

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H22-0276-24 **Applicant:** Church View Pool Ltd.
Proposal: Change of use of swimming pool and washroom from residential use to commercial use (Retrospective) approved under H22-0716-23. Modification of Condition 3 to allow extension of opening hours.
Location: Church View 87 High Road Weston
Terminal Date: 20th May 2024

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02 Development Management
03 Design of New Development
30 Pollution
36 Vehicle and Cycle Parking
APPENDIX 6 Parking Standards

National Guidance

National Planning Policy Framework 2023

Section 6 - Building a strong, competitive economy
Section 12 - Achieving well designed and beautiful places

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	1	0	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	1

CASE OFFICER ASSESSMENT

Proposal

This is a Section 73 application seeking permission to modify Condition 3 of H22-0716-23 to allow for an extension to the opening hours at Church View, 87 High Road, Weston.

Site Description

The site lies within the settlement boundary of Weston as outlined within the South East Lincolnshire Local Plan, 2019 (SELLP). The property is three storeys and made of bricks with a tiled roof and white uPVC windows and doors, at the front there is a variety of trees and bushes and directly adjacent to the dwelling there is a small boundary wall and gate with a large fence which connects to the nearest neighbouring property further north east. In the rear garden attached to the house there is the swimming pool which is made of a different brick type with a similar tiled roof and black uPVC doors.

History

H22-1288-16 - Erection of dwelling, detached double garage and vehicular access - Approved

H22-0811-18 - Construction of new swimming pool and vehicle storage buildings - Approved

H22-0861-18 - Construction of a single dwelling and garage - Approved

H22-0479-19 - Details relating to archaeology and landscaping (Conditions 3, 4 and 6 of H22-0861-18) - Approved

H22-0681-19 - Construction of new swimming pool and vehicle storage building with multi use room over (retrospective) - Approved

H22-1172-19 - Construction of new swimming pool and vehicle storage building with multi-use room over (retrospective) - approved under H22-0681-19. Modification of Conditions 1 & 3 to allow amendments to previously approved plans - Approved

H22-0498-21 - Details of archaeology report (Condition 5 of H22-0861-18) - Approved

H22-0716-23 - Change of use of swimming pool and washroom from residential use to commercial use - Retrospective - Approved

Consultation Responses

Weston Parish Council

Weston Parish Council at it's meeting on 8th April objected to this application as granting this application will cause more traffic congestion on the High Road Weston due to an increase in vehicles parking at this address.

South Holland Internal Drainage Board

No comments.

Lincolnshire County Council Highways Authority

Recommendation: No objection

The proposal is for minor amendments to Change of use of swimming pool and washroom from residential use to commercial use (Retrospective) approved under H22-0716-23. Modification of Condition 3 to allow extension of opening hours. The minor amendments proposed will not have an adverse impact upon the public highway or surface water flood risk.

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.

South Holland District Council Conservation Officer

No external alterations proposed and therefore, the proposal would not risk impacting or altering the appreciation of the various Grade II - Grade I listed assets on the site of St Mary's Church adjacent.

No objections

South Holland District Council Environmental Protection

No comments.

Key Planning Considerations

- Layout, Design and Impact on the Character of the Area
- Impact on Neighbouring Residents/Land Users/Land Uses
- Heritage Impact

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 (December 2023) 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.

Planning Considerations

Layout, Design and Consideration of the Character and Appearance of the Area

Section 12 of the National Planning Policy Framework (December 2023) specifically relates to 'Achieving well-designed and beautiful 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 2023), states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing.

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 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, 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 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.

No changes have been proposed from the previous application to the external features of the swimming pool, this ensures the dwelling and the swimming pool area will remain in keeping with the local area and the existing dwelling. In any case, if some changes were to be proposed it is mostly concealed by the existing boundary wall, gate and fence and therefore not significantly visible from the highway.

Impact on Residential Amenity/Land Users

Paragraph 135 of the National Planning Policy Framework (December 2023) 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.

Currently, the swimming pool is operated from 16:00 - 19:00 Monday, Tuesday, Thursday and Friday and this application aims to alter the times/ dates of operation to 16:00 - 19:00 (Mon - Fri), 10:00 - 14:00 (Mon - Sat) and on Bank Holidays 10:00 - 14:00 and 16:00 - 19:00. These hours will create an increase from 12 hours of operation to 42, whilst this is considered to be a substantial increase however the hours will mostly remain within peak business operating times with the exception of a few hours during the evening which is in use currently. A full working day is suggested for Bank Holidays running in the morning/ afternoon with a slight break to open again in the evening as per a normal working day, the LPA considers that these opening times during bank holidays would be unacceptable and have negotiated with the applicant to remove these hours in order to make the application as a whole acceptable.

Further justification to this change can be made as follows: the opening hours make sense and are relevant to the nature of this business, the opening times specifically in the late afternoon/ evening are placed outside of school/ working times to allow for children and parents to attend the sessions as they are the core customers. Furthermore it is also not too late that could harm the amenity of nearby residents. Additionally, the hours in the morning and early afternoon would also be acceptable as they will allow parents who are not at work and children who are not in school to attend sessions at these hours and therefore free up spaces for parents and children who can only attend after school to attend at these later times. By ensuring the site is not open throughout the entire day will limit the potential for impact. Therefore, the proposed changes to opening hours are considered to be acceptable.

Finally, there is no change at present to the amount of people on site at any one time. This will be conditioned the same as the previous application to ensure that there is no harmful increase.

Heritage Matters

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. Development proposals will be 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.

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.

Church View is sited adjacent to the Church of St Mary, a Grade I Listed Building, as such the Conservation Officer was consulted to ensure the development would not effect the setting of the Listed Building. No objections were raised through this consultation with the comments stating that 'No external alterations proposed and therefore, the proposal would not risk impacting or altering the appreciation of the various Grade II - Grade I listed assets on the site of St Mary's Church adjacent'. It is therefore considered that there are no grounds within Policy 29 of the SELLP to object to this proposal.

Highway Safety and Parking

Section 9 of the National Planning Policy Framework (2023) specifically relates to 'Promoting sustainable transport'. Paragraph 111 of the National Planning Policy Framework (2023) 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 would be severe".

Within this context, development should give priority first to pedestrian and cycle movements, facilitate access to high quality public transport, address the needs of people with disabilities and reduced mobility in relation to all modes of transport, safe, secure and attractive places, allow for efficient delivery and access for emergency services, and be designed to enable and encourage ultra-low emission vehicles in safe, accessible and convenient locations.

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.

LCC Highways were consulted on this application and raised no objections to the scheme stating 'The proposal is for minor amendments to Change of use of swimming pool and washroom from residential use to commercial use (Retrospective) approved under H22-0716-23. Modification of Condition 3 to allow extension of opening hours. The minor amendments proposed will not have an adverse impact upon the public highway or surface water flood risk'. The proposal is considered to be in accordance with Policy 36 of the SELLP and Section 9 of the NPPF.

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 inside the defined settlement boundary. The development hereby proposed does not materially harm the character or appearance of the locality, or amenity of nearby residents through overlooking, overshadowing or noise. It causes no unacceptable impact on the highway or the nearby heritage asset, whilst conforming with the South East Lincolnshire Local Plan and the provisions of the National Planning Policy Framework when viewed as a whole.

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, 29, 30 and 36 (Appendix 6) of the South East Lincolnshire Local Plan (SELLP) (2019), along with the identified sections contained within the National Planning Policy Framework (NPPF) (December 2023). There 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.