

## DECISION DELEGATED TO HEAD OF PLANNING

**Application No:** H16-1072-24      **Applicant:** Welcare Global Ltd.

**Proposal:** Proposed change of use from vacant offices to 3 residential children's care home (C2) units

**Location:** The Grange 8 Pinchbeck Road Spalding

**Terminal Date:** 10th September 2025

### Planning Policies

#### South East Lincolnshire Local Plan - Adopted: March 2019

|            |                                                               |
|------------|---------------------------------------------------------------|
| 01         | Spatial Strategy                                              |
| 02         | Development Management                                        |
| 03         | Design of New Development                                     |
| 04         | Approach to Flood Risk                                        |
| 07         | Improving South East Lincolnshire's Employment Land Portfolio |
| 11         | Distribution of New Housing                                   |
| 17         | Providing a Mix of Housing                                    |
| 28         | The Natural Environment                                       |
| 29         | The Historic Environment                                      |
| 36         | Vehicle and Cycle Parking                                     |
| APPENDIX 6 | Parking Standards                                             |

#### National Guidance

#### National Planning Policy Framework December 2024

Sections 5, 8, 11, 12, 14, 15 and 16 of the National Planning Policy Framework (2024) (NPPF)

### Representations:

|                         | Object | Support | No Obj. | Comments |
|-------------------------|--------|---------|---------|----------|
| WARD MEMBER             | 0      | 0       | 0       | 0        |
| HIGHWAYS & SUDS SUPPORT | 0      | 0       | 0       | 1        |
| SHDC INTERNAL           | 0      | 0       | 1       | 1        |
| OTHER STATUTORY BODIES  | 0      | 0       | 0       | 2        |

|           |   |   |   |   |
|-----------|---|---|---|---|
| RESIDENTS | 3 | 0 | 0 | 1 |
|-----------|---|---|---|---|

## CASE OFFICER ASSESSMENT

### **Proposal**

This is a planning application for the proposed change of use from vacant offices to 3 residential children's care home units.

The proposed use is as a C2 care home, providing residential care for up to 3 children with accompanying overnight staff accommodation, totalling 6 bedrooms

### **Site Description**

The Grange is a Grade II\* Listed building, of mid-C17th Origin. The Historic England Listing description describes the property like so:

*"Good mid C18 house of 2 storeys in local brick with stone-capped parapet. 5 windows, centre being Venetian. Wood blind holders. No glazing bars, except to centre window. Good projecting porch in Roman Ionic with open modillion pediment. Door of 8 panels (4 glass) in panelled reveal and with good traceried fanlight. A 2 storey, 1-window extension of slightly later date on south side, and a 1-window, 1-storey C19 extension on north, with 2 storeys behind."*

Furthermore, the Grange represents what could be considered one of the most characterful and imposing structures within the Pinchbeck Road portion of the Spalding Conservation Area. It's highly prominent position upon one of the main entrance and egress routes into and out of the town centre and main shopping area of Spalding mean that it is a well known site which contributes substantially to the overall character of the wider conservation area.

It is true to say that the most recent use of the site - as an office - has left the interior of the property substantially altered and modernised with few character features remaining within most rooms, however, the interior retains characterful features such as the 1st floor 'flying' conservatory and the Oriel Window to the rear, as well as historic surfaces / materials and a characterful, if somewhat altered, labyrinthine interior layout nodding to the historic context of secondary accommodation and service rooms. Unfortunately, in recent years, due to lack of a viable user for the site, the listed property has fallen into disrepair

The immediate setting of the site can be described as largely featuring residential development of a C19th origin, However, the site is also flanked by the late C20th business park to the North. A number of other commercial sites are within visual range. Moreover, the site is within close proximity to a number of Grade II listed building, including the adjacent former Peacock Public House, and No.7 Pinchbeck Rd situated directly across the road, as well as the similarly Grade II listed Congregational Church Sunday School and No. 2 & 4 Pinchbeck Rd and No. 24 & 25 New Road.

### **History**

UJH16-1250-88

Conversion to office use involving provision of internal partitions,etc. Remove garden wall & shed'. Approved on 19-09-89

H16-1251-88

Conversion to office use involving provision of internal partitions,etc. Remove garden wall & shed'. Approved on 19-09-89

H16-0096-03

Restoration of conservatory, refurbishment of adjoining offices and external landscaping. Approved

on 20-06-03

H16-0644-22

Proposed change of use from vacant offices to HMO including erection of cycle/bin storage

## **Consultation Responses**

### Public Comments

The application received 3 public comments in the initial consultation phase 2 of 3 were objections, one was a neutral comment. Those can be summarised like so;

- Concerns over who the residents could be.
- Parking on site is not adequate.
- Access arrangements are not within the applicant's land despite being marked as such on plans, and relevant land owners not notified via certificate.
- Undue noise generation.
- Traffic generation would create unreasonable disruption to neighbours.
- Applicant should not be permitted parking to the rear of the site.
- Parking signage and monitoring should be required.
- Acoustic barriers should be provided around the border of the site.
- Neighbouring land users should be compensated by means of condition for land access to use the site.

Due to the erroneous certificate completion mentioned above, the applicant was required to submit a corrected application form, which was re-consulted to the relevant landowner. This returned a comment confirming that the applicant had completed the incorrect details. The applicant was therefore required to re-submit another corrected application form, which was again reconsulted. This 3rd consultation returned one additional comment that declared that there were protected trees on site with inadequate protection, and unmentioned in the application form.

### LCC as Lead Local Highways and Flood Authority

The proposal is for the change of use from vacant offices to 3 one bed residential children's care home (C2). The site is located within an area of commercial and residential uses. The proposal is to provide 1 child per dwelling and to provide care and accommodation for the children who will be aged between 8-18. The staffing will include Monday-Sunday 2 staff per child and an on-call system operating 24/7. Staff will be employed from the local area to avoid unnecessary parking, and it is in a sustainable location so the staff will be encouraged to travel sustainably. The site is in the centre of the town and therefore within convenient walking distance of a wide range of services, facilities and public transport options. There are also a number of public car parks within close proximity that could be used by visitors. They are proposing 6 parking spaces which is acceptable for the use and in line with Southeast Lincolnshire Local Plan. Cycle parking will be provided. Therefore, 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 change of use would not be expected to have an unacceptable impact upon highway safety and so does not wish to object to this planning application.

### SHDC Environmental Protection

No objections

### Historic England

Does not offer any comment. Recommends that the assessment of the impact upon the heritage asset be deferred to the LPA's Conservation Specialist adviser.

### LCC Historic Places Team

Recommend that if permission is granted, there be a condition for a mitigation strategy to effectively deal with this site. This will comprise a phased programme of mitigation work including, but not limited to, a level 3 historic building recording of the listed building, in accordance with Historic England's document 'Understanding Historic Buildings: A Guide to Good Recording Practice.

(2016). This will enable the building to be recorded prior to conversion.

This should be secured by South Holland District Council's standard conditions AR01, 02 and 03 and is in accordance with National Planning Policy Framework paragraphs 207 and 218 and the South East Lincolnshire Local Plan (Policy 29).

#### Lincolnshire Police

No objections.

#### SHDC Trees and Nature Conservation Officer

No objections subject to conditions imposed requesting a tree survey as part of scheme of landscaping and the imposition of an informative condition reminding the applicant that mature trees on their site are protected by virtue of their conservation area status.

#### **Planning Considerations**

The main issues and considerations in this case are (but are not limited to):

- Principle of Development and Sustainability
- Impact on Neighbouring Residents/Land Users/Land Uses
- Highway Safety and Parking
- Flooding Risk Considerations
- Foul and Surface Water Drainage
- Heritage Considerations
- Biodiversity

**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.**

**Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted.**

**The Authority is able to demonstrate a supply of deliverable sites equivalent to in excess of 5 years through the latest Housing Land Supply Assessment.**

#### Principle of Development

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; in order to provide enough choice of land for housing to satisfy local housing need, 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.

Policy 1 (Spatial Strategy) of the South East Lincolnshire Local Plan (2019) indicates that within 'Minor Service Centres', development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps meet the service needs of other local communities. This policy goes on to detail that development within 'Minor Service Centres' will normally be limited to Allocated and Committed sites and infill.

The National Planning Policy Framework, (NPPF) (December 2024) outlines, within Paragraph 61, that "To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay".

Para 73 of the National Planning Policy Framework (December 2024) also emphasises the importance that the contribution of small to medium sized sites can make in meeting the housing requirements. This states that "Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, are essential for Small and Medium Enterprise housebuilders to deliver new homes, and are often built-out relatively quickly". This policy seeks to ensure that there is a sufficient supply of homes and advises that sites of all sizes make a contribution to the housing requirement of an area.

The application site in this instance is within Spalding, a 'Sub-Regional Centre' and lies within the defined settlement boundaries as detailed by Policy 1. In context of this, the principle of residential development within this location is considered to be appropriate, comprising an appropriate form of development for the location and would be in accordance with the overall principles of the spatial strategy.

Moreover, the proposed use is as a commercial concern, operating as a care facility for children, where the County Council authority is not the operating body nor the applicant. Therefore, the site must be treated as commercial in nature. Policy 7 of the SELLP, governing South East Lincolnshire's Employment Land Portfolio can be used to define the proposal site as being an 'other employment site'. Such sites are subject to stringent tests to affirm viability. The wording of this section of the SELLP confirms the following:

*"New employment development/businesses or the extension of an existing business outside the above allocated employment sites will be supported provided that the proposal involves the re-use of previously-developed land or the conversion/re-use of redundant buildings."*

In this case, as the application seeks consent for the conversion of an existing redundant structure, whose most recent use was as a commercial site (offices). The proposal therefore is deemed acceptable under Policy 7 of the SELLP.

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.

### Heritage Impact

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority to have special regard to the desirability of preserving listed buildings, their setting, or any features of special architectural or historic interest which they possess.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 require decision makers to have special regard to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they possess as well as the desirability of preserving or enhancing the character or appearance of conservation areas. Any adverse effect on a heritage asset, even if slight or minor, would not preserve the asset or its setting.

Furthermore, the importance of considering the impact of development on the significance of designated heritage assets is expressed in the National Planning Policy Framework (2024) (NPPF). The NPPF advises 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 (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".

As such, Para. 213 of the NPPF sets out that where proposals could lead to 'substantial harm' to a grade II listed designated heritage asset, clear and convincing justification should be necessary and that this justification should be exceptional.

Para. 214 of the NPPF then goes on to confirm that where a proposal would lead to substantial harm to a designated heritage asset, local planning authorities should refuse consent unless it can be demonstrated that the substantial harm is necessary to achieve substantial public benefits that outweigh that harm, or that all of the following apply

- "a) The nature of the heritage asset prevents all reasonable uses of the site; and*
- b) No viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- c) Conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and*
- d) The harm of loss is outweighed by the benefit of bringing the site back into use."*

Finally, Policy 29 of the South East Lincolnshire Local Plan (2019) (SELLP) confirms that in order to respect South Holland's historical legacy all proposals shall conserve and enhance the character and appearance of designated heritage assets. Additionally, Section A of that policy confirms that proposals to change the use of a Listed Building or to alter or extend such a building will be granted where the Local Planning Authority is satisfied that the proposal is in the interest of the building's preservation and does not involve activities or alterations prejudicial to the special architectural or historic interest of the Listed Building or its setting.

With the above in mind, the Local Planning Authority considers the proposal to represent a form of 'less than substantial harm'. In this case, the application seeks only exceptionally minor alterations to the listed building in the form of minor amounts of new subdivision, constructed of stud walling in a reversible fashion, and the only external alterations being the installation of new doors to the rear elevation, in some cases replacing existing window openings, and in one case restoring a door to a previously bricked-in. However, the chief alteration is the creation of a new doorway on the front elevation on the later side extension to the south end of the site. Minor harm is identified due to the fact that there may be some extremely limited loss to internal readability of layout, and the creation of new external doors does alter the character of the sight somewhat. However, the scale is so minor that only 'less than substantial harm' can be considered the reasonable designation. Moreover, in this instance, the creation of new doors is not considered inherently harmful, and so this is deemed acceptable, provided suitably worded conditions can be applied, ensuring that the final details are sufficient in design and material quality.

Nevertheless, 'less than substantial harm' still requires clear and convincing justification, per Para. 213 of the NPPF. In this instance, the LPA finds the justification to be sufficient, in bringing this disused, and locally significant listed building, back into sustained, viable use and therefore regular maintenance and prevention of further deterioration. Moreover, there is perceptible public benefit, not only in improving this problem portion of the conservation area, but also inherent to the proposed use, which will contribute to availability of such residential care facilities in the area.

For these reasons, the LPA determines that the proposal passes the tests imposed by Policy 29 of the SELLP in addition to Section 16 of the NPPF.

With regard to archaeological interest on site, the LCC Historic Places team did request that standard archaeological conditions AR01, 02 & 03 be imposed. The applicant was addressed with these conditions, however, they questioned their validity. The LCC comment requested a building recording, which can be secured via AR04, but then requested AR01, 02, and 03 which are archaeological conditions, which can be considered to be unreasonable in this case, as the application suggests no significant subsurface excavation, as a change of use application. In order

to secure the building recording the content of the LCC comment seemed to be requesting, the LPA proposes imposition of AR04 instead.

### Flood Risk

Section 14 of the National Planning policy Framework (2024) requires development plans to "apply a sequential, risk-based approach to the location of development - taking into account all sources of flood risk and the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by: a) applying the sequential test and then, if necessary, the exception test as set out below".

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 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.

The site lies within Flood Zone 3 of the Environment Agency's Flood Maps. As such, any application must be supplemented by a Flood Risk Assessment.

It is worth noting that large parts of the district of South Holland lie within areas of High Flood risk. 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.

Within the SFRA, The Residual Flood Hazard Map for the 1% fluvial and 0.5% tidal event shows the site being outside of low hazard area for the present day, and for 2116. The Residual Peak Depth Map for the 1% fluvial and 0.5% tidal shows that the site is outside of the area at risk in the present day, and for 2116.

Therefore, the site can be seen as acceptable on the basis of flooding risk. Moreover, this application does pertain to the conversion of an existing building, with a previous (albeit abandoned) previous residential use.

Nevertheless, it is noted that the application does not include any sleeping accommodation, and the provided flood risk assessment does recommend the setting of ground floor levels at 0.15m above surrounding surface levels, which is easily achieved on this site, as the original building is raised out of the ground slightly, requiring steps to enter at ground floor level.

Inclusive of the proposed mitigation methods, the proposal is deemed to be acceptable on grounds of Policy 4 of the SELLP and Section 14 of the NPPF.

### Residential Amenity

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.

In this instance, the application is for the conversion of an existing building to C2 use, comprising a maximum occupancy of 6 people (3 residents, 3 overnight staff). The application proposes no dimensional alterations to the site, nor does it propose the creation of any additional windows or other openings in above-ground-floor areas. Moreover, whilst some concerns have been raised by local residents about noise generation, it is not considered that the use of this urban site by a maximum of 6 individuals for residential purposes will create an undue risk of materially harmful noise generation, and this is confirmed by the lack of objection from Environmental Protection. A residential unit of this scale is bound to create a modest amount of domestic noise, with admittedly

enhanced opportunities for comings and goings with staff and deliveries, but none that could be considered to not be commensurate with the site's commercial and residential urban surroundings.

For these reasons, the application is deemed not to present a material risk of overlooking, overshadowing or undue noise generation for adjacent land users.

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).

### 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.

Further, Policy 36, to be read in conjunction with Appendix 6, of the South East Lincolnshire Local Plan (2019), sets out minimum vehicle parking standards and requires at least two spaces for dwellings of up to three bedrooms and three spaces for dwellings with four or more bedrooms.

In this instance, the application proposes a quantity of parking far in excess of the standards set by Appendix 6 of the SELLP for C2 uses, which clarifies that there shall be 1 space per 3 residents. The proposed use seeks 6 bedrooms (3 residents, 3 overnight staff), which should only require 2 parking spaces, whereas 6 are proposed. Additionally, it could be argued that as the site is to be used for children's care, the 3 residents are unlikely to be car-users themselves and so arguably, even the required 2 spaces would be in excess of the requirements set forth under Appendix 6.

Multiple complaints were received from the public regarding the access to the site and the quantity of traffic. The LPA is aware that the land to the north, via which the applicant proposes to source vehicular access is not owned by the applicant and is not a public highway, and therefore the owners of the proposal site may have to make their own private arrangement for access. However, this is a civil matter, and for the purposes of planning, the proposed access would appear suitable, and no objections were raised by the local Highways authority on grounds of the access, parking or indeed the generation of traffic.

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).

### Trees and Nature Conservation

Section 15 of the National Planning Policy Framework (December 2024) seeks to protect sites of biodiversity value, and minimise and provide net gains for biodiversity, including establishing coherent ecological networks that are more resilient to current and future pressures, including the need to incorporate features which support priority or threatened species such as swifts, bats and hedgehogs.

Paragraph 193 of the National Planning Policy Framework (December 2024) details that Local Planning Authorities should apply the following principles:  
"a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort,

compensated for, then planning permission should be refused;

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and

d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate".

Policy 28 of the South East Lincolnshire Local Plan (2019) seeks to protect ecological networks of interconnected designated sites and wildlife-friendly greenspace and promote biodiversity net gain by protecting the biodiversity value of land, maximising opportunities to enhance and connect natural habitats, incorporate biodiversity conservation features to enhance green infrastructure and ecological corridors, and conserve or enhance habitat to adapt to climate change.

Having consulted with the LPA's trees and nature conservation officer, despite lack of information included in the application, it has been concluded that there are a number of mature trees on the eastern and southern boundary of the site that, owing to their Conservation Area setting are protected. There are no proposed losses of these trees, and no additional hard standing is proposed and therefore, direct impact caused by this proposal is deemed to be negligible. Nevertheless,

When taking the above into account, whilst the development in this instance may be exempt from the mandatory 10% net gain, it would remain appropriate, given the context of Section 15 of the National Planning Policy Framework (December 2024) and requirements of Policy 28 of the South East Lincolnshire Local Plan (2019), that conditions are attached, requiring a level of Biodiversity and ecological enhancement, including that impacting upon small species.

#### 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.

In this instance, the exemption applies under de-minimis rules, as the proposal is merely for the conversion of an existing structure. It is sought to replace the existing surfacing to the rear of the

property with permeable hard standing to allow for the provision of parking. However, the De Mimimis rules state that provided that the proposal does not impact upon more than 25 square metres of priority habitat, the proposal shall be exempt. Although the rear of the site is currently overgrown, it actually consists of hard-standing with photographic satellite evidence of the rear of the site having most recently used also for a car park. This rearward space is therefore not a priority habitat, and replacement with permeable surfaces is not considered to be a disturbing of a sufficient area of priority habitat.

When taking the above into account, the development in this instance exempt from the statutory 10% Biodiversity Net Gain requirements.

## **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. The development hereby proposed does not materially harm the character or appearance of the locality, or amenity of nearby residents, and provides adequate parking, whilst conforming with the South East Lincolnshire Local Plan (2019) and the provisions of the National Planning Policy Framework (2024) when viewed as a whole.

Some minor harm to the listed building in the form of 'less than substantial harm' is identified, but as described in the report above is fully justified and suitably mitigated against by the proposal. The planning balance is therefore in favour of the development.

## **Conclusion**

For the reasons listed above, this application is deemed to be in accordance with Policies 1, 2, 3, 4, 7, 11, 17, 28, 29, 36 and Appendix 6 of the South East Lincolnshire Local Plan (2019) (SELLP), in addition to Sections 5, 8, 11, 12, 14, 15 and 16 of the National Planning Policy Framework (2024) (NPPF). The recommendation therefore is to approve.

## **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.