DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H23-0624-26**	**Applicant:**	**Mr Hunt & Ms Ford**
Proposal:	Demolition of existing barn and erection of 2 detached dwellings - Approved under H23-0407-23. Modification of Conditions 2, 3 & 4 to allow amendments to previously approved plans in relation to Plot 2		
Location:	Carters Farm Oxcroft Bank Shepeau Stow		
Terminal Date:	30th September 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
11	Distribution of New Housing
28	The Natural Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework August 2026

Section 3: Decision making.
Section 4: Achieving sustainable development.
Section 5: Meeting the challenge of climate change.
Section 6: Delivering a sufficient supply of homes.
Section 12: Making effective use of land.
Section 14: Achieving well-designed places.
Section 15: Promoting Sustainable transport;
Section 18: Managing flood risk and coastal change.
Section 19: Conserving and enhancing the natural environment.

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	1	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	0

CASE OFFICER ASSESSMENT

Proposal

This application is a Section 73A seeking to vary Condition 2, 3 and 4 of planning approval H23-0407-23 to allow amendments to previously approved plans in relation to Plot 2 and the wording of Condition 3 (external materials) and Condition 4 (landscaping).

With regards to Condition 3 (external materials) and Condition 4 (landscaping), these details are to be considered for Plot 2 within this application, with the wording of the Conditions to be altered to be solely in relation to Plot 1 only.

The original submission also included the modification of Condition 7 (drainage details) and Condition 10 (biodiversity enhancement), however, as per the correspondence received on 09th September 2026 both conditions have been removed from the description and are no longer being assessed within this application.

Application H23-0407-23 granted planning permission for the demolition of an existing barn and the erection of 2 detached dwellings.

Site Description

The building is part of a farmyard located on the eastern side of Oxcroft Bank to the south of Shepeau Stow village. The previous timber frame has now been demolished.

Nook House is situated to the north fronting Oxcroft Bank. Nods Nook Barn is located to the northeast at the rear of Nook House, plus associated equestrian facilities beyond. Agricultural land is located immediately to the south and opposite (west).

History

H23-0943-22 - Prior Approval Application - Change of use of barn to residential dwelling - Refused 21 November 2022

H23-1184-22 - Prior Approval Application - Change of use of barn to 2 residential dwellings - resubmission of H23-0943-22 - Approved 16 February 2023.

H23-0407-23 - Full - Demolition of existing barn and erection of 2 detached dwellings - Approved 10 October 2023

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

Parish Clerk

Support - No Comment

South Holland Drainage Board

Byelaw 3 (Surface Water)

The applicant proposes to discharge surface water to a watercourse at a rate of 1 l/s. This is in excess of greenfield rate, however it is stated that the proposed rate is the minimum possible to reduce the risk of blockages in the system. However, I cannot locate the diameter of the of the proposed flow control device within the application documents.

This proposal will require consent under Byelaw 3. The Board recommend that any discharge is in line with the National standards for sustainable drainage systems (SuDS) published in June 2025. Further to the National Standards for SuDS, the Board's policy is to restrict discharges to 2/l/s/ha or annual average flood flow rate (QBar or QMed), whichever is higher (although the Board will consider an exception to this approach when it is evidenced that to achieve this rate would require a static flow control device with an orifice smaller than 50mm in diameter, or 100mm where debris control is not possible).

Please note that any consent granted for the discharge of surface water is likely to be subject to a Surface Water Development Contribution fee (SWDC) as outlined within our Development Control Charges and Fees.

Byelaw 3 (Treated Foul Water)

The applicant has indicated that they wish to discharge treated foul water to a watercourse following treatment via a Klargester BioDisc "BB" or similar. This proposal will require consent under Byelaw 3. Please note that any consent granted for the discharge of treated foul water is likely to be subject to a Treated Foul Water Development Contribution fee (TFWDC) as outlined within our Development Control Charges and Fees.

Section 23, Land Drainage Act 1991

I note the presence of a watercourse which is not maintained by the Board (a riparian watercourse) within the development site boundary and that works are proposed to alter this watercourse including culverting the watercourse to provide access. However, no details of the culvert diameter, length or construction have been provided.

To enable this proposal consent is required under Section 23 of the Land Drainage Act 1991 (and byelaw 4) and I recommend that the applicant contacts this office to make an application for this consent at their earliest convenience.

Additionally, the Board recommends that adequate space is left flat and free from obstruction adjacent to the riparian watercourse in order to enable maintenance by future riparian owners or a designated maintenance company/contractor.

Byelaw 10

The nearest Board maintained watercourse, E07 Common Drain (Drain ID: DRN196P0702) lies to the west of Oxcroft Bank, outside the site boundary. Therefore, Byelaw 10 does not apply.

SHDC Environmental Protection Officer

No comments regarding amendments, My previous comment remains the same for this location.

LCC Highway and Lead Local Flood Authority

Recommendation for No objection subject to: No Objections
Comments: The proposal is for minor amendments that already has approval. The minor amendments proposed will not have an adverse impact upon the public highway or surface water flood risk.

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, no letters of representation have been received.

Evaluation - Section 73

The proposal relates to the variation of Conditions 2, 3 and 4 of planning approval H23-0407-23, through seeking permission under Section 73 of the Act. The purpose of an application made under Section 73 of the Town and Country Planning Act 1990 is to vary or remove conditions associated with an existing planning permission. These applications are used to allow for amendments to an approved scheme and can be made both retrospectively and prior to a permission being implemented, as long as the permission is extant.

The Act is very clear that: "On such an application the Local Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted." As such, the Local Planning Authority are not able to revisit the principle of development and only matters relevant to the specific conditions can be considered. The effect of granting permission would be to issue a new permission with Conditions 2, 3 and 4 amended, together with any other relevant conditions from the original permission, or subsequent relevant revisions since this permission.

Planning practice guidance highlights that where less substantial changes are proposed, amending a proposal can occur through 'Amending the conditions attached to the planning permission, including seeking to make minor material amendments'.

The PPG clarifies that "Permission granted under Section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted". There is no statutory definition of a 'minor material amendment'; but this is likely to include any amendments where its scale and/or nature results "in a development which is not substantially different from the one which has been approved".

In this instance, the subsequent amendments, submitted under this Section 73 application, have not varied the description of development.

In the case of R (Vue Entertainment Limited) v City of York Council, it was concluded that the decision gives clear support for use of s.73 in respect of changes to condition which go beyond 'minor' amendments. It places a clear emphasis on preserving the precise terms of the grant. If an amendment to a condition can be made which keeps the description of the development intact it may well be appropriate to make such an application under a s.73, even if the affect of the change will be significant".

Principle of Development and Sustainability

The principle of development has been accepted by the host application, H23-0407-23, as such, there is no requirement to revisit the principle of development here.

This application is to vary Condition 2 (approved plans), Condition 3 (external materials) and Condition 4 (landscaping).

With regards to Condition 3 (external materials) and Condition 4 (landscaping), these details are to be considered for Plot 2 within this application, with the wording of the Conditions to be altered to be solely in relation to Plot 1 only.

Conditions and Plot 2 Details

This variation seeks an amendment to Plot 2 of the development. The amendments include:

-The removal of a first floor window on the north west elevation
-The change of window design to the first floor, top right window on the south east elevation
-The enlargement of the door to the bottom left and the removal of the large window on the south east elevation
-An increase in size to the window on the first floor top left on the north east elevation
-The ground floor window to the left on the north east elevation to be changed into a door

-The internal layout is also to be altered to the first floor

These alteration are considered to be modest in nature and the context of the overall scheme. It is considered that the amenity of neighbouring residents would not be materially harmed in terms of overlooking, lack of privacy, overshadowing, overbearing effect, noise and disturbance, etc.

This application also includes details in relation to various conditions previously attached to planning approval H23-0407-23, in so far as they relate to Plot 2. These details relate to conditions Condition 3 (external materials) and Condition 4 (landscaping). It should be noted that the submission seeks the above conditions to be retained for Plot 1, with a future discharge of conditions submission being required for this plot.

With regard to Plot 2, the below offers an assessment of each detail relating to the relevant condition.

Condition 3 - H23-0407-23

The proposed materials for plot 2 are as follows:

- Brickwork - Vandersanden Flemish Antique Stock brickwork
- Roof Tile - Red pantiles
- Cladding - Natural cedar cladding
- Joinery - UPVC in cream
- Rainwater goods - black half round gutters and downpipes
- Flue - black

Given the surrounding area of the application site the proposed materials are considered acceptable and are considered to be in keeping with the character of the area.

Condition 4 - H23-0407-23

A Landscaping and planting plan has been submitted (PP 1000). The submitted plan shows very minimal landscaping and tree planting for the site. The gardens are to be lawned with hedge planting along the north west (front) boundary along with two trees being planted in the rear garden.

The hedging comprises a mixture of Hazel, Holly, Dog Rose and Viburnum Opulus. Tree one located to the north east of the rear garden will be a Hornbeam (Carpinus Betulus) and to the south east the tree will be a Field Maple (Acer Campestre). Although minimal the landscaping details are considered to be acceptable.

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 does not materially harm the character or appearance of the locality, or amenity of nearby residents, whilst conforming with the South East Lincolnshire Local Plan and the provisions of the National Planning Policy Framework (2026) when viewed as a whole.

Taking into consideration these factors, the proposal is considered to comply with Policies 2 and 3 of the South East Lincolnshire Local Plan (SELLP), 2019, plus advice within the National Planning Policy Framework (2026). There are no significant issues in this case that would outweigh factors in favour of the proposal; therefore, in considering all the matters raised above the planning balance is in favour of the proposal and the policies referred to above.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:
A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by

the Act
B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).
C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

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

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

Conclusion

Taking the above considerations into account, the proposal is considered to be in accordance with policies 1, 2, 3, 4, 10, 11, 28, 30, 31 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 (2026). 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.