allows The Sessions House to continue running and bridge the gap to not result in a loss of the business as a whole. The building creates a *"facility for daily or weekly 'wet sales'"* and *"creates a high-frequency, consistent revenue stream"*. It has been stated that it provides a modest but consistent daytime contribution toward reducing the aforementioned deficit and it is considered to be materially supportive of the building's maintenance.

To discuss the less than substantial harm which has been identified, the applicant has provided three points of justification, these being reversibility, subservience and setting vs fabric. Firstly, reversibility is seen through the servery being a freestanding structure that does not require deep foundations that would cause any harm to the listed asset itself. The building can be removed at any time and thus return the setting to its original self. Secondly, the applicant believes that the structure is modest in scale compared to The Sessions House and does not compete with the skyline or obscure heritage features within the area. Lastly, they believe that the harm is to the courtyard and not the fabric with this generally being given less weight than physical damage to the asset. An additional point further down suggests that *"the revenue it generates for the maintenance of the listed building is in itself a public benefit because it preserves a nationally designated heritage asset for future generations"*.

Finally, the statement addresses what the consequences of a refusal would be, they go on to say that *"Without this revenue, the operator cannot fund the 'Heritage Premium' maintenance. The building will inevitably deteriorate"*.

From the detailed information summarised above, the LPA must make the assessment as to whether, in line with Paragraph 213 of the NPPF, a public benefit has been provided to allow the determination in favour of the outdoor servery.

The Planning Practice Guidance (PPG) identifies that public benefit could be anything that 'delivers economic, social or environmental objectives... They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit'. It should be considered that the benefit from this site would be a private benefit and would be one that actually provides a benefit to the public. The statement makes it clear that without the revenue from the servery, the maintenance costs to the main building could not be met and subsequently the current business would have to shut down. This could fundamentally see The Sessions House harmed through lack of maintenance and funding which the LPA would want to actively work against so that the heritage asset remains functioning and in good condition.

The PPG also identifies that these benefits do not always have to be visible or accessible to the public in order to be considered as public benefits. An example is made through works to a listed private dwelling, these works would secure its future as a designated heritage asset and this could therefore be a public benefit itself. This is the argument which has been made throughout the statement by the applicant and is therefore in clear accordance with how the PPG describes public benefit.

As such, the proposal is considered to provide a clear public benefit in this case, which when considered on balance is viewed to be sufficient as to outweigh the less than substantial harm identified. Paragraph 215 of the NPPF discusses that for developments that lead to less than substantial harm, the harm should be weighed against the public benefits of the proposal including securing its optimum viable use. In line with this, the public benefit has been weighed against the less than substantial harm with public benefit considered to outweigh these concerns.

Concern was also initially raised through the siting of the building in this location with its potential ability to block views of both The Sessions House and The Former Police Station to the rear. However, as detailed within the Conservation Officers response, the primary view of the Police Station which is through the side gate would remain intact and the affected views were already partially obscured by the original courtyard wall in any case. Alongside this, these comments outline

that although the building negatively impacts upon the setting, it is partially hidden from public view to the best of the sites capacity and is of a relatively minor scale. As such, the proposal is considered to be acceptable in this regard also, in line with the detailed comments made by the Conservation Officer.

Furthermore, the reversibility and temporary nature of the proposal is also considered to be a benefit to the scheme. To discuss the Conservation Officer's comments again, it was suggested that a temporary consent of no more than three years could be justifiable if all the other concerns were satisfied, which they are considered to have been. Due to the harm identified, it has been outlined that it is imperative the development is not allowed to become a permanent addition to the townscape with an additional condition being recommended that requires the removal of the temporary structure and the making good of the remaining external surfaces before a date no later than the expiry of the consent.

Should the application be approved, the LPA will attach conditions which require the removal of the building and the restoration of the site to its original form within three years of the date of the permission. This will allow the applicant to action a more appropriate and permanent structure, should one be necessary, whilst also allowing the adequate funds to secure the future of the business and in turn the heritage asset. The LPA under no circumstances will allow this structure to become a permanent feature within the site.

Taking account of the design, scale and nature of the development, as detailed above, the proposal is considered to be acceptable. Whilst the proposal would cause impact to the character or appearance of the area and cause less than substantial harm to nearby assets and wider Conservation Area, it is considered that the proposal would afford an appropriate public benefit as to outweigh this harm. This, coupled with the temporary nature being secured by condition, is considered to ensure the proposals acceptability on balance.

Therefore be in accordance with Policies 2, 3 and 29 of the South East Lincolnshire Local Plan (2019) and Section 12 and 16 of the National Planning Policy Framework (December 2024).

Impact on Residential Amenity/ Land Users

Paragraph 135 of the National Planning Policy Framework (December 2024) 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; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Policies 2 and 3 of South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

The application in this regard is specifically for the erection of a freestanding, fully reversible outdoor servery unit which is used as a coffee/bar area within the courtyard of the building. It is of the LPAs understanding that whilst this building would be separately for the most part, it would be connected to the main business within The Sessions House via serving drinks for existing on site venues etc.

The application form outlines that they are applying to use the building between the hours of 07:30am - 23:00pm Monday - Saturday and 09:00am - 23:00pm on Sundays/Bank Holidays. After further correspondence between the applicant and SHDC Environmental Protection it was agreed that these hours be restricted to 08:00am - 20:00pm and that after 20:00pm the outdoor shutter will be closed. Whilst the LPA are willing to accept these proposed hours, the hours for Sunday/Bank Holidays should be further limited to 09:00am - 19:00pm to further protect the residential amenity.

These hours of operation are considered to be acceptable and should not materially cause harm to the area. Firstly, H16-0034-20, as outlined above, allowed the venue to be used as various events and was assessed under the assumption that weddings would be held between 11:00am - 23:00pm. It makes sense from a viability perspective for the coffee element of the business to be open and functional early in the morning (i.e. 08:00am) to ensure customers can visit the site to purchase coffees in the morning. Alongside this, there are multiple coffee shops within the area which open earlier/around a similar time and therefore this should not see an increase in noise to the area to a harmful or material level.

It would be assumed that towards the evening the coffee element would stop functioning and the alcohol element of the business would be utilised more. The aforementioned statement outlines that the hours would *'allow the unit to service the "after work" and early evening trade (crucial for the venues viability) but cease operation before the late evening period'*. The LPA would agree with this justification and consider that the closing time of 20:00pm will end early enough so that noise does not persist late into the evening considering how close the site is to various residential dwellings. Furthermore, the wider context of public houses which serve alcohol should be taken into consideration. Mulberry's Bar which is around 180m north west of the site is open until 00:00am on Thursdays, 00:30am on Fridays and Saturdays and 22:30pm on Sundays. Not only this, The Pied Calf which is only just over 100m north east is open until 23:00pm Monday - Saturday and 22:30pm on Sundays. These public houses, albeit are further away from residential properties, provide clear justification to support the opening of this building and for it to serve alcohol until 20:00pm with it not being considered to cause material harm to the nearby residential dwellings.

Secondly, the existing business on site during private functions already makes use of the courtyard area. Whilst this would most likely be to a lesser extent than the use proposed within this application, this still provides justification and holds material weight in the determining of this application. These functions, as outlined above, are held between 11:00am - 23:00pm meaning that the servery would actually close before this time and thus anything past this period would be from the private functions which have already been approved and function currently.

It would be unreasonable for the LPA to restrict the existing business on site via this application as this use has already been permitted and in use for multiple years. As such, there would not be a vastly material increase in noise that would cause harm to the area and the nearby residents.

Further comments from Environmental Protection have been provide which state that *"The use of the outdoor servery as a bar is likely to change the character of the usage of the external area from an area used occasionally for consumption of alcohol supplied elsewhere in the premises. The restriction of the hours to those proposed by the applicant should reduce the likelihood of complaints but will need to be carefully managed and appropriate controls need to be in place and maintained and monitored by the applicant"*. In line with this, conditions will be applied to the decision notice that limit specifically limit the hours of operation for the outdoor servery so that a material increase in noise would not occur. The applicant currently checks noise levels during events to ensure they do not reach unacceptable levels and the LPA understand that should noise complaints occur this will be assessed by Environmental Protection to make sure the noise is not at unacceptable levels.

Finally, the building is not considered to cause any material harm to nearby residents via overlooking or overshadowing. The building would provide no different views to the courtyard area already whilst the nearest residential property it is adjacent to is a wall with no openings or windows. No material concern should occur as a result of this.

As detailed above, the scale and design of the proposal is considered to be such that there would be 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 the provisions of the Section 12 of the National Planning Policy Framework (December 2024), and Policies 2 and 3 of the South East Lincolnshire Local Plan (2019).

Flood Risk and Drainage

Section 14 of the National Planning Policy Framework (December 2024) explains that "Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere".

This goes on to state, within Paragraph 172, that all plans "should 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: a) applying the sequential test and then, if necessary, the exception test as set out below".

It is important to note that whilst minor developments must meet the requirements for site-specific

flood risk assessments, they should not be subject to the sequential test, nor the exception test, as outlined in Paragraph 176 and to be read in conjunction with footnote 62.

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 South East Lincolnshire Local Plan (2019) 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 South East Lincolnshire Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test.

Despite the site being within Flood Zone 3, it is located within an area of no hazard with the South Holland Strategic Flood Risk Assessment. The servery would be used as a cafe/bar and therefore falls under 'Less Vulnerable' within the flood risk vulnerability classification. Furthermore, the Flood Risk Assessment outlines that the building is non-permanent and fully reversible with approximate dimensions of 6.22m by 2.2m and thus creates a relatively small area of ground which be impacted. This also goes on to say that the residual flood hazard map shows the site is outside of the low hazard area for both the present day and for 2115 and the residual peak depth map shows the site is outside the area at risk for both the present day and for 2115.

The application is purely for an outdoor cafe/bar servery and will not have customer kept on site permanently with clear exits being provided to and from the site. If a flood were to occur, which itself is unlikely, customers would not be materially affected. Furthermore, there would not be any significant harm raised and it would not materially increase the flood risk for the site and surrounding area in a harmful way. Finally, should the application be approved the servery will only receive temporary permission for three years.

Overall, when considering the development on balance, it is considered that given the mitigation measures detailed and recommended by condition, the proposal accords with Policies 2, 3 and 4 of the South East Lincolnshire Local Plan (2019) and the intentions of the National Planning Policy Framework (December 2024) in this regard.

Highway Safety and Parking

Section 9 of the National Planning Policy Framework (December 2024) specifically relates to 'Promoting sustainable transport'. Paragraph 116 of the National Planning Policy Framework (December 2024) 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.

Existing parking arrangements are provided on site with parking spaces being set out in front of the actual building. In any case, it would be fair to assume that customer who visit the site to use the cafe/bar would be travelling on foot. As previously mentioned, the site is within the settlement of Spalding and is just outside the Spalding Town Centre Boundary meaning it is in an idle location for customers to visit the site on foot or park at existing parking facilities nearby. A car park is located within the Sheep Market itself as well as various side street parking. It is therefore considered that

on-site parking does not need to be provided at this stage due to the customers who would visit the site mostly visiting on foot with parking facilities being provided nearby.

Lincolnshire County Council Highways have raised no objections from a highway perspective either. Their comments state that 'the access and parking arrangements remain unchanged: therefore, it is considered that the proposals would not result in an unacceptable impact on 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 and 36 the South East Lincolnshire Local Plan (2019), and Section 9 of the National Planning Policy Framework (December 2024).

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.

For applications that are submitted prior to the introduction of this requirement, the development would exempt from the mandatory 10% requirement and as such, the Biodiversity Gain Condition would not apply. However, this application was submitted following the introduction of this legislation. As such, unless comprising development that is exempt from this mandatory Biodiversity Net Gain (10%), a condition would be required, as mandatorily set.

When taking the above into account, the development in this instance is exempt from the statutory 10% Biodiversity Net Gain requirements. Despite the detailed BNG documents which have been prepared within this submission which outline that the development is not exempt and must provide a 10% net gain, the proposal is considered to be exempt from the statutory requirements.

The BNG Statement correctly outlines that the baseline should be taken from the state of the site prior to the recent installation of the planters/hedging as well as prior to the erection of the building itself. Furthermore, it discusses that the area of influence within the courtyard consisted entirely of hardstanding and gravel which was previously used as storage of refuse bins. They have identified that habitat as 'Urban-Developed land; sealed surface' with a pre-development biodiversity value of 0.00 Habitat Units. To help 'enhance the character and amenity of the courtyard', a 10sqm native hedgerow is proposed along the outer perimeter of the courtyard, adjacent to the Old Police Station. The statement considers that this hedge would 'serve to soften the boundaries of the space, provide an attractive green backdrop for visitors and create a valuable new habitat, which is a positive enhancement to the setting of the Grade II Listed Building'.

A HMMP was also submitted within this application to show how the hedge will be retained and maintained for a minimum period of 30 years following the completion of the development. In any case, the LPAs Ecology Team commented on the application and stated that they consider the development to be exempt from BNG requirements under the de minimis exemption due to it not

affecting more than 25 sqm or more than 5m of hedgerow or watercourse. However, they have also commented to say that should the applicant choose to enhance the habitat on site this would be fully supported as it would provide additional biodiversity benefits.

## Planning Balance

As detailed above, Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The proposal represents appropriate development within the defined settlement boundary. Following detailed assessment and justification, the development hereby proposed provides suitable public benefit as to outweigh the less than substantial harm identifed. The result of a temporary permission will ensure the building is removed and the site restored to its original state and thus remove the harm identified.

Alongside this, a detailed assessment has been carried out to ensure that no material harm would arise to the amenity nearby residents through an increase in noise as a result of the existing business on site and the hours of operation being restricted.

Furthermore, adequate parking is provided whilst there would be no material harm through flood risk and the development is exempt from statutory BNG requirements.

When viewed as a whole against the South East Lincolnshire Local Plan (2019) and the provisions of the National Planning Policy Framework (December 2024) the proposal is considered to be in accordance and compliant with all relevant policies/requirements.

In this instance, there are no material considerations that weigh against the proposal and as such, the planning balance is in favour of the development.

## 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 the above considerations into account, the proposal is considered to be in accordance with Policies 1, 2, 3, 4, 29 and 36 (including Appendix 6) of the South East Lincolnshire Local Plan (2019), along with the identified sections contained within the National Planning Policy Framework (NPPF) (December 2024). The are no significant factors in this case that indicate against the proposal and outweigh the consideration in favour of the proposal and the policies referred to above.

## Recommendation

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