

Gainsborough Town Council

Richmond House, Richmond Park, Morton Terrace

Gainsborough, Lincolnshire, DN21 2RJ

Tel: 01427 811573

Website: gainsborough-tc.gov.uk



PLANNING COMMITTEE AGENDA

To: Committee members:

Councillor Nicholas Coxon

Councillor Richard Doy

Councillor Stuart Morley

Councillor James Plastow

Councillor Kenneth Woolley

Councillor David Dobbie

Councillor Paul Key

Councillor Liam Muggridge

Councillor James Ward

Notice is hereby given that a meeting of the **Planning Committee** which will be held on **Tuesday 19 November 2024** commencing at **6:30pm** in the meeting room, **Richmond House, Richmond Park, Morton Terrace, Gainsborough, DN21 2RJ** and your attendance at such meeting is hereby requested to transact the following business.

AGENDA

PL25/123 Apologies for Absence

To note apologies for absence.

PL25/124 Public Participation Period

Members of the public may make representations, answer questions and give evidence at a meeting which they are entitled to attend in respect of the business on the agenda. A period of up to 15 minutes is permitted for public participation. Participants are restricted to 3 minutes each. Please see the [Council's Public Participation at Meetings Policy](#) and [Standing Orders](#) 3.6 – 3.9 for details.

PL25/125 Declarations of Interest

To receive any declarations of interest in accordance with the requirements of the Localism Act 2011.

PL25/126 Dispensation Requests

To consider any dispensation requests received by the Town Clerk in relation to personal and/or disclosable pecuniary interests, not previously recorded.

PL25/127 Items for Exclusion of Public and Press

To determine which items on the agenda, if any, require the exclusion of public and press under the Public Bodies (Admissions to Meetings) Act 1960 1 (2) and resolve to exclude public and press for these items.

PL25/128 Minutes of the Previous Meeting

To receive the minutes of the previous Planning Committee meeting and resolve to sign these as a true and accurate record.

Paper A Tuesday 15 October 2024 (pages 6 to 10)

PL25/129 Planning Application

To consider planning application received.

[Application Ref No: WL/2024/00817 \(15/10/24, 24 days\)](#)

[Proposal: Planning application for the erection of an Extra Care home \(Class C2\) containing up to 48no. apartments of mixed one and two bedroom apartments, with associated amenities, staff facilities, landscaping and parking being variation of condition 4 of planning permission 144221 granted 5 October 2023 - amendment to design](#)

[Location: Former Cedars Residential Home, Morton Terrace, Gainsborough](#)

PL25/130 Planning Application

To consider planning application received.

[Application Ref No: WL/2024/00839 \(21/10/24, 24 days\)](#)

[Proposal: Planning application for the conversion of first floor to form 2no. flats and associated changes to building.](#)

[Location: 11-15 Silver Street, Gainsborough](#)

PL25/131 Planning Application

To consider planning application received.

[Application Ref No: WL/2024/00885 \(29/10/24, 24 days\)](#)

[Proposal: Planning application for replacement roof tiles.](#)

[Location: 5 Silver Street, Gainsborough](#)

PL25/132 Planning Application

To consider planning application received.

[Application Ref No: WL/2024/00886 \(29/10/24, 24 days\)](#)

[Proposal: Listed building consent for replacement roof tiles.](#)

[Location: 5 Silver Street, Gainsborough](#)

PL25/133 Planning Application

To consider planning application received.

[Application Ref No: WL/2024/00896 \(01/11/24, 24 days\)](#)

[Proposal: Planning application for the creation of 3no. flats to the upper three storeys with internal modifications including the erection of timber stud partitions the addition of 2no. internal stair cases, 9no. skylights & the widening & replacement of the South West elevation access door being variation of conditions 2 of planning permission 148059 granted 28 May 2024 - install mf ceiling to flat 1, excluding panelled room. install pan tiles to roof, drylining of external walls, removal of existing small staircase from flat 1 to flat 3 entrance, alter structural steel work found within wall in flat 1.](#)

[Location: 16 Silver Street, Gainsborough](#)

PL25/134 Planning Application

To consider planning application received.

Application Ref No: WL/2024/00897 (01/11/24, 24 days)

Proposal: Listed building consent for the creation of 3no. flats to the upper three storeys with internal modifications including the erection of timber stud partitions the addition of 2no. internal stair cases, 9no. skylights & the widening & replacement of the South West elevation access door being variation of condition 2 of listed building consent 148060 granted 28 May 2024 install mf ceiling to flat 1, excluding panelled room. install pan tiles to roof, drylining of external walls, removal of existing small staircase from flat 1 to flat 3 entrance, alter structural steel work found within wall in flat 1.

Location: 16 Silver Street, Gainsborough

PL25/135 Planning Application

To consider planning application received.

Application Ref No: WL/2024/00908 (06/11/24, 24 days)

Proposal: Planning Application for Two Storey and additional single storey extensions to rear of semi-detached dwelling.

Location: 37 Beckett Avenue, Gainsborough

PL25/136 Planning Application

To consider planning application received.

Application Ref No: WL/2024/00910 (06/11/24, 24 days)

Proposal: Planning application for addition of 1no. flat at ground floor level, amendments to the first floor layout of existing Unit 10, and provision of residential storage, refuse storage and cycle storage.

Location: The Maltings, 2b Lea Road, Gainsborough

PL25/137 Decision Notice

To note decision notice received.

Application Ref No: WL/2024/00718 GRANTED (delegated)

Proposal: Listed building consent for to install awning to the shop front elevations.

Location: 16 Silver Street, Gainsborough

Paper B (pages 11 to 23)

PL25/138 Decision Notice

To note decision notice received.

Application Ref No: WL/2024/00717 GRANTED (delegated)

Proposal: Planning application to install awning to the shop front elevations.

Location: 16 Silver Street, Gainsborough

Paper C (pages 24 to 37)

PL25/139 Decision Notice

To note decision notice received.

Application Ref No: WL/2024/00069 GRANTED (delegated)

Proposal: Listed Building Consent for change of use of bank to serviced office accommodation with meeting room and 8no. residential units, including removal of existing rear extensions, erection of replacement rear extension, new rear extension and removal of trees being variation of condition 9 of listed building consent 145243 granted 5 April 2023 - improvements and changes in layout

Location: 10 Silver Street, Gainsborough

Paper D (pages 38 to 63)

PL25/140 Decision Notice

To note decision notice received.

Application Ref No: WL/2024/00187 GRANTED (delegated)

Proposal: Planning application for change of use of bank to serviced office accommodation with meeting room and 8no. residential units, including removal of existing rear extensions, erection of replacement rear extension, new rear extension and removal of trees being variation of condition 10 of planning permission 145242 granted 5 April 2023 – improvements and changes in layout.

Location: 10 Silver Street, Gainsborough

Paper E (pages 64 to 90)

PL25/141 Decision Notice

To note decision notice received.

Application Ref No: WL/2024/00765 GRANTED (delegated)

Proposal: Listed building consent to install access ramp & level access shower being variation of condition 2 of listed building consent 147781 granted 28 March 2024 - position of toilet & basin to be relocated onto opposite wall.

Location: Prospect House, Summer Hill, Gainsborough

Paper F (pages 91 to 99)

PL25/142 Decision Notice

To note decision notice received.

Application Ref No: WL/2024/00585 GRANTED (Committee)

Proposal: Planning application for the demolition of the remaining Baltic Mill wall.

Location: Baltic Mill, Bridge Street, Gainsborough

Paper G (pages 100 to 116)

PL25/143 Street Naming Requests

To consider street naming requests received (if there are any).

PL25/144 Tree Preservation Orders

To consider tree preservation orders received (if there are any).

PL25/145 Traffic Regulation Order

To consider request from a member of the public regarding parking on Balfour Street.

Paper H (pages 117 to 118)

PL25/146 Definitive Map Modification Order (DMMO) Applications

To consider application process to apply for a definitive map modification order:

- i. footpath between Sweyn Way and the Belt Road, beside the new development
- ii. footpath from the end of Mayfield Avenue to Margaret Close.

Paper I (pages 119 to 167)

PL25/147 LCC Traffic / Highway Request overview

To note traffic / highway requests since May 2022, action taken and responses received.

Paper J (pages 168 to 171)

PL25/148 Items for Notification

To receive any items for notification to be included on a future agenda (for information only).

PL25/149 Time and Date of Next Meeting

To note the date and time of the next Planning Committee meeting is scheduled for Tuesday 17 December 2024 at 6:30pm.

Rachel Allbones
Town Clerk
Richmond House
Gainsborough

Thursday, 14 November 2024

PAPER A

Gainsborough Town Council

Richmond House, Richmond Park, Morton Terrace

Gainsborough, Lincolnshire, DN21 2RJ

Tel: 01427 811573

Website: gainsborough-tc.gov.uk



DRAFT PLANNING COMMITTEE MINUTES

Minutes of the Planning Committee meeting held on **Tuesday 15 October 2024** at **6:30pm** in the meeting room, Richmond House, Richmond Park, Morton Terrace, Gainsborough, DN21 2RJ.

Councillors Present: Councillor James Plastow (Chair)
 Councillor Nicholas Coxon Councillor David Dobbie
 Councillor Richard Doy

In Attendance:
 Natasha Gardener Assistant Clerk
 Rachel Allbones Town Clerk

Also Present: 1 Member of the public

PL25/101 Apologies for Absence

Apologies for absence were received from Councillors M Devine, P Key, S Morley, L Muggridge & K Woolley.

PL25/102 Public Participation Period

A resident spoke of privacy and overlooking concerns relating to PL25/109 Cox's Water Tower if it was turned into a dwelling.

PL25/103 Declarations of Interest

Councillor Plastow declared a personal interest in agenda items PL25/107 and PL25/108 as he knows the applicant.

Councillor Coxon declared a personal interest in agenda item PL25/111 as he knows the applicant.

PL25/104 Dispensation Requests

No dispensation requests were received.

PL25/105 Items for Exclusion of Public and Press

No items for exclusion of public and press.

PL25/106 Minutes of the Previous Meeting (Paper A)

RESOLVED: that the minutes of the Planning Committee meeting held on

Wednesday 18 September 2024 be approved as a as a true and accurate record and signed by the Chair.

Note: Councillor Doy abstained from voting on the above resolution.

PL25/107 Planning Application

[Application Ref No: WL/2024/00717 \(18/09/24, 28 days\)](#)

[Proposal: Planning application to install awning to the shop front elevations.](#)

[Location: 16 Silver Street, Gainsborough.](#)

RESOLVED: to support the application.

PL25/108 Planning Application

[Application Ref No: WL/2024/00718 \(18/09/24, 28 days\)](#)

[Proposal: Listed building consent for to install awning to the shop front elevations.](#)

[Location: 16 Silver Street, Gainsborough](#)

RESOLVED: to support the application.

PL25/109 Planning Application

[Application Ref No: WL/2024/00763 \(01/10/24, 28 days\)](#)

[Proposal: Planning application for 3no. dwellings and the conversion of the existing water tower into 1no. dwelling.](#)

[Location: Cox's Water Tower, Heapham Road, Gainsborough](#)

RESOLVED: to raise concerns about overlooking and loss of privacy of existing properties. Concerns regarding the junction at the top of the hill specifically vehicular access and highway safety.

At the request of Councillor Dobbie a recorded vote was taken as follows: -

For: Councillors Coxon, Doy, Plastow

Abstained: Councillor Dobbie

PL25/110 Planning Application

[Application Ref No: WL/2024/00764 \(01/10/24, 28 days\)](#)

[Proposal: Listed building consent for 3no. dwellings and the conversion of the existing water tower into 1no. dwelling.](#)

[Location: Cox's Water Tower, Heapham Road, Gainsborough](#)

RESOLVED: to raise concerns about overlooking and loss of privacy of existing properties. Concerns regarding the junction at the top of the hill specifically vehicular access and highway safety.

Note: The member of the public left the meeting.

PL25/111 Planning Application

[Application Ref No: WL/2024/00765 \(02/10/24, 28 days\)](#)

[Proposal: Listed building consent to install access ramp & level access shower being variation of condition 2 of listed building consent 147781 granted 28 March](#)

[2024 - position of toilet & basin to be relocated onto opposite wall.](#)
[Location: Prospect House, Summer Hill, Gainsborough](#)

RESOLVED: to support the application as it helps the resident(s) to have a better standard of living.

Note: Councillor Coxon abstained from voting on the above resolution.

PL25/112 Planning Application

[Application Ref No: WL/2024/00777 \(07/10/24, 28 days\)](#)

[Proposal: Prior approval application for proposed change of use of commercial, business and service to 4no. dwellings.](#)

[Location: TUI, 23-25 Market Place, Gainsborough](#)

RESOLVED: to support the application as the Town Council supports town centre living.

PL25/113 Decision Notice (Paper B)

Application Ref No: WL/2024/00097 GRANTED (delegated)

Proposal: Planning application for the change of use and redevelopment to form 3no. dwellings.

Location: Former Melrose Sports and Social Club, 51 Melrose Road, Gainsborough

RESOLVED: to NOTE the decision notice.

Councillor Dobbie raised concerns regarding the existing boundary line of the bowls area, local residents have previously raised the boundary line had been removed, it will impact the biodiversity of the area.

PL25/114 Decision Notice (Paper C)

Application Ref No: WL/2024/00608 GRANTED (delegated)

Proposal: Planning application to demolish an existing timber framed conservatory structure, provide new windows to replace existing doors to the Registration Office and Ceremony Room, repairs to brickwork.

Location: Richmond House, Morton Terrace, Gainsborough

RESOLVED: to NOTE the decision notice.

PL25/115 Decision Notice (Paper D)

Application Ref No: WL/2024/00609 GRANTED (delegated)

Proposal: Listed building consent to demolish an existing timber framed conservatory structure, provide new windows to replace existing doors to the Registration Office and Ceremony Room, repairs to brickwork.

Location: Richmond House, Morton Terrace, Gainsborough

RESOLVED: to NOTE the decision notice.

PL25/116 Street Naming Requests

No street naming requests were received.

PL25/117 Tree Preservation Orders

No tree preservation orders were received.

PL25/118 20's Plenty (Paper E)

RESOLVED: to **RECOMMEND TO FULL COUNCIL** that the Town Council sign up to the 20s Plenty Campaign and elect a spokesperson/lead contact.

Note: Councillor Doy abstained from voting on the above resolution.

PL25/119 Proposed Stopping Up of Part of the Public Highway at Heapham Road, Gainsborough (Paper F)

RESOLVED: to support the stopping up of Part of the Public Highway at Heapham Road, but to request LCC consider reinstating the vehicular access gate to stop vehicles accessing the footpath.

PL25/120 DMMO Applications (Paper G)

RESOLVED: that Councillor Dobbie will take photos of the footpaths near Sweyn Lane and bring it back to a future meeting.

PL25/121 Items for Notification

- i. Caskgate Street Zebra Crossing Response
- ii. DMMO Applications

PL25/122 Time and Date of Next Meeting

RESOLVED: To **NOTE** the date and time of the next Planning Committee meeting is scheduled for Tuesday 19 November 2024 at 6:30pm.

The meeting closed at 7:40pm.

Signed as a true record of the Meeting: _____ Dated _____
Presiding chairman of approving meeting

PAPER B

Listed Building Consent

Name and address of applicant

Jonathan Gale
3 LAUNDRY COTTAGES
THONOCK ROAD
THONOCK
GAINSBOROUGH
DN21 3HR

Name and address of agent (if any)

Part I – Particulars of application

Date of application:
11/09/2024

Application no:
WL/2024/00718

Particulars and location of development

Proposal: Listed building consent for to install awning to the shop front elevations.

Location:

16 SILVER STREET
GAINSBOROUGH
DN21 2DP

Part II – Particulars of decision

West Lindsey District Council hereby give notice that **Listed Building Consent has been granted** for the execution of the works referred to in Part 1 hereof in accordance with the application and plans submitted.

Conditions stating the time by which the works must be commenced:

1.The works to which this consent relates shall be begun before the expiration of three years from the date of this consent.

Reason: To conform with Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

Conditions which apply or require matters to be agreed before the works commenced:

None.

Conditions which apply or are to be observed during the course of the works:

2. With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the following drawings:

- Site Location Plan- 2752-A2-01a;
- Awning Specifications Document;
- Front Elevation - Open;

- Front Elevation- Closed;
- Cross Section
- Perspective View- Open;
- Perspective View- Closed;
- Proposed Block Plan;
- Section, Fixing Specification- Classic Box;
- Fixing Specifications- Sliders.

The works shall be carried out in accordance with the details and material information shown on the approved plans, and in any other approved documents forming part of the application.

Reason: To ensure the work proceeds in accordance with the approved plans in accordance with section 17 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

Conditions which apply or relate to matters which are to be observed following completion of the works:

None.

Notes to the Applicant

Please contact the Lincolnshire County Council Streetworks and Permitting Team on 01522 782070 to discuss any proposed statutory utility connections, Section 50 licences and any other works which will be required within the public highway in association with the development permitted under this Consent. This will enable Lincolnshire County Council to assist in the coordination and timings of these works. For further guidance please visit the Highway Authority's website via the following link: Traffic Management - <https://www.lincolnshire.gov.uk/traffic-management>

Reasons for Granting Consent: The proposal has been considered against the duty contained within section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended. In light of this assessment, the proposal is considered as preserving the desirability of the Listed Building and its setting. Furthermore, the proposed development will preserve the desirability of the special architectural features or historic interest it possesses.

Date: 22/10/2024

Signed:



Ian Knowles
Chief Executive and Head of Paid Service

West Lindsey District Council
Guildhall
Marshall's Yard
Gainsborough
DN21 2NA

Appeals to the Secretary of State

- If the applicant is aggrieved by the decision of the local planning authority to refuse listed building consent for the proposed works, or to grant consent subject to conditions, then you can appeal to the Secretary of State in accordance with sections 20 and 21 of the Planning (Listed Building and Conservation Areas) Act 1990.
- **If you want to appeal against your local planning authority's decision you must do so within 6 Months of the date of this notice. Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol or online at: <https://acp.planninginspectorate.gov.uk>.**
- If listed building consent is refused, or granted subject to conditions, whether by the local planning authority or by the First Secretary of State and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any works which have been or would be permitted, he may serve on the council of the district, in which the land is situated a listed building purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of section 32 of the Planning (Listed Building and Conservation Areas) Act 1990.
- In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions. The circumstances in which such compensation is payable are set out in section 27 of the Planning (Listed Building and Conservation Areas) Act 1990.
- **Only the applicant possesses the right to appeal the decision.**

If you require this letter in another format e.g. large print, please contact Customer Services on 01427 676676, by email customer.services@west-lindsey.gov.uk or by asking any of the Customer Services staff.

Officers Report

Planning Application No: WL/2024/00717

And

Listed Building Consent No: WL/2024/00718

PROPOSAL: Planning application and Listed Building Consent to install awning to the shop front.

LOCATION:

16 SILVER STREET

GAINSBOROUGH

DN21 2DP

WARD: GAINSBOROUGH SOUTH WEST

TARGET DECISION DATE: 06/11/2024

CASE OFFICER: Danielle Peck

Recommended Decision: Grant planning permission and listed building consent subject to conditions

Site Description: The site is a Grade II listed building within Gainsborough Town Centre and the Town Centre Conservation Area. The property is a four storey building that fronts the northern side of Silver Street, one of the main pedestrian thoroughfares in Gainsborough town centre. The building also has a two storey wing to the rear which is attached to the 8 Jolly Brewers Public House.

The site is located within the Gainsborough Primary Shopping Area, it is within the Gainsborough Town Conservation Area and is within close proximity to a number of other Listed Buildings, namely;

- 18,21A, 23-25 and 27 Silver Street- Grade II Listed;
- Elswitha Hall, Caskgate Street- Grade II* Listed

The Proposal: The applications seek full planning permission and listed building consent to install a traditional awning over the shop unit located on the east elevation of the host building. The fabric part of the awning will be a Cream (R-115) colour and will retract into a timber box fixed to the front elevation. It will measure 4.5m in width and will project out by 1.5m.

Relevant Planning History

148059 Planning application for the creation of 3no. flats to the upper three storeys with internal modifications including the erection of timber stud partitions the addition of 2no. internal stair cases, 5no. skylights & the widening & replacement of the South West elevation access door. GC 23/05/2024

148060 Planning application for the creation of 3no. flats to the upper three storeys with internal modifications including the erection of timber stud partitions the addition of 2no. internal stair cases, 5no. skylights & the widening & replacement of the South West elevation access door. GC 23/04/2024

140810 Planning application to create flat in upper floors - resubmission of planning permission 135144. Granted with conditions 06/05/2020.

140811 Listed Building Consent to create flat in upper floors- resubmission of listed building consent 135145. Granted with conditions 06/05/2020.

135144 – Planning application to create flat in upper floors. Granted April 2017.

135145 – Listed Building Consent application to create flat in upper floors. Granted April 2017.

W/A/1/87 – Display illuminating box sign granted 17/02/87 (whole of ship court including range of buildings to the north west of present 16 Silver Street).

W33/LB/39/86 – Extend the building granted 16/12/86 at 16 Silver Street (whole of ship court including range of buildings to the north west of present 16 Silver Street).

W33/850/86 – Extend office accommodation 15/12/86 (whole of ship court including range of buildings to the north west of present 16 Silver Street).

W33/135/83 – Extend building to form store granted 14/09/83 (whole of ship court including range of buildings to the north west of present 16 Silver Street).

W33/776/80 – Extension to offices granted 19/08/80 (whole of ship court including range of buildings to the north west of present 16 Silver Street).

W33/408/75 – Conversion into offices (including toilet and kitchen) granted 21/07/75 (16 Silver Street). W33/153/75 – Change of use of estate agents office with accommodation above granted 17/04/75 (16 Silver Street).

Representations

Gainsborough Town Council: No comments to make.

Local residents/Third Party Representations: No representations received to date.

LCC Highways and Lead Local Flood Authority: No objections. The awning will extend over the public highway and an oversail license will be required. Please contact the Highways Area Officer for further information.

LCC Archaeology: No representations received to date.

Historic England: Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application. We suggest that you seek the views of your specialist conservation and archaeological advisers.

WLDC Conservation Officer: No objections.

Date Checked: 22/10/2024

Development Plan

- ***Central Lincolnshire Local Plan 2023 (CLLP)***

Relevant policies of the CLLP include:

Policy S1: The Spatial Strategy and Settlement Hierarchy

Policy S37: Gainsborough Town Centre and Primary Shopping Area

Policy NS41: City and Town Centre Frontages

Policy S47: Accessibility and Transport

Policy S53: Design and Amenity

Policy S57: The Historic Environment

<https://www.n-kesteven.gov.uk/central-lincolnshire>

- ***Gainsborough Town Neighbourhood Plan (NP)***

Relevant policies of the NP include:

NPP 1 Sustainable Development

NPP 6 Ensuring High Quality Design

NPP 7 Ensuring High Quality Design in each Character Area

NPP 18 Protecting and Enhancing Heritage Assets

NPP 19 Improving the Vitality of the Town Centre

<https://www.west-lindsey.gov.uk/planning-building-control/planning/neighbourhood-planning/all-neighbourhood-plans-west-lindsey/gainsborough-town-neighbourhood-plan>

- ***Lincolnshire Minerals and Waste Local Plan (LMWLP)***

The site is within a Minerals Safeguarding Area, Minerals or Waste site / area and Policy M11 applies.

<https://www.lincolnshire.gov.uk/planning/minerals-waste>

National policy & guidance (Material Consideration)

- ***National Planning Policy Framework (NPPF)***

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1182995/NPPF_Sept_23.pdf

The NPPF sets out the Government's planning policies for England and how these should be applied. It is a material consideration in planning decisions. The most recent iteration of the NPPF was published in September 2023.

- **National Planning Practice Guidance**
<https://www.gov.uk/government/collections/planning-practice-guidance>
- **National Design Guide (2019)**
<https://www.gov.uk/government/publications/national-design-guide>
- **National Design Code (2021)**
<https://www.gov.uk/government/publications/national-model-design-code>

Other Relevant Legislation

- Statutory Duties contained within Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990- The 'Act'.

<https://www.legislation.gov.uk/ukpga/1990/9/contents>

Main issues

- Principle of Development;
- Impact on host Listed Building and Gainsborough Conservation Area;
- Other Matters.

Assessment:

Principle of Development

The application site is located within Gainsborough Town Centre. Gainsborough is defined as a 'Main Town' within Policy S1 of the CLLP. The works comprise of external alterations to the existing building, the main considerations in this case are the impacts on the host building, a Grade II Listed Building, as well as the nearby designated heritage assets comprising of other nearby listed buildings and the Gainsborough Town Centre Conservation Area.

Section 16 (2) of the Planning (Listed Building and Conservation Area) Act 1990 requires Local Planning Authorities to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Impact on host Listed Building and Gainsborough Conservation Area

Policy S53 states that; *All development, including extensions and alterations to existing buildings, must achieve high quality sustainable design that contributes*

positively to local character, landscape and townscape, and supports diversity, equality and access for all.

Policy NS41 states that; *Proposals for new frontages or **alterations to existing frontages** within an identified centre will be permitted provided the proposal:*

- a. is of a high quality design and is sympathetic in scale, proportion and appearance to the building of which it forms part, and to the character of the surrounding street scene; and*
- b. protects, and where possible enhances, traditional or original frontage or features that are of architectural or historic interest, particularly if the building is listed or within a conservation area; and*
- c. is designed to allow equal access for all users.*

With regard to Listed Buildings Policy S57 of the CLLP states that; *Permission 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 conservation and does not involve activities or alterations prejudicial to the special architectural or historic interest of the Listed Building or its setting.*

Policy NPP18 of the NP states that; *Development proposals for the renovation of buildings and shopfronts in the Town Centre that reinforce its historic character and comply with West Lindsey District Council's shopfront improvement scheme will be supported.*

The statutory duties contained within Sections 66 and 72 the 'Act' place a legislative requirement on the Local Planning Authority to pay 'special regard' to the desirability of preserving the setting of listed buildings. With regard to conservation areas, Section 72 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

The applications seek full planning permission and listed building consent for the installation of a traditional Victorian retractable awning to the front elevation of the ground floor shop unit. The fabric part of the awning will in an Cream colour (R- 115) and will retract into a box affixed to the front elevation. It will measure 4.5 metres in width and will project out by 1.5 metres. The awning would be of a traditional appearance, design and colour that will respect the existing shop frontage. The Councils Conservation Officer has verbally confirmed that they have no objections to the proposals.

Overall, it is considered that the special historic interest of the host Listed building would be preserved and would therefore accord to the statutory duty contained within Section 16 of the 'Act'. The proposals would also help to enhance the Gainsborough Town Centre Conservation Area and street scene of the Market Place in accordance with the policies contained within the Development Plan and the Statutory duties within Sections 66 and 72 of the 'Act'.

Other Matters

Highways- The highways authority have been consulted on the proposals. The Highways Authority at Lincolnshire County Council have confirmed that they have no objections to the proposals subject to an informative to be added to the decision in the event that permission is granted. Overall, the proposals would not have a harmful impact upon on highway safety.

Drainage- Drainage from the awning will utilise the existing drainage systems at the site.

Residential Amenity- The proposals, given that they comprise of minor external works to an existing building, would not impact upon the amenity of any neighbouring residential occupiers.

Minerals Safeguarding Area- The proposals comprise of external works to an existing building and its frontage, it is not considered that safeguarding considerations within policy M11 of the Lincolnshire Minerals and Waste Local Plan are engaged in this case.

Planning application conclusion

The application has been considered against policies Policy S1: The Spatial Strategy and Settlement Hierarchy, Policy S6: Design Principles for Efficient Buildings, Policy S13: Reducing Energy Consumption in Existing Buildings, Policy S37: Gainsborough Town Centre and Primary Shopping Area, Policy NS41: City and Town Centre Frontages, Policy S47: Accessibility and Transport, Policy S53: Design and Amenity, Policy S57: The Historic Environment of the Central Lincolnshire Local Plan, the policies within the Gainsborough Town Neighbourhood Plan, Policy M11 of the Core Strategy and the Statutory duties contained within Sections 66 and 72 of the 'Act' in the first instance along with the provisions of the NPPF and guidance contained within the NPPG.

In light of this assessment it is considered that the proposed awning would respect the host Grade II Listed building as well as the wider Town Centre. The proposals would preserve the setting of the nearby listed buildings and conservation area. No unacceptable harm has been identified with regard to the impacts upon residential amenity, highways or drainage nor would the proposal impact upon the minerals safeguarding area. The application is recommended for approval subject to conditions.

Listed Building Consent conclusion

The proposal has been considered against the duty contained within section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended. In light of this assessment, the proposal is considered as preserving the desirability of the Listed Building and its setting. Furthermore, the proposed development will preserve the desirability of the special architectural features or historic interest it possesses. The consent is therefore recommended for approval, subject to conditions.

RECOMMENDATION- Grant planning permission and listed building consent with conditions

Recommended Conditions- Planning Permission 00717

Conditions stating the time by which the development must be commenced:

1.The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91 (1) of the Town and Country Planning Act 1990 (as amended).

Conditions which apply or require matters to be agreed before the development commenced:

None.

Conditions which apply or are to be observed during the course of the development:

2.With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the following drawings:

- Site Location Plan- 2752-A2-01a;
- Awning Specifications Document;
- Front Elevation - Open;
- Front Elevation- Closed;
- Cross Section
- Perspective View- Open;
- Perspective View- Closed;
- Proposed Block Plan;
- Section, Fixing Specification- Classic Box;
- Fixing Specifications- Sliders.

The works shall be carried out in accordance with the details and material information shown on the approved plans, and in any other approved documents forming part of the application.

Reason: To ensure the development proceeds in accordance with the approved plans.

Conditions which apply or relate to matters which are to be observed following completion of the development:

None.

Notes to the Applicant

Please contact the Lincolnshire County Council Streetworks and Permitting Team on 01522 782070 to discuss any proposed statutory utility connections, Section 50 licences and any other works which will be required within the public highway in association with the development permitted under this Consent. This will enable Lincolnshire County Council to assist in the coordination and timings of these works. For further guidance please visit the Highway Authority's website via the following link: Traffic Management - <https://www.lincolnshire.gov.uk/traffic-management>

Recommended Conditions- Listed Building Consent 00718

Conditions stating the time by which the development must be commenced:

1.The works to which this consent relates shall be begun before the expiration of three years from the date of this consent.

Reason: To conform with Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

Conditions which apply or require matters to be agreed before the development commenced:

None.

Conditions which apply or are to be observed during the course of the development:

2. With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the following drawings:

- Site Location Plan- 2752-A2-01a;
- Awning Specifications Document;
- Front Elevation - Open;
- Front Elevation- Closed;
- Cross Section
- Perspective View- Open;
- Perspective View- Closed;
- Proposed Block Plan;
- Section, Fixing Specification- Classic Box;
- Fixing Specifications- Sliders.

The works shall be carried out in accordance with the details and material information shown on the approved plans, and in any other approved documents forming part of the application.

Reason: To ensure the work proceeds in accordance with the approved plans in accordance with section 17 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

Conditions which apply or relate to matters which are to be observed following completion of the development:

None.

Notes to the Applicant

None.

Human Rights Implications:

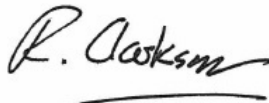
The above objections, considerations and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.

Legal Implications:

Although all planning decisions have the ability to be legally challenged it is considered there are no specific legal implications arising from this report

Decision Level: Delegated

Prepared by: Danielle Peck **Date:** 22/10/2024



Authorising Officer:
22/10/2024

..... **Date:**

PAPER C

Planning Permission

Name and address of applicant

Jonathan Gale
3 LAUNDRY COTTAGES
THONOCK ROAD
THONOCK
GAINSBOROUGH
DN21 3HR

Name and address of agent (if any)

Part One – Particulars of application

Date of application:
11/09/2024

Application number:
WL/2024/00717

Particulars and location of development:

Proposal: Planning application to install awning to the shop front elevations.

Location:

16 SILVER STREET
GAINSBOROUGH
DN21 2DP

Part Two – Particulars of decision

The West Lindsey District Council hereby give notice in pursuance of the provisions of the Town and Country Planning Act 1990 that planning permission has been granted for the carrying out of the development referred to in Part One hereof in accordance with the application and plans submitted subject to the following conditions:

Conditions stating the time by which the development must be commenced:

1.The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91 (1) of the Town and Country Planning Act 1990 (as amended).

Conditions which apply or require matters to be agreed before the development commenced:

None.

Conditions which apply or are to be observed during the course of the development:

2.With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the following drawings:

- Site Location Plan- 2752-A2-01a;
- Awning Specifications Document;
- Front Elevation - Open;
- Front Elevation- Closed;
- Cross Section
- Perspective View- Open;
- Perspective View- Closed;
- Proposed Block Plan;
- Section, Fixing Specification- Classic Box;
- Fixing Specifications- Sliders.

The works shall be carried out in accordance with the details and material information shown on the approved plans, and in any other approved documents forming part of the application.

Reason: To ensure the development proceeds in accordance with the approved plans.

Conditions which apply or relate to matters which are to be observed following completion of the development:

None.

Notes to the Applicant

Please contact the Lincolnshire County Council Streetworks and Permitting Team on 01522 782070 to discuss any proposed statutory utility connections, Section 50 licences and any other works which will be required within the public highway in association with the development permitted under this Consent. This will enable Lincolnshire County Council to assist in the coordination and timings of these works. For further guidance please visit the Highway Authority's website via the following link: Traffic Management - <https://www.lincolnshire.gov.uk/traffic-management>

Reasons for granting permission: The application has been considered against policies Policy S1: The Spatial Strategy and Settlement Hierarchy, Policy S6: Design Principles for Efficient Buildings, Policy S13: Reducing Energy Consumption in Existing Buildings, Policy S37: Gainsborough Town Centre and Primary Shopping Area, Policy NS41: City and Town Centre Frontages, Policy S47: Accessibility and Transport, Policy S53: Design and Amenity, Policy S57: The Historic Environment of the Central Lincolnshire Local Plan, the policies within the Gainsborough Town Neighbourhood Plan, Policy M11 of the Core Strategy and the Statutory duties contained within Sections 66 and 72 of the 'Act' in the first instance along with the provisions of the NPPF and guidance contained within the NPPG.

In light of this assessment it is considered that the proposed awning would respect the host Grade II Listed building as well as the wider Town Centre. The proposals would preserve the setting of the nearby listed buildings and conservation area. No unacceptable harm has been identified with regard to the impacts upon residential amenity, highways or drainage nor would the proposal impact upon the minerals safeguarding area.

Working Practice Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Date: 22/10/2024

Signed:



Ian Knowles
Chief Executive and Head of Paid Service

West Lindsey District Council
Council Offices
Guildhall
Marshall's Yard
Gainsborough
DN21 2NA

Note: This permission refers only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other enactment, byelaw, order or regulation. You are strongly advised not to commence works until you have obtained any other permissions or consents that may be required, for example approval under the Building Regulations, otherwise there may be a risk of significant legal and financial consequences. For further advice on the Building Regulations, contact the Council's Building Control section.

Failure to adhere to the details of the approved plans or to comply with the conditions attached to this permission is a contravention of the provisions of the Town & Country Planning Act 1990 in respect of which enforcement action may be taken. Please contact the planning department for further advice relating to the discharge of condition process and the appropriate fee payable (if applicable). Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- **If you want to appeal against your local planning authority's decision then you must do so within six months of the date of this notice.**
Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN or online at www.planningportal.gov.uk/pcs. You must use a Planning Appeal Form when making your appeal. If requesting forms from the Planning Inspectorate, please state the appeal form you require.
- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

- The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.
- Please note only the applicant possesses the right to appeal.

Purchase Notices

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

If you require this document in another format e.g. large print, please contact Customer Services on 01427 676676, by email customer.services@west-lindsey.gov.uk or by asking any of the Customer Services staff.

Officers Report

Planning Application No: WL/2024/00717

And

Listed Building Consent No: WL/2024/00718

PROPOSAL: Planning application and Listed Building Consent to install awning to the shop front.

LOCATION:

16 SILVER STREET

GAINSBOROUGH

DN21 2DP

WARD: GAINSBOROUGH SOUTH WEST

TARGET DECISION DATE: 06/11/2024

CASE OFFICER: Danielle Peck

Recommended Decision: Grant planning permission and listed building consent subject to conditions

Site Description: The site is a Grade II listed building within Gainsborough Town Centre and the Town Centre Conservation Area. The property is a four storey building that fronts the northern side of Silver Street, one of the main pedestrian thoroughfares in Gainsborough town centre. The building also has a two storey wing to the rear which is attached to the 8 Jolly Brewers Public House.

The site is located within the Gainsborough Primary Shopping Area, it is within the Gainsborough Town Conservation Area and is within close proximity to a number of other Listed Buildings, namely;

- 18,21A, 23-25 and 27 Silver Street- Grade II Listed;
- Elswitha Hall, Caskgate Street- Grade II* Listed

The Proposal: The applications seek full planning permission and listed building consent to install a traditional awning over the shop unit located on the east elevation of the host building. The fabric part of the awning will be a Cream (R-115) colour and will retract into a timber box fixed to the front elevation. It will measure 4.5m in width and will project out by 1.5m.

Relevant Planning History

148059 Planning application for the creation of 3no. flats to the upper three storeys with internal modifications including the erection of timber stud partitions the addition of 2no. internal stair cases, 5no. skylights & the widening & replacement of the South West elevation access door. GC 23/05/2024

148060 Planning application for the creation of 3no. flats to the upper three storeys with internal modifications including the erection of timber stud partitions the addition of 2no. internal stair cases, 5no. skylights & the widening & replacement of the South West elevation access door. GC 23/04/2024

140810 Planning application to create flat in upper floors - resubmission of planning permission 135144. Granted with conditions 06/05/2020.

140811 Listed Building Consent to create flat in upper floors- resubmission of listed building consent 135145. Granted with conditions 06/05/2020.

135144 – Planning application to create flat in upper floors. Granted April 2017.

135145 – Listed Building Consent application to create flat in upper floors. Granted April 2017.

W/A/1/87 – Display illuminating box sign granted 17/02/87 (whole of ship court including range of buildings to the north west of present 16 Silver Street).

W33/LB/39/86 – Extend the building granted 16/12/86 at 16 Silver Street (whole of ship court including range of buildings to the north west of present 16 Silver Street).

W33/850/86 – Extend office accommodation 15/12/86 (whole of ship court including range of buildings to the north west of present 16 Silver Street).

W33/135/83 – Extend building to form store granted 14/09/83 (whole of ship court including range of buildings to the north west of present 16 Silver Street).

W33/776/80 – Extension to offices granted 19/08/80 (whole of ship court including range of buildings to the north west of present 16 Silver Street).

W33/408/75 – Conversion into offices (including toilet and kitchen) granted 21/07/75 (16 Silver Street). **W33/153/75** – Change of use of estate agents office with accommodation above granted 17/04/75 (16 Silver Street).

Representations

Gainsborough Town Council: No objections.

Local residents/Third Party Representations: No representations received to date.

LCC Highways and Lead Local Flood Authority: The awning will extend over the public highway and an oversail license will be required. Please contact the Highways Area Officer for further information.

LCC Archaeology: No representations received to date.

Historic England: Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application. We suggest that you seek the views of your specialist conservation and archaeological advisers.

WLDC Conservation Officer: No objections.

Date Checked: 22/10/2024

Development Plan

- ***Central Lincolnshire Local Plan 2023 (CLLP)***

Relevant policies of the CLLP include:

Policy S1: The Spatial Strategy and Settlement Hierarchy

Policy S37: Gainsborough Town Centre and Primary Shopping Area

Policy NS41: City and Town Centre Frontages

Policy S47: Accessibility and Transport

Policy S53: Design and Amenity

Policy S57: The Historic Environment

<https://www.n-kesteven.gov.uk/central-lincolnshire>

- ***Gainsborough Town Neighbourhood Plan (NP)***

Relevant policies of the NP include:

NPP 1 Sustainable Development

NPP 6 Ensuring High Quality Design

NPP 7 Ensuring High Quality Design in each Character Area

NPP 18 Protecting and Enhancing Heritage Assets

NPP 19 Improving the Vitality of the Town Centre

<https://www.west-lindsey.gov.uk/planning-building-control/planning/neighbourhood-planning/all-neighbourhood-plans-west-lindsey/gainsborough-town-neighbourhood-plan>

- ***Lincolnshire Minerals and Waste Local Plan (LMWLP)***

- The site is within a Minerals Safeguarding Area, Minerals or Waste site / area and Policy M11 applies.

<https://www.lincolnshire.gov.uk/planning/minerals-waste>

- National policy & guidance (Material Consideration)

- ***National Planning Policy Framework (NPPF)***

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1182995/NPPF_Sept_23.pdf

The NPPF sets out the Government's planning policies for England and how these should be applied. It is a material consideration in planning decisions. The most recent iteration of the NPPF was published in September 2023.

- **National Planning Practice Guidance**

- <https://www.gov.uk/government/collections/planning-practice-guidance>

- **National Design Guide (2019)**

- <https://www.gov.uk/government/publications/national-design-guide>

- **National Design Code (2021)**

- <https://www.gov.uk/government/publications/national-model-design-code>

Other Relevant Legislation

- Statutory Duties contained within Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990- The 'Act'.

<https://www.legislation.gov.uk/ukpga/1990/9/contents>

Main issues

- Principle of Development;
- Impact on host Listed Building and Gainsborough Conservation Area;
- Other Matters.

Assessment:

Principle of the Development:

The application site is located within Gainsborough Town Centre and Primary Shopping Area. Gainsborough is defined as a 'Main Town' within Policy S1 of the CLLP. The works comprise of external alterations to the existing building, the main considerations in this case are the impacts on the host building, a Grade II Listed Building, as well as the nearby designated heritage assets comprising of other nearby listed buildings and the Gainsborough Town Centre Conservation Area.

Section 16 (2) of the Planning (Listed Building and Conservation Area) Act 1990 requires Local Planning Authorities to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Impact on host Listed Building and Gainsborough Conservation Area

Policy S53 states that; *All development, including extensions and alterations to existing buildings, must achieve high quality sustainable design that contributes positively to local character, landscape and townscape, and supports diversity, equality and access for all.*

Policy NS41 states that; *Proposals for new frontages or **alterations to existing frontages** within an identified centre will be permitted provided the proposal:*

- a. is of a high quality design and is sympathetic in scale, proportion and appearance to the building of which it forms part, and to the character of the surrounding street scene; and*
- b. protects, and where possible enhances, traditional or original frontage or features that are of architectural or historic interest, particularly if the building is listed or within a conservation area; and*
- c. is designed to allow equal access for all users.*

With regard to Listed Buildings Policy S57 of the CLLP states that; *Permission 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 conservation and does not involve activities or alterations prejudicial to the special architectural or historic interest of the Listed Building or its setting.*

Policy NPP18 of the NP states that; *Development proposals for the renovation of buildings and shopfronts in the Town Centre that reinforce its historic character and comply with West Lindsey District Council's shopfront improvement scheme will be supported.*

The statutory duties contained within Sections 66 and 72 the 'Act' place a legislative requirement on the Local Planning Authority to pay 'special regard' to the desirability of preserving the setting of listed buildings. With regard to conservation areas, Section 72 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

The applications seek full planning permission and listed building consent for the installation of a traditional Victorian retractable awning to the front elevation of the ground floor shop unit. The fabric part of the awning will in an Cream colour (R- 115) and will retract into a box affixed to the front elevation. It will measure 4.5 metres in width and will project out by 1.5 metres. The awning would be of a traditional appearance, design and colour that will respect the existing shop frontage. The Council's Conservation Officer has verbally confirmed that they have no objections to the proposals.

Overall, it is considered that the special historic interest of the host Listed building would be preserved and would therefore accord to the statutory duty contained within Section 16 of the 'Act'. The proposals would also help to enhance the Gainsborough Town Centre Conservation Area and street scene of the Market Place in accordance with the policies contained within the Development Plan and the Statutory duties within Sections 66 and 72 of the 'Act'.

Other Matters

Highways- The highways authority have been consulted on the proposals. The Highways Authority at Lincolnshire County Council have confirmed that they

have no objections to the proposals subject to an informative to be added to the decision in the event that permission is granted. Overall, the proposals would not have a harmful impact upon on highway safety.

Drainage- Drainage from the awning will utilise the existing drainage systems at the site.

Residential Amenity- The proposals, given that they comprise of minor external works to an existing building, would not impact upon the amenity of any neighbouring residential occupiers.

Minerals Safeguarding Area- The proposals comprise of external works to an existing building and its frontage, it is not considered that safeguarding considerations within policy M11 of the Lincolnshire Minerals and Waste Local Plan are engaged in this case.

Planning application conclusion

The application has been considered against policies Policy S1: The Spatial Strategy and Settlement Hierarchy, Policy S6: Design Principles for Efficient Buildings, Policy S13: Reducing Energy Consumption in Existing Buildings, Policy S37: Gainsborough Town Centre and Primary Shopping Area, Policy NS41: City and Town Centre Frontages, Policy S47: Accessibility and Transport, Policy S53: Design and Amenity, Policy S57: The Historic Environment of the Central Lincolnshire Local Plan, the policies within the Gainsborough Town Neighbourhood Plan, Policy M11 of the Core Strategy and the Statutory duties contained within Sections 66 and 72 of the 'Act' in the first instance along with the provisions of the NPPF and guidance contained within the NPPG.

In light of this assessment it is considered that the proposed awning would respect the host Grade II Listed building as well as the wider Town Centre. The proposals would preserve the setting of the nearby listed buildings and conservation area. No unacceptable harm has been identified with regard to the impacts upon residential amenity, highways or drainage nor would the proposal impact upon the minerals safeguarding area. The application is recommended for approval subject to conditions.

Listed Building Consent conclusion

The proposal has been considered against the duty contained within section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended. In light of this assessment, the proposal is considered as preserving the desirability of the Listed Building and its setting. Furthermore, the proposed development will preserve the desirability of the special architectural features or historic interest it possesses. The consent is therefore recommended for approval, subject to conditions.

RECOMMENDATION- Grant planning permission and listed building consent with conditions

Recommended Conditions- Planning Permission 00717

Conditions stating the time by which the development must be commenced:

1.The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91 (1) of the Town and Country Planning Act 1990 (as amended).

Conditions which apply or require matters to be agreed before the development commenced:

None.

Conditions which apply or are to be observed during the course of the development:

2.With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the following drawings:

- Site Location Plan- 2752-A2-01a;
- Awning Specifications Document;
- Front Elevation - Open;
- Front Elevation- Closed;
- Cross Section
- Perspective View- Open;
- Perspective View- Closed;
- Proposed Block Plan;
- Section, Fixing Specification- Classic Box;
- Fixing Specifications- Sliders.

The works shall be carried out in accordance with the details and material information shown on the approved plans, and in any other approved documents forming part of the application.

Reason: To ensure the development proceeds in accordance with the approved plans.

Conditions which apply or relate to matters which are to be observed following completion of the development:

None.

Notes to the Applicant

Please contact the Lincolnshire County Council Streetworks and Permitting Team on 01522 782070 to discuss any proposed statutory utility connections, Section 50 licences and any other works which will be required within the public

highway in association with the development permitted under this Consent. This will enable Lincolnshire County Council to assist in the coordination and timings of these works. For further guidance please visit the Highway Authority's website via the following link: Traffic Management - <https://www.lincolnshire.gov.uk/traffic-management>

Recommended Conditions- Listed Building Consent 00718

Conditions stating the time by which the development must be commenced:

1. The works to which this consent relates shall be begun before the expiration of three years from the date of this consent.

Reason: To conform with Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

Conditions which apply or require matters to be agreed before the development commenced:

None.

Conditions which apply or are to be observed during the course of the development:

2. With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the following drawings:

- Site Location Plan- 2752-A2-01a;
- Awning Specifications Document;
- Front Elevation - Open;
- Front Elevation- Closed;
- Cross Section
- Perspective View- Open;
- Perspective View- Closed;
- Proposed Block Plan;
- Section, Fixing Specification- Classic Box;
- Fixing Specifications- Sliders.

The works shall be carried out in accordance with the details and material information shown on the approved plans, and in any other approved documents forming part of the application.

Reason: To ensure the work proceeds in accordance with the approved plans in accordance with section 17 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

Conditions which apply or relate to matters which are to be observed following completion of the development:

None.

Notes to the Applicant

None.

Human Rights Implications:

The above objections, considerations and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.

Legal Implications:

Although all planning decisions have the ability to be legally challenged it is considered there are no specific legal implications arising from this report

Prepared by : Danielle Peck

Date : 22/10/2024



Authorising Office
22/10/2024

..... **Date:**

PAPER D

Listed Building Consent

Name and address of applicant	Name and address of agent (if any)
Lodge Mount	Rocket Architectural Design
Town Street	16 Grange Road
South Leverton	Darlington
Retford	DL1 5NG
DN22 0BT	

Part I – Particulars of application

Date of application	Application no
17/04/2024	WL/2024/00069 (148273)

Particulars and location of development

Proposal: Listed Building Consent for change of use of bank to serviced office accommodation with meeting room and 8no. residential units, including removal of existing rear extensions, erection of replacement rear extension, new rear extension and removal of trees being variation of condition 9 of listed building consent 145243 granted 5 April 2023 - improvements and changes in layout

Location:
10 Silver Street
Gainsborough
Lincolnshire
DN21 2DP

Part II – Particulars of decision

West Lindsey District Council hereby give notice that **Listed Building Consent has been granted** for the execution of the works referred to in Part 1 hereof in accordance with the application and plans submitted.

Conditions stating the time by which the works must be commenced:

1. The development hereby permitted must be begun before the end of the 5th April 2026.

Reason: To conform with Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

Conditions which apply or require matters to be agreed before the works commenced:

NONE

Conditions which apply or are to be observed during the course of the works:

2. With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the following proposed drawings:

Approved in 145243:

- SSG-ARC-B1-XX-DP-A-1002 Rev P5 dated 29th March 2023 – Site Plan
- SSG-ARC-B1-00-DP-A-2204 Rev P6 dated 29th March 2023 – Roof Plan

Approved in 148273:

- 23-090(01) 01 dated March 2024 - Lower Ground Floor Plan
- 23-090 (01) 02A dated March 2024 – Ground Floor Plan
- 23-090 (01) 03A dated March 2024 – First Floor Plan
- 23-090 (01) 04A dated March 2024 - Second Floor Plan
- 23-090 (01) 05 dated March 2024 - Elevations Plan

The works shall be carried out in accordance with the details shown on the approved plans and in any other approved documents forming part of the application.

Reason: To ensure the development proceeds in accordance with the approved plans and safeguards the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

3. The development must be completed in strict accordance with the details on the report and plans listed below approved in condition discharge application 148321:

- Structural Survey Report by James Ellis dated 26th April 2024
- SILSTR-CSL-010-DR-S-0001 Rev C01 dated 10th March 2024 - Ground Floor Structural Details
- SILSTR-CSL-010-DR-S-0002 Rev C01 dated 10th March 2024 - First Floor Partial Plan Structural Details Steelwork Layout and Structural Repairs
- SILSTR-CSL-010-DR-S-0003 Rev C01 dated 10th March 2024 - First Floor Partial Plan Structural Details Steelwork Fabrication Detail

The development must be completed in strict accordance with the approved details.

Reason: To safeguard the fabric and desirability of the Grade II Listed Building to accord with the National Planning Policy Framework

4. The development must be completed in strict accordance with the render details identified on plan 23-090 (02) 07 dated 11th September 2024, approved in condition discharge application 148036 and must be retained as such thereafter.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

5. The development must be completed in strict accordance with the sample panel of brick and mortar approved in condition discharge application 148036 and must be retained as such thereafter.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

6. The development must be completed in strict accordance with the stair details identified on plan 23-090 (02) 06 dated January 2024 approved in condition discharge application 148036 and must be retained as such thereafter.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

7. The development must be completed in strict accordance with the stair details identified on plan 23-090 (03) 03 dated January 2024 approved in condition discharge application 148036 and must be retained as such thereafter.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

8. The development must be completed in strict accordance with the Demolition Risk Assessment received 5th March 2024 and Demolition Works to Single Storey Structure by Evabode Ltd dated 16th February 2024 approved in condition discharge application 148036.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

9. The development must be completed in strict accordance with the external material details listed in email from the agent dated 19th September 2024 and roof details identified on plan 23-090 (02) 06 dated January 2024 approved in condition discharge application 148036 and must be retained as such thereafter.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

10. The development must be completed in strict accordance with the window and door details identified on plan 23-090 (02) 08 dated 11th September 2024 and Kierson Document, approved in condition discharge application 148036 and must be retained as such thereafter.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

11. Full details of 'making good' exposed areas revealed by any demolition works must be submitted to and approved in writing by the Local Planning Authority. The development must be completed in strict accordance with the approved details.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

12. All new external and internal works and finishes of making good to the retained fabric, must match the existing original work adjacent in respect of methods, detailed execution and finished appearance unless otherwise approved in writing by the Local Planning Authority.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

13. No cleaning of any masonry must take place unless by a low pressure (20-100 psi) surface cleaner using a nebulous water spray. Any other cleaning method must be submitted to and approved in by the Local Planning Authority. A test panel measuring no more than 0.5 square metres must be undertaken in an inconspicuous position ready for inspection and approved in writing by the Local Planning Authority. The development must be completed in strict accordance with the approved details.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

Conditions which apply or relate to matters which are to be observed following completion of the works:

NONE

Notes to the Applicant

Reasons for Granting Consent:

The proposal has been considered against the duty contained within section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended. In light of this assessment, the proposed amendments are considered as preserving and enhancing the desirability of the Listed Building and its setting. Furthermore the proposed development will preserve and enhance the desirability of the special architectural features or historic interest it possesses.

Working Practice Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Date: 29th October 2020

Signed:



Ian Knowles
Chief Executive and Head of Paid Service

West Lindsey District Council
Guildhall
Marshall's Yard
Gainsborough
DN21 2NA

Appeals to the Secretary of State

- If the applicant is aggrieved by the decision of the local planning authority to refuse listed building consent for the proposed works, or to grant consent subject to conditions, then you can appeal to the Secretary of State in accordance with sections 20 and 21 of the Planning (Listed Building and Conservation Areas) Act 1990.
- **If you want to appeal against your local planning authority's decision you must do so within 6 Months of the date of this notice. Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol or online at: <https://acp.planninginspectorate.gov.uk>.**
- If listed building consent is refused, or granted subject to conditions, whether by the local planning authority or by the First Secretary of State and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the

carrying out of any works which have been or would be permitted, he may serve on the council of the district, in which the land is situated a listed building purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of section 32 of the Planning (Listed Building and Conservation Areas) Act 1990.

- In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions. The circumstances in which such compensation is payable are set out in section 27 of the Planning (Listed Building and Conservation Areas) Act 1990.
- **Only the applicant possesses the right to appeal the decision.**

If you require this letter in another format e.g. large print, please contact Customer Services on 01427 676676, by email customer.services@west-lindsey.gov.uk or by asking any of the Customer Services staff.

OFFICERS REPORT

PLANNING APPLICATION NO: WL/2024/00187 (148037)

LISTED BUILDING CONSENT: WL/2024/00069 (148273)

PROPOSAL:

Planning application and listed building consent for change of use of bank to serviced office accommodation with meeting room and 8no. residential units, including removal of existing rear extensions, erection of replacement rear extension, new rear extension and removal of trees being variation of condition 10 of planning permission 145242 granted 5 April 2023 and condition 9 of listed building consent 145243 granted 5 April 2023- improvements and changes in layout.

LOCATION: 10 Silver Street, Gainsborough, DN21 2DP

WARD: GAINSBOROUGH SOUTH WEST

APPLICANT NAME: Mr Andrew Wooten Jones

TARGET DECISION DATE: 12th June 2024 (Extension of time agreed until 31st October 2024)

CASE OFFICER: Ian Elliott

Recommended Decision:

WL/2024/00187 (148037) - Grant permission subject to conditions

WL/2024/00069 (148273) - Grant consent subject to conditions

Description and Proposal:

The application seeks permission and consent for the change of use of bank to serviced office accommodation with meeting room and 8no. residential units, including removal of existing rear extensions, erection of replacement rear extension, new rear extension and removal of trees being variation of condition 10 of planning permission 145242 granted 5 April 2023 and condition 9 of listed building consent 145243 granted 5 April 2023 - improvements and changes in layout.

The proposal would:

- Preserve sections approved for demolition
- Redesign the secondary staircase
- Revise units 1, 2 and 3 to allow adequate natural light and ventilation to all habitable rooms.

1. Relevant Planning History

145242 - Planning application for change of use of bank to serviced office accommodation with meeting room and 8no. residential units, including removal of existing rear extensions, erection of replacement rear extension, new rear extension and removal of trees - 05/04/23 - Granted time limit plus conditions

145243 - Listed Building Consent for change of use of bank to serviced office accommodation with meeting room and 8no. residential units, including removal of existing rear extensions, erection of replacement rear extension, new rear extension and removal of trees -05/04/23 - Granted time limit plus conditions

148036 - Request for confirmation of compliance with conditions 3(render), 4(brickwork), 5(features), 6(features), 7(services) 8(demolition Statement) & 11(windows & doors) of listed building consent 145243 granted 5 April 2023 - Yet to be determined

148040 - Request for confirmation of compliance with conditions 5(brickwork), 6(render), 7(demolition), 8(features) & 11(materials) of planning permission 145242 granted 5 April 2023 - Yet to be determined

148321 - Request for confirmation of compliance with condition 2(stuctural &method) of listed building consent 145243 granted 5 April 2023 - Yet to be determined

148322 - Request for confirmation of compliance with condition 4(historic building record) & 9(drainage) of planning permission 145242 granted 5 April 2023 - Yet to be determined

2. Relevant Planning Constraint

The application site is a Grade II listed building within Gainsborough Town Centre and the Town Centre Conservation Area. The property is a three-storey terraced building that fronts onto the northern side of Silver Street, one of the main thoroughfares in Gainsborough town centre.

The official Historic England listing describes the property as follows:

2. Early C19 origins. 3 storeys. Rendered, with coped parapet and string cornice. 8 windows without glazing bars. 1st floor and ground floor have 2 windows. Left hand to ground floor and 1st floor has early C20 bank front. Included as part of a group.

No 10 forms a group with Nos 1 to 7 (odd) Silver Street; Nos 11 to 15 (odd) Silver Street; No 21A and Nos 23 to 33 (odd) Silver Street together with Nos 21 to 27 (odd) Market Place. Nos 25 and 27 Market Place and Nos 29 to 33 (odd) Silver Street are of local interest only.

The application site lies within the Town Centre and Primary Shopping Area designations. The site also lies within a minerals safeguarding area.

The site lies within the Town Centre Conservation Area and there are a wealth of heritage assets surrounding the site including:

- 1 and 3 Silver Street, Grade II listed building
- 5 and 7 Silver Street, Grade II listed building

- 11 and 13 Silver Street, Grade II listed building
- 15 Silver Street, Grade II listed building
- 21a Silver Street, Grade II listed building
- 23 and 25 Silver Street, Grade II listed building

3. Representations

Chairman/Ward member(s): No representations received to date

Gainsborough Town Council: Supports with comment

The Committee resolved to support the application but to raise concerns about the 4 parking spaces, if they are adequate for the number of residential units.

Local residents: No representations received to date

LCC Highways and Lead Local Flood Authority: 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.

LCC Archaeology: No objections

I have no objections to the proposed changes. The relevant archaeological conditions of permission 145242 still apply.

Historic England: Comment

In this case we are not offering advice. This should not be interpreted as comment on the merits of the application. We suggest that you seek the views of your specialist conservation and archaeological advisers.

WLDC Conservation Officer: No objections

The variations in this application secure the issues in the plans that were raised in the previous application and, through minor amendments, improve the scheme and secure more of the building. I have no objections to the variations and the same conditions still apply.

LCC Education: Comment

We have previously commented on this development under planning application 145242 with no comment as this scheme did not generate any additional children, this was based on a 11-dwelling proposal.

I can see that this is now a proposal of 8 dwellings, after trying to check the dwelling mix to ensure of our response I could not see any documents for this planning application Therefore we cannot comment currently. If you could let us know the proposed dwelling mix for the 8 dwellings we can respond with our official comments on behalf of LCC Education.

WLDC Growth Team: Supports

Lincolnshire Police: No objections

Environment Agency: No representations received to date

Date System Checked: 29th October 2024

Relevant Planning Policies:

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Here, the Development Plan comprises the provisions of the Central Lincolnshire Local Plan (adopted in April 2023), the Lincolnshire Minerals, the Waste Local Plan (adopted June 2016) and the Gainsborough Neighbourhood Plan (made June 2021).

Development Plan:

- ***Central Lincolnshire Local Plan 2023***

Relevant policies of the CLLP include:

S1 The Spatial Strategy and Settlement Hierarchy
S2 Growth Levels and Distribution
S3 Housing in the Lincoln Urban Area, Main Towns and Market Towns
S21 Flood Risk and Water Resources
S23 Meeting Accommodation Needs
S47 Accessibility and Transport
S48 Walking and Cycling Infrastructure
S49 Park Provision
S53 Design and Amenity
S57 The Historic Environment

- ***Gainsborough Town Neighbourhood Plan (GTNP)***

Relevant policies of the NP include:

NPP 1 Sustainable Development
NPP 6 Ensuring High Quality Design
NPP 7 Ensuring High Quality Design in each Character Area
NPP 8 A Mix of Housing Types
NPP 18 Protecting and Enhancing Heritage Assets
NPP 19 Improving the Vitality of the Town Centre

- ***Lincolnshire Minerals and Waste Local Plan (LMWLP)***

The site is in a Minerals Safeguarding Area and policy M11 of the Core Strategy applies.

National policy & guidance (Material Consideration)

- National Planning Policy Framework (NPPF)

- National Planning Practice Guidance
- National Design Guide (2019)
- National Model Design Code (2021)

The NPPF sets out the Government’s planning policies for England and how these should be applied. It is a material consideration in planning decisions. The most recent iteration of the NPPF was published in December 2023. Paragraph 225 states:

However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

Other:

Section 16 of the Planning (Listed Building & Conservation Areas) act 1990.
 Section 66 of the Planning (Listed Building & Conservation Areas) act 1990.
 Section 72 of the Planning (Listed Building & Conservation Areas) act 1990.
 Gainsborough Town Centre Conservation Area Appraisal
 Town and Country Planning (General Permitted Development) (England)
 Order 2015 (As amended)
 Technical housing standards – nationally described space standard
 Department for Communities and Local Government dated March 2015

Main Considerations:

This application is made under s73 of the Town & Country Planning Act 1990, in order to develop land not in compliance with conditions previously attached. In accordance with planning law (s.73(2)), “*consider only the question of the conditions subject to which planning permission should be granted.*” It is not a re-visitation or reassessment of the original decision to grant planning permission.

- Principle of the Development
- Assessment in planning permission 145242 and listed building consent 145243
- Heritage
- Visual Impact
- Residential Amenity
- Assessment of conditions 1-9 and 11-20 of planning permission 145242
- Assessment of conditions 1-8 and 9-14 of listed building consent 145243

Assessment:

Principle of the Development

The principle of the development has already been established in planning permission 145242 and listed building consent 245243 dated 5th April 2023. Applications (148036 and 148040) to discharge conditions are currently under consideration.

The previous full application was considered against the policies of the now revoked Central Lincolnshire Local Plan 2012-2036. On 13th April 2023 the Central Lincolnshire Local Plan 2023 and its policies was adopted and is the development plan that this application will be determined against.

This section 73 planning application has been submitted to amend the plans (condition 2) as described earlier in the report.

Assessment in planning permission 145242 and listed building consent 145243

In 145242 and 145243 the following considerations were assessed in the decision-making process:

- Residential Amenity
- Housing Mix
- Highways and Parking
- Trees and Landscaping
- Minerals
- Drainage

These consideration in accordance with the Central Lincolnshire Local Plan 2023 are not altered from the officers report assessment in 145242 and 145243.

Heritage

The proposed amendments would retain parts of the original building which were previously approved for demolition. All internal amendments to the layout and staircase would preserve the fabric of the listed building. The Authority's Conservation Officer has no objections to the development and has stated that the amendments will "*improve the scheme and secure more of the building*".

The proposed development would preserve and enhance the special historic interest of the host listed building and the character and appearance of the conservation area. In addition to this, the proposal would preserve the setting of the nearby listed buildings. The proposed development would therefore accord to local policy S57 of the CLLP, policy NPP18 of the GTN, Section 16, 66 and 72 of the Planning (Listed Building & Conservation Areas) act 1990 and the provisions of the NPPF.

Visual Impact

As previously stated the development would mostly change the internal appearance of the building. The external appearance of the building would mainly remain as approved with previous demolished sections to be retained.

It is not considered that the proposed amendments would have an unacceptable harmful visual impact on the site or the surrounding area and would therefore accord to local policy S53 of the CLLP, policy NPP6 and NPP7 of the GTNP and the provisions of the NPPF.

Assessment of conditions 1-9 and 11-20 of planning permission 145242

As a variation of condition application will create a brand-new permission in itself a review of conditions originally imposed on 145242 needs to be undertaken without this any new permission would be unrestricted.

Condition 1 – Time Limit

This condition is still relevant and necessary but the expiry date will be listed as 5th April 2026.

Condition 2 – Archaeology

This condition can be amended to an in accordance with condition in line with The Written Scheme of Investigation by Rocket Heritage & Archaeology dated November 2023 in condition discharge application 147971.

Condition 3 – Archaeology

This condition is still relevant and necessary and will be retained.

Condition 4 – Historic Building Record

This condition can be removed as an Historic Building Record by Rocket Heritage & Archaeology dated 16th May 2024 is acceptable as confirmed by the Historic Environment Officer at Lincolnshire County Council and West Lindsey's Conservation Officer approved in condition discharge application 148322.

Condition 5 – Sample Panel of Brick

This condition can be amended to an in accordance with condition in line with the sample panel of brick and mortar photo approved in condition discharge application 148040.

Condition 6 – Render

This condition can be amended to an in accordance with condition in line with the details approved in condition discharge application 148040. The plan approved is:

- 23-090 (02) 07 dated 11th September 2024

Condition 7 – Demolition

This condition is still relevant and necessary and will be retained and amended to an in accordance with condition in line with the details approved in condition discharge application 148040.

Condition 8 – Twin Roofs

This condition can be amended to an in accordance with condition in line with the details approved in condition discharge application 148040. The plan approved is:

- 23-090 (02) 06 dated January 2024

Condition 9 – Drainage

This condition can be amended to an in accordance with condition in line with the details approved in condition discharge application 148040. The plan approved is:

- 23-090 (04) 02 Rev A dated April 2024

Condition 11 – External Materials

This condition is still relevant and necessary and will be retained and amended to an in accordance with condition in line with the external materials listed in email dated 19th September 2024 approved in condition discharge application 148040.

Condition 12 – Timber Doors, Windows and Surrounds

This condition can be amended to an in accordance with condition in line with the details approved in condition discharge application 148040. The document and plan approved is:

- 23-090 (02) 08 dated 11th September 2024
- Kierson Document

Condition 13 – Making Good Exposed Areas

This condition is still relevant and necessary and will be retained.

Condition 14 – Landscaping

This condition is still relevant and necessary and will be retained.

Condition 15 – External Works and Finishes

This condition is still relevant and necessary and will be retained.

Condition 16 – Parking

This condition is still relevant and necessary and will be retained with a new plan number.

Condition 17, 18 and 19 – Archaeology

These conditions are still relevant and necessary and will be retained with updated condition numbers.

Condition 20 – Planting

This condition is still relevant and necessary and will be retained.

Assessment of conditions 1-8 and 9-14 of listed building consent 145243

As a variation of condition application will create a brand-new consent in itself a review of conditions originally imposed on 145243 needs to be undertaken without this any new permission would be unrestricted.

Condition 1 – Time Limit

This condition is still relevant and necessary but the expiry date will be listed as 5th April 2026.

Condition 2 – Schedule of Works/Structural Survey

This condition can be amended to an in accordance with condition in line with the details approved in condition discharge application 148321. The reports and plans approved in 148321 are:

- Structural Survey Report by James Ellis dated 26th April 2024
- SILSTR-CSL-010-DR-S-0001 Rev C01 dated 10th March 2024 - Ground Floor Structural Details
- SILSTR-CSL-010-DR-S-0002 Rev C01 dated 10th March 2024 - First Floor Partial Plan Structural Details Steelwork Layout and Structural Repairs
- SILSTR-CSL-010-DR-S-0003 Rev C01 dated 10th March 2024 - First Floor Partial Plan Structural Details Steelwork Fabrication Details

Condition 3 – Render

This condition can be amended to an in accordance with condition in line with the details approved in condition discharge application 148036. The plan approved is:

- 23-090 (02) 07 dated 11th September 2024

Condition 4 – Sample Panel of Brick

This condition can be amended to an in accordance with condition in line with the sample panel of brick and mortar photo approved in condition discharge application 148036.

Condition 5 – Stair Features

This condition can be amended to an in accordance with condition in line with the details approved in condition discharge application 148036. The plan approved is:

- 23-090 (02) 06 dated January 2024

Condition 6 - Features

This condition can be amended to an in accordance with condition in line with the details approved in condition discharge application 148036. The plan approved is:

- 23-090 (02) 02B dated 11th September 2024 - Proposed - General Layouts - Ground Floor Plan
- 23-090 (02) 03B dated 11th September 2024 – General Layouts – First Floor Plan
- 23-090 (02) 04B dated 11th September 2024 - Proposed - General Layouts - Second Floor Plan
- 23-090 (02) 05B dated 11th September 2024 – Proposed Wall Details
- 23-090 (02) 06 dated February 2024 - Proposed First Floor Upgrades and Repairs
- 23-090 (02) 07C dated 4th October 2024 – Proposed Elevations
- 23-090 (02) 08C dated 4th October 2024 - Proposed Window Details

Condition 7 – Services and Fixtures

This condition can be amended to an in accordance with condition in line with the details approved in condition discharge application 148036. The plan approved is:

- 23-090 (03) 03 dated January 2024

Condition 8 – Demolition

This condition is still relevant and necessary and will be retained and amended to an in accordance with condition in line with the details approved in condition discharge application 148036.

Condition 10 – Internal/External Materials

This condition is still relevant and necessary and will be retained and amended to an in accordance with condition in line with the external materials listed in email dated 19th September 2024 approved in condition discharge application 148036.

Condition 11 – Timber Doors, Windows and Surrounds

This condition can be amended to an in accordance with condition in line with the details approved in condition discharge application 148036. The document and plan approved is:

- 23-090 (02) 08 dated 11th September 2024
- Kierson Document

Condition 12 – Making Good

This condition is still relevant and necessary and will be retained.

Condition 13 – External/Internal Works

This condition is still relevant and necessary and will be retained.

Condition 14 – Masonry Cleaning

This condition is still relevant and necessary and will be retained.

Conclusion and reason for decision:

Planning Application: WL/2024/00187 (148037)

The decision has been considered against S1 The Spatial Strategy and Settlement Hierarchy, S2 Growth Levels and Distribution, S3 Housing in the Lincoln Urban Area, Main Towns and Market Towns, S21 Flood Risk and Water Resources, S23 Meeting Accommodation Needs, S47 Accessibility and Transport, S48 Walking and Cycling Infrastructure, S49 Parking Provision, S53 Design and Amenity and S57 The Historic Environment of the adopted Central Lincolnshire Local Plan 2023, Policy NPP 1 Sustainable Development, NPP 6 Ensuring High Quality Design, NPP 7 Ensuring High Quality Design in each Character Area, NPP 8 A Mix of Housing Types, NPP 18 Protecting and Enhancing Heritage Assets and NPP 19 Improving the Vitality of the Town Centre of the Gainsborough Town Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Building & Conservation Areas)

act 1990 in the first instance and guidance contained within the National Planning Policy Framework, the National Planning Practice Guidance, National Design Guide and National Design Model Code. In light of this assessment it is considered that this proposed amendments are acceptable and would preserve and enhance the fabric, special character and significance of the listed building, including the setting of the adjoining listed buildings. The development would preserve the character and appearance of the Gainsborough Conservation Area. The development would not have an unacceptable harmful visual impact. The proposal is therefore acceptable.

Listed Building Consent: WL/2024/00069 (148273)

The proposal has been considered against the duty contained within section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended. In light of this assessment, the proposed amendments are considered as preserving and enhancing the desirability of the Listed Building and its setting. Furthermore the proposed development will preserve and enhance the desirability of the special architectural features or historic interest it possesses.

Conditions:

Planning Permission WL/2024/00187 (148037):

Conditions stating the time by which the development must be commenced:

1. The development hereby permitted must be begun before the end of the 5th April 2026.

Reason: To conform with Section 91 (1) of the Town and Country Planning Act 1990 (as amended).

Conditions which apply or require matters to be agreed before the development commenced:

NONE

Conditions which apply or are to be observed during the course of the development:

2. With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved must be carried out in accordance with the following proposed drawings:

Approved in 145242:

- SSG-ARC-B1-XX-DP-A-1002 Rev P5 dated 29th March 2023 – Site Plan
- SSG-ARC-B1-00-DP-A-2204 Rev P6 dated 29th March 2023 – Roof Plan

Approved in 148037:

- 23-090(01) 01 dated March 2024 - Lower Ground Floor Plan

- 23-090 (01) 02A dated March 2024 – Ground Floor Plan
- 23-090 (01) 03A dated March 2024 – First Floor Plan
- 23-090 (01) 04A dated March 2024 - Second Floor Plan
- 23-090 (01) 05 dated March 2024 - Elevations Plan

The works must be carried out in accordance with the details shown on the approved plans and in any other approved documents forming part of the application.

Reason: To ensure the development proceeds in accordance with the approved plans and to accord with the National Planning Policy Framework and local policy LP17, S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6, NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

3. The local planning authority shall be notified in writing of the intention to commence the archaeological investigations in accordance with the approved written scheme referred to in condition 4 at least 14 days before the said commencement. No variation shall take place without prior written consent of the local planning authority.

Reason: In order to facilitate the appropriate monitoring arrangements and to ensure the satisfactory archaeological investigation and retrieval of archaeological finds to accord with the National Planning Policy Framework and local policy S57 of the Central Lincolnshire Local Plan 2023.

4. The development must be completed in strict accordance with the Written Scheme of Investigation by Rocket Heritage & Archaeology dated November 2023 in condition discharge application 147971.

Reason: To ensure the preparation and implementation of an appropriate scheme of archaeological mitigation and to accord with the National Planning Policy Framework and local policy S57 of the Central Lincolnshire Local Plan 2023.

5. The development must be completed in strict accordance with the sample panel of brick and mortar approved in condition discharge application 148040 and must be retained as such thereafter.

Reason: To ensure the use of appropriate materials in the interests of visual amenity and the character and appearance of the site and the Gainsborough Conservation Area. To preserve the fabric and appearance of the host listed building and setting of the nearby listed buildings to accord with the National Planning Policy Framework, local policies S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6, NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6. The development must be completed in strict accordance with the render details identified on plan 23-090 (02) 07 dated 11th September 2024, approved in condition discharge application 148040 and must be retained as such thereafter.

Reason: To ensure the use of appropriate materials in the interests of visual amenity and the character and appearance of the site and the Gainsborough Conservation Area. To preserve the fabric and appearance of the host listed building and setting of the nearby listed buildings to accord with the National Planning Policy Framework and local policies S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6, NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

7. The development must be completed in strict accordance with the Demolition Risk Assessment received 5th March 2024 and Demolition Works to Single Storey Structure by Evabode Ltd dated 16th February 2024 approved in condition discharge application 148040.

Reason: To ensure the appropriate methods are used to preserve the fabric and appearance of the host listed building and setting of the nearby listed buildings and the conservation area to accord with the National Planning Policy Framework and local policies S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6, NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

8. The development must be completed in strict accordance with the roof details identified on plan 23-090 (02) 06 dated January 2024, approved in condition discharge application 148040 and must be retained as such thereafter.

Reason: To ensure the use of appropriate materials in the interests of visual amenity and the character and appearance of the site and the Gainsborough Conservation Area. To preserve the fabric and appearance of the host listed building and setting of the nearby listed buildings to accord with the National Planning Policy Framework and local policies S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6, NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

9. The development must be completed in strict accordance with foul and surface water plan 23-090(04) 02 Rev A dated April 2024 and retained as such thereafter. No occupation each residential or office must occur until the drainage scheme has been completed.

Reason: To ensure adequate drainage facilities are provided to serve each dwelling, to reduce the risk of flooding and to prevent the pollution of the water environment to accord with the National Planning Policy Framework and local policy S21 of the Central Lincolnshire Local Plan 2023.

10. The development must be completed in strict accordance with the external material details listed in email from the agent dated 19th September 2024, approved in condition discharge application 148040 and must be retained as such thereafter.

Reason: To ensure the use of appropriate materials in the interests of visual amenity and the character and appearance of the site and the Gainsborough Conservation Area. To preserve the fabric and appearance of the host listed building and setting of the nearby listed buildings to accord with the National Planning Policy Framework and local policies S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6, NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

11. The development must be completed in strict accordance with the window and door details identified on plan 23-090 (02) 08 dated 11th September 2024 and Kierson Document, approved in condition discharge application 148040 and must be retained as such thereafter.

Reason: To ensure the use of appropriate materials in the interests of visual amenity and the character and appearance of the site and the Gainsborough Conservation Area. To preserve the fabric and appearance of the host listed building and setting of the nearby listed buildings to accord with the National Planning Policy Framework and local policies S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6, NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

12. Full details of 'making good' exposed areas revealed by any demolition works must be submitted to and approved in writing by the Local Planning Authority. The development must be completed in strict accordance with the approved details.

Reason: To ensure the use of appropriate materials in the interests of visual amenity and the character and appearance of the site and the Gainsborough Conservation Area. To preserve the fabric and appearance of the host listed building and setting of the nearby listed buildings to accord with the National Planning Policy Framework and local policies S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6, NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

13. No occupation must take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. Details to include:

- Type, height and position of all boundary treatments.
- Material finish of all hardstanding (driveway, parking spaces, patios and paths).

- Species, planting height, formation and position of new trees, shrubbery and hedging.
- Planting mix for the green roofs

The development must be completed in strict accordance with the approved scheme and retained as such thereafter.

Reason: To ensure that appropriate landscaping is introduced to soften the appearance of the site and would not unacceptably impact on the character and appearance of the site, the Gainsborough Conservation Area or the setting of the Listed Buildings to accord with the National Planning Policy Framework and local policies S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6, NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

14. All new external works and finishes of making good to the retained fabric, must match the existing original work adjacent in respect of methods, detailed execution and finished appearance unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure the use of appropriate materials in the interests of visual amenity and the character and appearance of the site and the Gainsborough Conservation Area. To preserve the fabric and appearance of the host listed building and setting of the nearby listed buildings to accord with the National Planning Policy Framework and local policies S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6, NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

15. No occupation must take place until the parking spaces identified on site plan SSG-ARC-B1-XX-DP-A-1002 Rev P5 dated 29th March 2023 have been fully installed and retained for that use thereafter.

Reason: To ensure some off street parking to serve the future occupants of the flats in the interests of highway safety to accord with the National Planning Policy Framework and local policy S47, S49 and S53 of the Central Lincolnshire Local Plan 2023.

16. The archaeological site work shall be undertaken only in full accordance with the written scheme required by condition 4.

Reason: To ensure the satisfactory archaeological investigation and retrieval of archaeological finds to accord with the National Planning Policy Framework and local policy S57 of the Central Lincolnshire Local Plan 2023.

17. Following the archaeological site work referred to in condition 16 a written report of the findings of the work shall be submitted to and approved in writing by the local planning authority within 3 months of the said site work

being completed.

Reason: To ensure the satisfactory archaeological investigation and retrieval of archaeological finds to accord with the National Planning Policy Framework and local policy S57 of the Central Lincolnshire Local Plan 2023.

18. The report referred to in condition 17 and any artefactual evidence recovered from the site shall be deposited within 12 months of the archaeological site work being completed in accordance with a methodology and in a location to be agreed in writing by the local planning authority.

Reason: To ensure the satisfactory archaeological investigation and retrieval of archaeological finds to accord with the National Planning Policy Framework and local policy S57 of the Central Lincolnshire Local Plan 2023.

Conditions which apply or relate to matters which are to be observed following completion of the development:

19. All planting or turfing comprised in the approved details of landscaping must be carried out in the first planting and seeding season following the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased must be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. The landscaping should be retained thereafter.

Reason: To ensure that any planting or turfing is installed in a timely manner in accordance with the National Planning Policy Framework and local policies S53 and S57 of the Central Lincolnshire Local Plan 2023.

Listed Building Consent: WL/2024/00069 (148273)

Conditions stating the time by which the development must be commenced:

1. The development hereby permitted must be begun before the end of the 5th April 2026.

Reason: To conform with Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

Conditions which apply or require matters to be agreed before the development commenced:

NONE

Conditions which apply or are to be observed during the course of the development:

2. With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved must be carried out in accordance with the following proposed drawings:

Approved in 145243:

- SSG-ARC-B1-XX-DP-A-1002 Rev P5 dated 29th March 2023 – Site Plan
- SSG-ARC-B1-00-DP-A-2204 Rev P6 dated 29th March 2023 – Roof Plan

Approved in 148273:

- 23-090(01) 01 dated March 2024 - Lower Ground Floor Plan
- 23-090 (01) 02A dated March 2024 – Ground Floor Plan
- 23-090 (01) 03A dated March 2024 – First Floor Plan
- 23-090 (01) 04A dated March 2024 - Second Floor Plan
- 23-090 (01) 05 dated March 2024 - Elevations Plan

The works must be carried out in accordance with the details shown on the approved plans and in any other approved documents forming part of the application.

Reason: To ensure the development proceeds in accordance with the approved plans and safeguards the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

3. The development must be completed in strict accordance with the details on the report and plans listed below approved in condition discharge application 148321:

- Structural Survey Report by James Ellis dated 26th April 2024
- SILSTR-CSL-010-DR-S-0001 Rev C01 dated 10th March 2024 - Ground Floor Structural Details
- SILSTR-CSL-010-DR-S-0002 Rev C01 dated 10th March 2024 - First Floor Partial Plan Structural Details Steelwork Layout and Structural Repairs
- SILSTR-CSL-010-DR-S-0003 Rev C01 dated 10th March 2024 - First Floor Partial Plan Structural Details Steelwork Fabrication Detail

The development must be completed in strict accordance with the approved details.

Reason: To safeguard the fabric and desirability of the Grade II Listed Building to accord with the National Planning Policy Framework

4. The development must be completed in strict accordance with the render details identified on plan 23-090 (02) 07 dated 11th September 2024, approved in condition discharge application 148036 and must be retained

as such thereafter.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

5. The development must be completed in strict accordance with the sample panel of brick and mortar approved in condition discharge application 148036 and must be retained as such thereafter.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

6. The development must be completed in strict accordance with the stair details identified on plan 23-090 (02) 06 dated January 2024 approved in condition discharge application 148036 and must be retained as such thereafter.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

7. The development must be completed in strict accordance with the stair details identified on plan 23-090 (03) 03 dated January 2024 approved in condition discharge application 148036 and must be retained as such thereafter.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

8. The development must be completed in strict accordance with the Demolition Risk Assessment received 5th March 2024 and Demolition Works to Single Storey Structure by Evabode Ltd dated 16th February 2024 approved in condition discharge application 148036.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

9. The development must be completed in strict accordance with the external material details listed in email from the agent dated 19th September 2024 and roof details identified on plan 23-090 (02) 06 dated January 2024 approved in condition discharge application 148036 and must be retained as such thereafter.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

10. The development must be completed in strict accordance with the window and door details identified on plan 23-090 (02) 08 dated 11th September 2024 and Kierson Document, approved in condition discharge application 148036 and must be retained as such thereafter.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

11. Full details of 'making good' exposed areas revealed by any demolition works must be submitted to and approved in writing by the Local Planning Authority. The development must be completed in strict accordance with the approved details.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

12. All new external and internal works and finishes of making good to the retained fabric, must match the existing original work adjacent in respect of methods, detailed execution and finished appearance unless otherwise approved in writing by the Local Planning Authority.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

13. No cleaning of any masonry must take place unless by a low pressure (20-100 psi) surface cleaner using a nebulous water spray. Any other cleaning method must be submitted to and approved in by the Local Planning Authority. A test panel measuring no more than 0.5 square metres must be undertaken in an inconspicuous position ready for inspection and approved in writing by the Local Planning Authority. The development must be completed in strict accordance with the approved details.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

Conditions which apply or relate to matters which are to be observed following completion of the development:

NONE

Decision Level: Delegated

Human Rights Implications:

The above objections, considerations and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.

Legal Implications:

Although all planning decisions have the ability to be legally challenged it is considered there are no specific legal implications arising from this report

Prepared by: Ian Elliott Date: 29th October 2024

Authorising Officer: H.Horton Date: 29th October 2024

PAPER E

Planning Permission

Name and address of applicant

Lodge Mount
Town Street
South Leverton
Retford
DN22 0BT

Name and address of agent (if any)

Rocket Architectural Design
16 Grange Road
Darlington
DL1 5NG

Part One – Particulars of application

Date of application:
17/04/2024

Application number:
WL/2024/00187 (148037)

Particulars and location of development:

Proposal: Planning application for change of use of bank to serviced office accommodation with meeting room and 8no. residential units, including removal of existing rear extensions, erection of replacement rear extension, new rear extension and removal of trees being variation of condition 10 of planning permission 145242 granted 5 April 2023 - improvements and changes in layout.

Location:

10 Silver Street
Gainsborough
DN21 2DP

Part Two – Particulars of decision

The West Lindsey District Council hereby give notice in pursuance of the provisions of the Town and Country Planning Act 1990 that planning permission has been granted for the carrying out of the development referred to in Part One hereof in accordance with the application and plans submitted subject to the following conditions:

Conditions stating the time by which the development must be commenced:

1. The development hereby permitted must be begun before the end of the 5th April 2026.

Reason: To conform with Section 91 (1) of the Town and Country Planning Act 1990 (as amended).

Conditions which apply or require matters to be agreed before the development commenced:

NONE

Conditions which apply or are to be observed during the course of the development:

2. With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the following proposed drawings:

Approved in 145242:

- SSG-ARC-B1-XX-DP-A-1002 Rev P5 dated 29th March 2023 – Site Plan
- SSG-ARC-B1-00-DP-A-2204 Rev P6 dated 29th March 2023 – Roof Plan

Approved in 148037:

- 23-090(01) 01 dated March 2024 - Lower Ground Floor Plan
- 23-090 (01) 02A dated March 2024 – Ground Floor Plan
- 23-090 (01) 03A dated March 2024 – First Floor Plan
- 23-090 (01) 04A dated March 2024 - Second Floor Plan
- 23-090 (01) 05 dated March 2024 - Elevations Plan

The works shall be carried out in accordance with the details shown on the approved plans and in any other approved documents forming part of the application.

Reason: To ensure the development proceeds in accordance with the approved plans and to accord with the National Planning Policy Framework and local policy LP17, S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6, NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

3. The local planning authority shall be notified in writing of the intention to commence the archaeological investigations in accordance with the approved written scheme referred to in condition 4 at least 14 days before the said commencement. No variation shall take place without prior written consent of the local planning authority.

Reason: In order to facilitate the appropriate monitoring arrangements and to ensure the satisfactory archaeological investigation and retrieval of archaeological finds to accord with the National Planning Policy Framework and local policy S57 of the Central Lincolnshire Local Plan 2023.

4. The development must be completed in strict accordance with the Written Scheme of Investigation by Rocket Heritage & Archaeology dated November 2023 in condition discharge application 147971.

Reason: To ensure the preparation and implementation of an appropriate scheme of archaeological mitigation and to accord with the National Planning Policy Framework and local policy S57 of the Central Lincolnshire Local Plan 2023.

5. The development must be completed in strict accordance with the sample panel of brick and mortar approved in condition discharge application 148040 and must be retained as such thereafter.

Reason: To ensure the use of appropriate materials in the interests of visual amenity and the character and appearance of the site and the Gainsborough Conservation Area. To preserve the fabric and appearance of the host listed building and setting of the nearby listed buildings to accord with the National Planning Policy Framework, local policies S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6, NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6. The development must be completed in strict accordance with the render details identified on plan 23-090 (02) 07 dated 11th September 2024, approved in condition discharge application 148040 and must be retained as such thereafter.

Reason: To ensure the use of appropriate materials in the interests of visual amenity and the character and appearance of the site and the Gainsborough Conservation Area. To preserve the fabric and appearance of the host listed building and setting of the nearby listed buildings to accord with the National Planning Policy Framework and local policies S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6, NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

7. The development must be completed in strict accordance with the Demolition Risk Assessment received 5th March 2024 and Demolition Works to Single Storey Structure by Evabode Ltd dated 16th February 2024 approved in condition discharge application 148040.

Reason: To ensure the appropriate methods are used to preserve the fabric and appearance of the host listed building and setting of the nearby listed buildings and the conservation area to accord with the National Planning Policy Framework and local policies S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6, NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

8. The development must be completed in strict accordance with the roof details identified on plan 23-090 (02) 06 dated January 2024, approved in condition discharge application 148040 and must be retained as such thereafter.

Reason: To ensure the use of appropriate materials in the interests of visual amenity and the character and appearance of the site and the Gainsborough Conservation Area. To preserve the fabric and appearance of the host listed building and setting of the nearby listed buildings to accord with the National Planning Policy Framework and local policies S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6, NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

9. The development must be completed in strict accordance with foul and surface water plan 23-090(04) 02 Rev A dated April 2024 and retained as such thereafter. No occupation each residential or office must occur until the drainage scheme has been completed.

Reason: To ensure adequate drainage facilities are provided to serve each dwelling, to reduce the risk of flooding and to prevent the pollution of the water environment to accord with the National Planning Policy Framework and local policy S21 of the Central Lincolnshire Local Plan 2023.

10. The development must be completed in strict accordance with the external material details listed in email from the agent dated 19th September 2024, approved in condition discharge application 148040 and must be retained as such thereafter.

Reason: To ensure the use of appropriate materials in the interests of visual amenity and the character and appearance of the site and the Gainsborough Conservation Area. To preserve the fabric and appearance of the host listed building and setting of the nearby listed buildings to accord with the National Planning Policy Framework and local policies S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6, NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 11.** The development must be completed in strict accordance with the window and door details identified on plan 23-090 (02) 08 dated 11th September 2024 and Kierson Document, approved in condition discharge application 148040 and must be retained as such thereafter.

Reason: To ensure the use of appropriate materials in the interests of visual amenity and the character and appearance of the site and the Gainsborough Conservation Area. To preserve the fabric and appearance of the host listed building and setting of the nearby listed buildings to accord with the National Planning Policy Framework and local policies S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6, NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 12.** Full details of 'making good' exposed areas revealed by any demolition works must be submitted to and approved in writing by the Local Planning Authority. The development must be completed in strict accordance with the approved details.

Reason: To ensure the use of appropriate materials in the interests of visual amenity and the character and appearance of the site and the Gainsborough Conservation Area. To preserve the fabric and appearance of the host listed building and setting of the nearby listed buildings to accord with the National Planning Policy Framework and local policies S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6, NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 13.** No occupation must take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. Details to include: Type, height and position of all boundary treatments. Material finish of all hardstanding (driveway, parking spaces, patios and paths). Species, planting height, formation and position of new trees, shrubbery and hedging. Planting mix for the green roofs The development must be completed in strict accordance with the approved scheme and retained as such thereafter.

Reason: No occupation must take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. Details to include: Type, height and position of all boundary treatments. Material finish of all hardstanding (driveway, parking spaces, patios and paths). Species, planting height, formation and position of new trees, shrubbery and hedging. Planting mix for the green roofs The development must be completed in strict accordance with the approved scheme and retained as such thereafter.

- 14.** All new external works and finishes of making good to the retained fabric, must match the existing original work adjacent in respect of methods, detailed execution and finished appearance unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure the use of appropriate materials in the interests of visual amenity and the character and appearance of the site and the Gainsborough Conservation Area. To preserve the fabric and appearance of the host listed building and setting of the nearby listed buildings to accord with the National Planning Policy Framework and local policies S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6, NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 15.** No occupation must take place until the parking spaces identified on site plan SSG-ARC-B1-XX-DP-A-1002 Rev P5 dated 29th March 2023 have been fully installed and retained for that use thereafter.

Reason: To ensure some off street parking to serve the future occupants of the flats in the interests of highway safety to accord with the National Planning Policy Framework and local policy S47, S49 and S53 of the Central Lincolnshire Local Plan 2023.

16. The archaeological site work shall be undertaken only in full accordance with the written scheme required by condition 4.

Reason: To ensure the satisfactory archaeological investigation and retrieval of archaeological finds to accord with the National Planning Policy Framework and local policy S57 of the Central Lincolnshire Local Plan 2023.

17. Following the archaeological site work referred to in condition 16 a written report of the findings of the work shall be submitted to and approved in writing by the local planning authority within 3 months of the said site work being completed.

Reason: To ensure the satisfactory archaeological investigation and retrieval of archaeological finds to accord with the National Planning Policy Framework and local policy S57 of the Central Lincolnshire Local Plan 2023.

18. The report referred to in condition 17 and any artefactual evidence recovered from the site shall be deposited within 12 months of the archaeological site work being completed in accordance with a methodology and in a location to be agreed in writing by the local planning authority.

Reason: To ensure the satisfactory archaeological investigation and retrieval of archaeological finds to accord with the National Planning Policy Framework and local policy S57 of the Central Lincolnshire Local Plan 2023.

Conditions which apply or relate to matters which are to be observed following completion of the works:

19. All planting or turfing comprised in the approved details of landscaping must be carried out in the first planting and seeding season following the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased must be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. The landscaping should be retained thereafter.

Reason: To ensure that any planting or turfing is installed in a timely manner to accord with the National Planning Policy Framework and local policies S53 and S57 of the Central Lincolnshire Local Plan 2023.

Notes to the Applicant

Reasons for granting permission

The decision has been considered against S1 The Spatial Strategy and Settlement Hierarchy, S2 Growth Levels and Distribution, S3 Housing in the Lincoln Urban Area, Main Towns and Market Towns, S21 Flood Risk and Water Resources, S23 Meeting Accommodation Needs, S47 Accessibility and Transport, S48 Walking and Cycling Infrastructure, S49 Parking Provision, S53 Design and Amenity and S57 The Historic Environment of the adopted Central Lincolnshire Local Plan 2023, Policy NPP 1 Sustainable Development, NPP 6 Ensuring High Quality Design, NPP 7 Ensuring High Quality Design in each Character Area, NPP 8 A Mix of

Housing Types, NPP 18 Protecting and Enhancing Heritage Assets and NPP 19 Improving the Vitality of the Town Centre of the Gainsborough Town Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Building & Conservation Areas) act 1990 in the first instance and guidance contained within the National Planning Policy Framework, the National Planning Practice Guidance, National Design Guide and National Design Model Code. In light of this assessment it is considered that this proposed amendments are acceptable and would preserve and enhance the fabric, special character and significance of the listed building, including the setting of the adjoining listed buildings. The development would preserve the character and appearance of the Gainsborough Conservation Area. The development would not have an unacceptable harmful visual impact. The proposal is therefore acceptable.

Date: 29th October 2024

Signed:

Working Practice Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.



Ian Knowles
Chief Executive and Head of Paid Service

West Lindsey District Council
Council Offices
Guildhall
Marshall's Yard
Gainsborough
DN21 2NA

Note: This permission refers only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other enactment, byelaw, order or regulation. You are strongly advised not to commence works until you have obtained any other permissions or consents that may be required, for example approval under the Building Regulations, otherwise there may be a risk of significant legal and financial consequences. For further advice on the Building Regulations, contact the Council's Building Control section.

Failure to adhere to the details of the approved plans or to comply with the conditions attached to this permission is a contravention of the provisions of the Town & Country Planning Act 1990 in respect of which enforcement action may be taken. Please contact the planning department for further advice relating to the discharge of condition process and the appropriate fee payable (if applicable). Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- **If you want to appeal against your local planning authority's decision then you must do so within six months of the date of this notice.**

Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN or online at www.planningportal.gov.uk/pcs. You must use a Planning Appeal Form when making your appeal. If requesting forms from the Planning Inspectorate, please state the appeal form you require.

- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.
- Please note only the applicant possesses the right to appeal.

Purchase Notices

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

If you require this document in another format e.g. large print, please contact Customer Services on 01427 676676, by email customer.services@west-lindsey.gov.uk or by asking any of the Customer Services staff.

OFFICERS REPORT

PLANNING APPLICATION NO: WL/2024/00187 (148037)

LISTED BUILDING CONSENT: WL/2024/00069 (148273)

PROPOSAL:

Planning application and listed building consent for change of use of bank to serviced office accommodation with meeting room and 8no. residential units, including removal of existing rear extensions, erection of replacement rear extension, new rear extension and removal of trees being variation of condition 10 of planning permission 145242 granted 5 April 2023 and condition 9 of listed building consent 145243 granted 5 April 2023- improvements and changes in layout.

LOCATION: 10 Silver Street, Gainsborough, DN21 2DP

WARD: GAINSBOROUGH SOUTH WEST

APPLICANT NAME: Mr Andrew Wooten Jones

TARGET DECISION DATE: 12th June 2024 (Extension of time agreed until 31st October 2024)

CASE OFFICER: Ian Elliott

Recommended Decision:

WL/2024/00187 (148037) - Grant permission subject to conditions

WL/2024/00069 (148273) - Grant consent subject to conditions

Description and Proposal:

The application seeks permission and consent for the change of use of bank to serviced office accommodation with meeting room and 8no. residential units, including removal of existing rear extensions, erection of replacement rear extension, new rear extension and removal of trees being variation of condition 10 of planning permission 145242 granted 5 April 2023 and condition 9 of listed building consent 145243 granted 5 April 2023 - improvements and changes in layout.

The proposal would:

- Preserve sections approved for demolition
- Redesign the secondary staircase
- Revise units 1, 2 and 3 to allow adequate natural light and ventilation to all habitable rooms.

1. Relevant Planning History

145242 - Planning application for change of use of bank to serviced office accommodation with meeting room and 8no. residential units, including removal of existing rear extensions, erection of replacement rear extension, new rear extension and removal of trees - 05/04/23 - Granted time limit plus conditions

145243 - Listed Building Consent for change of use of bank to serviced office accommodation with meeting room and 8no. residential units, including removal of

existing rear extensions, erection of replacement rear extension, new rear extension and removal of trees -05/04/23 - Granted time limit plus conditions

148036 - Request for confirmation of compliance with conditions 3(render), 4(brickwork), 5(features), 6(features), 7(services) 8(demolition Statement) & 11(windows & doors) of listed building consent 145243 granted 5 April 2023 - Yet to be determined

148040 - Request for confirmation of compliance with conditions 5(brickwork), 6(render), 7(demolition), 8(features) & 11(materials) of planning permission 145242 granted 5 April 2023 - Yet to be determined

148321 - Request for confirmation of compliance with condition 2(stuctural &method) of listed building consent 145243 granted 5 April 2023 - Yet to be determined

148322 - Request for confirmation of compliance with condition 4(historic building record) & 9(drainage) of planning permission 145242 granted 5 April 2023 - Yet to be determined

2. Relevant Planning Constraint

The application site is a Grade II listed building within Gainsborough Town Centre and the Town Centre Conservation Area. The property is a three-storey terraced building that fronts onto the northern side of Silver Street, one of the main thoroughfares in Gainsborough town centre.

The official Historic England listing describes the property as follows:

2. Early C19 origins. 3 storeys. Rendered, with coped parapet and string cornice. 8 windows without glazing bars. 1st floor and ground floor have 2 windows. Left hand to ground floor and 1st floor has early C20 bank front. Included as part of a group.

No 10 forms a group with Nos 1 to 7 (odd) Silver Street; Nos 11 to 15 (odd) Silver Street; No 21A and Nos 23 to 33 (odd) Silver Street together with Nos 21 to 27 (odd) Market Place. Nos 25 and 27 Market Place and Nos 29 to 33 (odd) Silver Street are of local interest only.

The application site lies within the Town Centre and Primary Shopping Area designations. The site also lies within a minerals safeguarding area.

The site lies within the Town Centre Conservation Area and there are a wealth of heritage assets surrounding the site including:

- 1 and 3 Silver Street, Grade II listed building
- 5 and 7 Silver Street, Grade II listed building
- 11 and 13 Silver Street, Grade II listed building
- 15 Silver Street, Grade II listed building
- 21a Silver Street, Grade II listed building
- 23 and 25 Silver Street, Grade II listed building

3. Representations

Chairman/Ward member(s): No representations received to date

Gainsborough Town Council: Supports with comment

The Committee resolved to support the application but to raise concerns about the 4 parking spaces, if they are adequate for the number of residential units.

Local residents: No representations received to date

LCC Highways and Lead Local Flood Authority: 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.

LCC Archaeology: No objections

I have no objections to the proposed changes. The relevant archaeological conditions of permission 145242 still apply.

Historic England: Comment

In this case we are not offering advice. This should not be interpreted as comment on the merits of the application. We suggest that you seek the views of your specialist conservation and archaeological advisers.

WLDC Conservation Officer: No objections

The variations in this application secure the issues in the plans that were raised in the previous application and, through minor amendments, improve the scheme and secure more of the building. I have no objections to the variations and the same conditions still apply.

LCC Education: Comment

We have previously commented on this development under planning application 145242 with no comment as this scheme did not generate any additional children, this was based on a 11-dwelling proposal.

I can see that this is now a proposal of 8 dwellings, after trying to check the dwelling mix to ensure of our response I could not see any documents for this planning application Therefore we cannot comment currently. If you could let us know the proposed dwelling mix for the 8 dwellings we can respond with our official comments on behalf of LCC Education.

WLDC Growth Team: Supports

Lincolnshire Police: No objections

Environment Agency: No representations received to date

Date System Checked: 29th October 2024

Relevant Planning Policies:

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Here, the Development Plan comprises the provisions of the Central Lincolnshire Local Plan (adopted in April 2023), the Lincolnshire Minerals, the Waste Local Plan (adopted June 2016) and the Gainsborough Neighbourhood Plan (made June 2021).

Development Plan:

- ***Central Lincolnshire Local Plan 2023***

Relevant policies of the CLLP include:

- S1 The Spatial Strategy and Settlement Hierarchy
- S2 Growth Levels and Distribution
- S3 Housing in the Lincoln Urban Area, Main Towns and Market Towns
- S21 Flood Risk and Water Resources
- S23 Meeting Accommodation Needs
- S47 Accessibility and Transport
- S48 Walking and Cycling Infrastructure
- S49 Park Provision
- S53 Design and Amenity
- S57 The Historic Environment

- ***Gainsborough Town Neighbourhood Plan (GTNP)***

Relevant policies of the NP include:

- NPP 1 Sustainable Development
- NPP 6 Ensuring High Quality Design
- NPP 7 Ensuring High Quality Design in each Character Area
- NPP 8 A Mix of Housing Types
- NPP 18 Protecting and Enhancing Heritage Assets
- NPP 19 Improving the Vitality of the Town Centre

- ***Lincolnshire Minerals and Waste Local Plan (LMWLP)***

The site is in a Minerals Safeguarding Area and policy M11 of the Core Strategy applies.

National policy & guidance (Material Consideration)

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance
- National Design Guide (2019)
- National Model Design Code (2021)

The NPPF sets out the Government's planning policies for England and how these should be applied. It is a material consideration in planning decisions. The most recent iteration of the NPPF was published in December 2023. Paragraph 225 states:

However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

Other:

Section 16 of the Planning (Listed Building & Conservation Areas) act 1990.

Section 66 of the Planning (Listed Building & Conservation Areas) act 1990.

Section 72 of the Planning (Listed Building & Conservation Areas) act 1990.

Gainsborough Town Centre Conservation Area Appraisal

Town and Country Planning (General Permitted Development) (England) Order 2015 (As amended)

Technical housing standards – nationally described space standard Department for Communities and Local Government dated March 2015

Main Considerations:

This application is made under s73 of the Town & Country Planning Act 1990, in order to develop land not in compliance with conditions previously attached. In accordance with planning law (s.73(2)), “consider *only* the question of the conditions subject to which planning permission should be granted.” It is not a re-visitation or reassessment of the original decision to grant planning permission.

- Principle of the Development
- Assessment in planning permission 145242 and listed building consent 145243
- Heritage
- Visual Impact
- Residential Amenity
- Assessment of conditions 1-9 and 11-20 of planning permission 145242
- Assessment of conditions 1-8 and 9-14 of listed building consent 145243

Assessment:

Principle of the Development

The principle of the development has already been established in planning permission 145242 and listed building consent 245243 dated 5th April 2023. Applications (148036 and 148040) to discharge conditions are currently under consideration.

The previous full application was considered against the policies of the now revoked Central Lincolnshire Local Plan 2012-2036. On 13th April 2023 the Central Lincolnshire Local Plan 2023 and its policies was adopted and is the development plan that this application will be determined against.

This section 73 planning application has been submitted to amend the plans (condition 2) as described earlier in the report.

Assessment in planning permission 145242 and listed building consent 145243

In 145242 and 145243 the following considerations were assessed in the decision-making process:

- Residential Amenity
- Housing Mix
- Highways and Parking
- Trees and Landscaping
- Minerals
- Drainage

These considerations in accordance with the Central Lincolnshire Local Plan 2023 are not altered from the officers report assessment in 145242 and 145243.

Heritage

The proposed amendments would retain parts of the original building which were previously approved for demolition. All internal amendments to the layout and staircase would preserve the fabric of the listed building. The Authority's Conservation Officer has no objections to the development and has stated that the amendments will *"improve the scheme and secure more of the building"*.

The proposed development would preserve and enhance the special historic interest of the host listed building and the character and appearance of the conservation area. In addition to this, the proposal would preserve the setting of the nearby listed buildings. The proposed development would therefore accord to local policy S57 of the CLLP, policy NPP18 of the GTN, Section 16, 66 and 72 of the Planning (Listed Building & Conservation Areas) act 1990 and the provisions of the NPPF.

Visual Impact

As previously stated the development would mostly change the internal appearance of the building. The external appearance of the building would mainly remain as approved with previous demolished sections to be retained.

It is not considered that the proposed amendments would have an unacceptable harmful visual impact on the site or the surrounding area and would therefore accord to local policy S53 of the CLLP, policy NPP6 and NPP7 of the GTNP and the provisions of the NPPF.

Assessment of conditions 1-9 and 11-20 of planning permission 145242

As a variation of condition application will create a brand-new permission in itself a review of conditions originally imposed on 145242 needs to be undertaken without this any new permission would be unrestricted.

Condition 1 – Time Limit

This condition is still relevant and necessary but the expiry date will be listed as 5th April 2026.

Condition 2 – Archaeology

This condition can be amended to an in accordance with condition in line with The

Written Scheme of Investigation by Rocket Heritage & Archaeology dated November 2023 in condition discharge application 147971.

Condition 3 – Archaeology

This condition is still relevant and necessary and will be retained.

Condition 4 – Historic Building Record

This condition can be removed as an Historic Building Record by Rocket Heritage & Archaeology dated 16th May 2024 is acceptable as confirmed by the Historic Environment Officer at Lincolnshire County Council and West Lindsey's Conservation Officer approved in condition discharge application 148322.

Condition 5 – Sample Panel of Brick

This condition can be amended to an in accordance with condition in line with the sample panel of brick and mortar photo approved in condition discharge application 148040.

Condition 6 – Render

This condition can be amended to an in accordance with condition in line with the details approved in condition discharge application 148040. The plan approved is:

- 23-090 (02) 07 dated 11th September 2024

Condition 7 – Demolition

This condition is still relevant and necessary and will be retained and amended to an in accordance with condition in line with the details approved in condition discharge application 148040.

Condition 8 – Twin Roofs

This condition can be amended to an in accordance with condition in line with the details approved in condition discharge application 148040. The plan approved is:

- 23-090 (02) 06 dated January 2024

Condition 9 – Drainage

This condition can be amended to an in accordance with condition in line with the details approved in condition discharge application 148040. The plan approved is:

- 23-090 (04) 02 Rev A dated April 2024

Condition 11 – External Materials

This condition is still relevant and necessary and will be retained and amended to an in accordance with condition in line with the external materials listed in email dated 19th September 2024 approved in condition discharge application 148040.

Condition 12 – Timber Doors, Windows and Surrounds

This condition can be amended to an in accordance with condition in line with the details approved in condition discharge application 148040. The document and plan approved is:

- 23-090 (02) 08 dated 11th September 2024
- Kierson Document

Condition 13 – Making Good Exposed Areas

This condition is still relevant and necessary and will be retained.

Condition 14 – Landscaping

This condition is still relevant and necessary and will be retained.

Condition 15 – External Works and Finishes

This condition is still relevant and necessary and will be retained.

Condition 16 – Parking

This condition is still relevant and necessary and will be retained with a new plan number.

Condition 17, 18 and 19 – Archaeology

These conditions are still relevant and necessary and will be retained with updated condition numbers.

Condition 20 – Planting

This condition is still relevant and necessary and will be retained.

Assessment of conditions 1-8 and 9-14 of listed building consent 145243

As a variation of condition application will create a brand-new consent in itself a review of conditions originally imposed on 145243 needs to be undertaken without this any new permission would be unrestricted.

Condition 1 – Time Limit

This condition is still relevant and necessary but the expiry date will be listed as 5th April 2026.

Condition 2 – Schedule of Works/Structural Survey

This condition can be amended to an in accordance with condition in line with the details approved in condition discharge application 148321. The reports and plans approved in 148321 are:

- Structural Survey Report by James Ellis dated 26th April 2024
- SILSTR-CSL-010-DR-S-0001 Rev C01 dated 10th March 2024 - Ground Floor Structural Details
- SILSTR-CSL-010-DR-S-0002 Rev C01 dated 10th March 2024 - First Floor Partial Plan Structural Details Steelwork Layout and Structural Repairs
- SILSTR-CSL-010-DR-S-0003 Rev C01 dated 10th March 2024 - First Floor Partial Plan Structural Details Steelwork Fabrication Details

Condition 3 – Render

This condition can be amended to an in accordance with condition in line with the details approved in condition discharge application 148036. The plan approved is:

- 23-090 (02) 07 dated 11th September 2024

Condition 4 – Sample Panel of Brick

This condition can be amended to an in accordance with condition in line with the sample panel of brick and mortar photo approved in condition discharge application 148036.

Condition 5 – Stair Features

This condition can be amended to an in accordance with condition in line with the details approved in condition discharge application 148036. The plan approved is:

- 23-090 (02) 06 dated January 2024

Condition 6 - Features

This condition can be amended to an in accordance with condition in line with the details approved in condition discharge application 148036. The plan approved is:

- 23-090 (02) 02B dated 11th September 2024 - Proposed - General Layouts - Ground Floor Plan
- 23-090 (02) 03B dated 11th September 2024 – General Layouts – First Floor Plan
- 23-090 (02) 04B dated 11th September 2024 - Proposed - General Layouts - Second Floor Plan
- 23-090 (02) 05B dated 11th September 2024 – Proposed Wall Details
- 23-090 (02) 06 dated February 2024 - Proposed First Floor Upgrades and Repairs
- 23-090 (02) 07C dated 4th October 2024 – Proposed Elevations
- 23-090 (02) 08C dated 4th October 2024 - Proposed Window Details

Condition 7 – Services and Fixtures

This condition can be amended to an in accordance with condition in line with the details approved in condition discharge application 148036. The plan approved is:

- 23-090 (03) 03 dated January 2024

Condition 8 – Demolition

This condition is still relevant and necessary and will be retained and amended to an in accordance with condition in line with the details approved in condition discharge application 148036.

Condition 10 – Internal/External Materials

This condition is still relevant and necessary and will be retained and amended to an in accordance with condition in line with the external materials listed in email dated 19th September 2024 approved in condition discharge application 148036.

Condition 11 – Timber Doors, Windows and Surrounds

This condition can be amended to an in accordance with condition in line with the details approved in condition discharge application 148036. The document and plan approved is:

- 23-090 (02) 08 dated 11th September 2024
- Kierson Document

Condition 12 – Making Good

This condition is still relevant and necessary and will be retained.

Condition 13 – External/Internal Works

This condition is still relevant and necessary and will be retained.

Condition 14 – Masonry Cleaning

This condition is still relevant and necessary and will be retained.

Conclusion and reason for decision:

Planning Application: WL/2024/00187 (148037)

The decision has been considered against S1 The Spatial Strategy and Settlement Hierarchy, S2 Growth Levels and Distribution, S3 Housing in the Lincoln Urban Area, Main Towns and Market Towns, S21 Flood Risk and Water Resources, S23 Meeting Accommodation Needs, S47 Accessibility and Transport, S48 Walking and Cycling Infrastructure, S49 Parking Provision, S53 Design and Amenity and S57 The Historic Environment of the adopted Central Lincolnshire Local Plan 2023, Policy NPP 1 Sustainable Development, NPP 6 Ensuring High Quality Design, NPP 7 Ensuring High Quality Design in each Character Area, NPP 8 A Mix of Housing Types, NPP 18 Protecting and Enhancing Heritage Assets and NPP 19 Improving the Vitality of the Town Centre of the Gainsborough Town Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Building & Conservation Areas) act 1990 in the first instance and guidance contained within the National Planning Policy Framework, the National Planning Practice Guidance, National Design Guide and National Design Model Code. In light of this assessment it is considered that this proposed amendments are acceptable and would preserve and enhance the fabric, special character and significance of the listed building, including the setting of the adjoining listed buildings. The development would preserve the character and appearance of the Gainsborough Conservation Area. The development would not have an unacceptable harmful visual impact. The proposal is therefore acceptable.

Listed Building Consent: WL/2024/00069 (148273)

The proposal has been considered against the duty contained within section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended. In light of this assessment, the proposed amendments are considered as preserving and enhancing the desirability of the Listed Building and its setting. Furthermore the proposed development will preserve and enhance the desirability of the special architectural features or historic interest it possesses.

Conditions:

Planning Permission WL/2024/00187 (148037):

Conditions stating the time by which the development must be commenced:

1. The development hereby permitted must be begun before the end of the 5th April 2026.

Reason: To conform with Section 91 (1) of the Town and Country Planning Act 1990 (as amended).

Conditions which apply or require matters to be agreed before the development commenced:

NONE

Conditions which apply or are to be observed during the course of the development:

2. With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved must be carried out in accordance with the following proposed drawings:

Approved in 145242:

- SSG-ARC-B1-XX-DP-A-1002 Rev P5 dated 29th March 2023 – Site Plan
- SSG-ARC-B1-00-DP-A-2204 Rev P6 dated 29th March 2023 – Roof Plan

Approved in 148037:

- 23-090(01) 01 dated March 2024 - Lower Ground Floor Plan
- 23-090 (01) 02A dated March 2024 – Ground Floor Plan
- 23-090 (01) 03A dated March 2024 – First Floor Plan
- 23-090 (01) 04A dated March 2024 - Second Floor Plan
- 23-090 (01) 05 dated March 2024 - Elevations Plan

The works must be carried out in accordance with the details shown on the approved plans and in any other approved documents forming part of the application.

Reason: To ensure the development proceeds in accordance with the approved plans and to accord with the National Planning Policy Framework and local policy LP17, S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6, NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

3. The local planning authority shall be notified in writing of the intention to commence the archaeological investigations in accordance with the approved written scheme referred to in condition 4 at least 14 days before the said commencement. No variation shall take place without prior written consent of the local planning authority.

Reason: In order to facilitate the appropriate monitoring arrangements and to ensure the satisfactory archaeological investigation and retrieval of archaeological finds to accord with the National Planning Policy Framework and local policy S57 of the Central Lincolnshire Local Plan 2023.

4. The development must be completed in strict accordance with the Written Scheme of Investigation by Rocket Heritage & Archaeology dated November 2023 in

condition discharge application 147971.

Reason: To ensure the preparation and implementation of an appropriate scheme of archaeological mitigation and to accord with the National Planning Policy Framework and local policy S57 of the Central Lincolnshire Local Plan 2023.

5. The development must be completed in strict accordance with the sample panel of brick and mortar approved in condition discharge application 148040 and must be retained as such thereafter.

Reason: To ensure the use of appropriate materials in the interests of visual amenity and the character and appearance of the site and the Gainsborough Conservation Area. To preserve the fabric and appearance of the host listed building and setting of the nearby listed buildings to accord with the National Planning Policy Framework, local policies S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6, NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6. The development must be completed in strict accordance with the render details identified on plan 23-090 (02) 07 dated 11th September 2024, approved in condition discharge application 148040 and must be retained as such thereafter.

Reason: To ensure the use of appropriate materials in the interests of visual amenity and the character and appearance of the site and the Gainsborough Conservation Area. To preserve the fabric and appearance of the host listed building and setting of the nearby listed buildings to accord with the National Planning Policy Framework and local policies S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6, NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

7. The development must be completed in strict accordance with the Demolition Risk Assessment received 5th March 2024 and Demolition Works to Single Storey Structure by Evabode Ltd dated 16th February 2024 approved in condition discharge application 148040.

Reason: To ensure the appropriate methods are used to preserve the fabric and appearance of the host listed building and setting of the nearby listed buildings and the conservation area to accord with the National Planning Policy Framework and local policies S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6, NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

8. The development must be completed in strict accordance with the roof details identified on plan 23-090 (02) 06 dated January 2024, approved in condition discharge application 148040 and must be retained as such thereafter.

Reason: To ensure the use of appropriate materials in the interests of visual amenity and the character and appearance of the site and the Gainsborough Conservation Area. To preserve the fabric and appearance of the host listed building and setting

of the nearby listed buildings to accord with the National Planning Policy Framework and local policies S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6, NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

9. The development must be completed in strict accordance with foul and surface water plan 23-090(04) 02 Rev A dated April 2024 and retained as such thereafter. No occupation each residential or office must occur until the drainage scheme has been completed.

Reason: To ensure adequate drainage facilities are provided to serve each dwelling, to reduce the risk of flooding and to prevent the pollution of the water environment to accord with the National Planning Policy Framework and local policy S21 of the Central Lincolnshire Local Plan 2023.

10. The development must be completed in strict accordance with the external material details listed in email from the agent dated 19th September 2024, approved in condition discharge application 148040 and must be retained as such thereafter.

Reason: To ensure the use of appropriate materials in the interests of visual amenity and the character and appearance of the site and the Gainsborough Conservation Area. To preserve the fabric and appearance of the host listed building and setting of the nearby listed buildings to accord with the National Planning Policy Framework and local policies S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6, NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

11. The development must be completed in strict accordance with the window and door details identified on plan 23-090 (02) 08 dated 11th September 2024 and Kierson Document, approved in condition discharge application 148040 and must be retained as such thereafter.

Reason: To ensure the use of appropriate materials in the interests of visual amenity and the character and appearance of the site and the Gainsborough Conservation Area. To preserve the fabric and appearance of the host listed building and setting of the nearby listed buildings to accord with the National Planning Policy Framework and local policies S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6, NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

12. Full details of 'making good' exposed areas revealed by any demolition works must be submitted to and approved in writing by the Local Planning Authority. The development must be completed in strict accordance with the approved details.

Reason: To ensure the use of appropriate materials in the interests of visual amenity and the character and appearance of the site and the Gainsborough Conservation Area. To preserve the fabric and appearance of the host listed building and setting of the nearby listed buildings to accord with the National Planning Policy Framework and local policies S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6,

NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

13. No occupation must take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. Details to include:

- Type, height and position of all boundary treatments.
- Material finish of all hardstanding (driveway, parking spaces, patios and paths).
- Species, planting height, formation and position of new trees, shrubbery and hedging.
- Planting mix for the green roofs

The development must be completed in strict accordance with the approved scheme and retained as such thereafter.

Reason: To ensure that appropriate landscaping is introduced to soften the appearance of the site and would not unacceptably impact on the character and appearance of the site, the Gainsborough Conservation Area or the setting of the Listed Buildings to accord with the National Planning Policy Framework and local policies S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6, NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

14. All new external works and finishes of making good to the retained fabric, must match the existing original work adjacent in respect of methods, detailed execution and finished appearance unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure the use of appropriate materials in the interests of visual amenity and the character and appearance of the site and the Gainsborough Conservation Area. To preserve the fabric and appearance of the host listed building and setting of the nearby listed buildings to accord with the National Planning Policy Framework and local policies S53 and S57 of the Central Lincolnshire Local Plan 2023, NPP6, NPP7 and NPP18 of the Gainsborough Neighbourhood Plan and Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

15. No occupation must take place until the parking spaces identified on site plan SSG-ARC-B1-XX-DP-A-1002 Rev P5 dated 29th March 2023 have been fully installed and retained for that use thereafter.

Reason: To ensure some off street parking to serve the future occupants of the flats in the interests of highway safety to accord with the National Planning Policy Framework and local policy S47, S49 and S53 of the Central Lincolnshire Local Plan 2023.

16. The archaeological site work shall be undertaken only in full accordance with the written scheme required by condition 4.

Reason: To ensure the satisfactory archaeological investigation and retrieval of archaeological finds to accord with the National Planning Policy Framework and local policy S57 of the Central Lincolnshire Local Plan 2023.

17. Following the archaeological site work referred to in condition 16 a written report of the findings of the work shall be submitted to and approved in writing by the local planning authority within 3 months of the said site work being completed.

Reason: To ensure the satisfactory archaeological investigation and retrieval of archaeological finds to accord with the National Planning Policy Framework and local policy S57 of the Central Lincolnshire Local Plan 2023.

18. The report referred to in condition 17 and any artefactual evidence recovered from the site shall be deposited within 12 months of the archaeological site work being completed in accordance with a methodology and in a location to be agreed in writing by the local planning authority.

Reason: To ensure the satisfactory archaeological investigation and retrieval of archaeological finds to accord with the National Planning Policy Framework and local policy S57 of the Central Lincolnshire Local Plan 2023.

Conditions which apply or relate to matters which are to be observed following completion of the development:

19. All planting or turfing comprised in the approved details of landscaping must be carried out in the first planting and seeding season following the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased must be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. The landscaping should be retained thereafter.

Reason: To ensure that any planting or turfing is installed in a timely manner to accord with the National Planning Policy Framework and local policies S53 and S57 of the Central Lincolnshire Local Plan 2023.

Listed Building Consent: WL/2024/00069 (148273)

Conditions stating the time by which the development must be commenced:

1. The development hereby permitted must be begun before the end of the 5th April 2026.

Reason: To conform with Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

Conditions which apply or require matters to be agreed before the development commenced:

NONE

Conditions which apply or are to be observed during the course of the development:

2. With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved must be carried out in accordance with the following proposed drawings:

Approved in 145243:

- SSG-ARC-B1-XX-DP-A-1002 Rev P5 dated 29th March 2023 – Site Plan
- SSG-ARC-B1-00-DP-A-2204 Rev P6 dated 29th March 2023 – Roof Plan

Approved in 148273:

- 23-090(01) 01 dated March 2024 - Lower Ground Floor Plan
- 23-090 (01) 02A dated March 2024 – Ground Floor Plan
- 23-090 (01) 03A dated March 2024 – First Floor Plan
- 23-090 (01) 04A dated March 2024 - Second Floor Plan
- 23-090 (01) 05 dated March 2024 - Elevations Plan

The works must be carried out in accordance with the details shown on the approved plans and in any other approved documents forming part of the application.

Reason: To ensure the development proceeds in accordance with the approved plans and safeguards the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

3. The development must be completed in strict accordance with the details on the report and plans listed below approved in condition discharge application 148321:

- Structural Survey Report by James Ellis dated 26th April 2024
- SILSTR-CSL-010-DR-S-0001 Rev C01 dated 10th March 2024 - Ground Floor Structural Details
- SILSTR-CSL-010-DR-S-0002 Rev C01 dated 10th March 2024 - First Floor Partial Plan Structural Details Steelwork Layout and Structural Repairs
- SILSTR-CSL-010-DR-S-0003 Rev C01 dated 10th March 2024 - First Floor Partial Plan Structural Details Steelwork Fabrication Detail

The development must be completed in strict accordance with the approved details.

Reason: To safeguard the fabric and desirability of the Grade II Listed Building to accord with the National Planning Policy Framework

4. The development must be completed in strict accordance with the render details identified on plan 23-090 (02) 07 dated 11th September 2024, approved in condition discharge application 148036 and must be retained as such thereafter.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

5. The development must be completed in strict accordance with the sample panel of brick and mortar approved in condition discharge application 148036 and must be retained as such thereafter.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

6. The development must be completed in strict accordance with the stair details identified on plan 23-090 (02) 06 dated January 2024 approved in condition discharge application 148036 and must be retained as such thereafter.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

7. The development must be completed in strict accordance with the stair details identified on plan 23-090 (03) 03 dated January 2024 approved in condition discharge application 148036 and must be retained as such thereafter.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

8. The development must be completed in strict accordance with the Demolition Risk Assessment received 5th March 2024 and Demolition Works to Single Storey Structure by Evabode Ltd dated 16th February 2024 approved in condition discharge application 148036.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

9. The development must be completed in strict accordance with the external material details listed in email from the agent dated 19th September 2024 and roof details identified on plan 23-090 (02) 06 dated January 2024 approved in condition discharge application 148036 and must be retained as such thereafter.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

10. The development must be completed in strict accordance with the window and door details identified on plan 23-090 (02) 08 dated 11th September 2024 and Kierson Document, approved in condition discharge application 148036 and must be retained as such thereafter.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

11. Full details of 'making good' exposed areas revealed by any demolition works must be submitted to and approved in writing by the Local Planning Authority. The development must be completed in strict accordance with the approved details.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

12. All new external and internal works and finishes of making good to the retained fabric, must match the existing original work adjacent in respect of methods, detailed execution and finished appearance unless otherwise approved in writing by the Local Planning Authority.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

13. No cleaning of any masonry must take place unless by a low pressure (20-100 psi) surface cleaner using a nebulous water spray. Any other cleaning method must be submitted to and approved in by the Local Planning Authority. A test panel measuring no more than 0.5 square metres must be undertaken in an inconspicuous position ready for inspection and approved in writing by the Local Planning Authority. The development must be completed in strict accordance with the approved details.

Reason: To safeguard the desirability and setting of the Grade II Listed Buildings to accord with the National Planning Policy Framework.

Conditions which apply or relate to matters which are to be observed following completion of the development:

NONE

Decision Level: Delegated

Human Rights Implications:

The above objections, considerations and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.

Legal Implications:

Although all planning decisions have the ability to be legally challenged it is considered there are no specific legal implications arising from this report

Prepared by: I an Elliott

Date: 29th October 2024

Authorising Officer: H.Horton

Date: 29th October 2024

PAPER F

Listed Building Consent

Name and address of applicant

Roy Robson
PROSPECT HOUSE
SUMMER HILL
GAINSBOROUGH
DN21 1HQ

Name and address of agent (if any)

Part I – Particulars of application

Date of application: 29/09/2024

Application no: WL/2024/00765

Particulars and location of development

Proposal: Listed building consent to install access ramp & level access shower being variation of condition 2 of listed building consent 147781 granted 28 March 2024 - position of toilet & basin to be relocated onto opposite wall.

Location:

PROSPECT HOUSE
SUMMER HILL
GAINSBOROUGH
DN21 1HQ

Part II – Particulars of decision

West Lindsey District Council hereby give notice that **Listed Building Consent has been granted** for the execution of the works referred to in Part 1 hereof in accordance with the application and plans submitted.

Conditions stating the time by which the development must be commenced:

1. The development hereby permitted shall be begun before the date of 28 March 2027, specified in listed building consent 147781.

Reason: To conform with Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

Conditions which apply or require matters to be agreed before the development commenced:

None.

Conditions which apply or are to be observed during the course of the development:

2. With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the following drawings: Existing and Proposed Ground Floor Utility/Bathroom Floor Plans (Rev B dated 22/05/2024), Proposed Ramp Plans (x3) and a Proposed Site Location/Block Plan for the Proposed Ramp received 23/01/2024. The works shall be carried out in accordance with the details shown on the approved plans and in any other approved documents forming part of the application.

Reason: To ensure the development proceeds in accordance with the approved plans and to accord with the National Planning Policy Framework.

3. The following features must be retained in situ:

- The original door opening, door, frame and architrave to the downstairs utility/bathroom.

Reason: To ensure the development proceeds in accordance with the approved plans to safeguard the fabric and setting of the Grade II Listed Building to accord with the National Planning Policy Framework.

4. Prior to the installation of the new internal doorway to the ground floor utility/bathroom a section through of the proposed new internal door to the ground floor utility/bathroom showing all finishes, the new door, frame, architrave etc. on a scale of no less than 1:20 shall be submitted to and approved in writing by the Local Planning Authority. The development must be completed in strict accordance with the approved details.

Reason: To ensure the development proceeds in accordance with the approved plans to safeguard the fabric and setting of the Grade II Listed Building to accord with the National Planning Policy Framework.

5. All new external and internal finishes and works of making good to the retained fabric, shall match the existing original work adjacent in respect of methods, detailed execution and finished appearance unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure the development proceeds in accordance with the approved plans to safeguard the fabric and setting of the Grade II Listed Building to accord with the National Planning Policy Framework.

Conditions which apply or relate to matters which are to be observed following completion of the development:

None.

Notes to the applicant

None.

Reasons for Granting Consent:

The proposed works have been considered against Section 16 of the Planning (Listed Building and Conservation Area) Act 1990 and advice given in Chapter 16 of the National Planning Policy Framework. In light of this assessment, the works are acceptable as the changes (subject to conditions) will have no adverse impact on the character, appearance and fabric of the Listed Building.



Date: 05/11/2024

Signed:

Ian Knowles
Chief Executive and Head of Paid Service

West Lindsey District Council
Guildhall
Marshall's Yard
Gainsborough
DN21 2NA

Appeals to the Secretary of State

- If the applicant is aggrieved by the decision of the local planning authority to refuse listed building consent for the proposed works, or to grant consent subject to conditions, then you can appeal to the Secretary of State in accordance with sections 20 and 21 of the Planning (Listed Building and Conservation Areas) Act 1990.
- **If you want to appeal against your local planning authority's decision you must do so within 6 Months of the date of this notice. Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol or online at: <https://acp.planninginspectorate.gov.uk>.**
- If listed building consent is refused, or granted subject to conditions, whether by the local planning authority or by the First Secretary of State and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any works which have been or would be permitted, he may serve on the council of the district, in which the land is situated a listed building purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of section 32 of the Planning (Listed Building and Conservation Areas) Act 1990.
- In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions. The circumstances in which such compensation is payable are set out in section 27 of the Planning (Listed Building and Conservation Areas) Act 1990.
- **Only the applicant possesses the right to appeal the decision.**

If you require this letter in another format e.g. large print, please contact Customer Services on 01427 676676, by email customer.services@west-lindsey.gov.uk or by asking any of the Customer Services staff.

Officers Report

Planning Application No: WL/2024/00765

PROPOSAL: Listed building consent to install access ramp & level access shower being variation of condition 2 of listed building consent 147781 granted 28 March 2024 - position of toilet & basin to be relocated onto opposite wall.

LOCATION: PROSPECT HOUSE SUMMER HILL GAINSBOROUGH DN21 1HQ

WARD: Gainsborough East

APPLICANT NAME: Mr Roy Robson

TARGET DECISION DATE: 8/11/2024

DEVELOPMENT TYPE: Listed Building - Alter/Extend

CASE OFFICER: Richard Green

RECOMMENDED DECISION: Grant with conditions attached

Description:

The application site is a Grade II Listed 2 storey detached dwelling (Prospect House) located within the developed footprint of Gainsborough. The front (principal) elevation of the dwelling is the west elevation and the site is accessed off Summer Hill to the north of the dwelling which leads to an area of off road car parking and a detached single storey garage to the north of the dwelling with gardens beyond. There is another single storey detached outbuilding located by the north eastern corner of the site between the dwelling and the aforementioned garage.

This application (WL/2024/00765) seeks to vary condition 2 (plans condition) of listed building consent 147781. The amendments comprise moving the proposed toilet and basin in the existing ground floor bathroom/utility room to the opposite side of the wall and a new double swing door to the bathroom/utility room.

Relevant history:

147781 - Listed building consent to install access ramp & level access shower. Granted 28/03/2024.

Representations:

Chairman/Ward member(s): No representations received to date.

Gainsborough Town Council: Supports the application as it helps the resident(s) to have a better standard of living.

Local residents: No representations received to date.

LCC Highways and Lead Local Flood Authority: The proposals will not affect the public highway. 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.

Conservation Officer: I have no objections to moving the bathroom layout and the previous conditions will still be suitable.

LCC Archaeology: No representations received to date.

System Checked: 05/11/2024

Relevant Planning Policies:

National guidance

National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Lb Legal Duty

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Main issues

- Principle and impact on a Listed Building

Assessment:

Principle and Impact on a Listed Building

Section 16 of the Planning (Listed Building and Conservation Area) Act 1990 requires Local Planning Authorities to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. The National Planning Policy Framework requires Local Planning Authorities to assess the significance of the heritage assets involved and the likely impact of the development on them.

This application (WL/2024/00765) seeks to vary condition 2 (plans condition) of listed building consent 147781. The amendments comprise moving the proposed toilet and basin in the existing ground floor bathroom/utility room to the opposite side of the wall and a new double swing door to the bathroom/utility room.

The proposed alterations to an existing bathroom/utility room will retain

existing features such as the original doorway behind a stud wall and an original cupboard and the insertion of a new door to a small ground floor bathroom/utility room will not unduly affect the fabric and historic floor plan of the Listed Building.

The Conservation Officer has no objections to the proposed amendments subject to the conditions previously attached to Listed Building Consent 147781. In line with the Conservation Officers recommendation it is considered relevant and necessary to attach the previous conditions to the new decision notice.

It is therefore considered that the works are acceptable as the changes (subject to conditions) will have no adverse impact on the special architectural significance and historic interest of the Listed Building in accordance with Section 16 of the Planning (Listed Building and Conservation Area) Act 1990 and the NPPF.

Other matters:

None.

Conclusions and reasons for decision

The proposed works have been considered against Section 16 of the Planning (Listed Building and Conservation Area) Act 1990 and advice given in Chapter 16 of the National Planning Policy Framework. In light of this assessment, the works are acceptable as the changes (subject to conditions) will have no adverse impact on the character, appearance and fabric of the Listed Building.

RECOMMENDATION- Grant listed building consent with the following conditions:

Conditions stating the time by which the development must be commenced:

1. The development hereby permitted shall be begun before the date of 28 March 2027, specified in listed building consent 147781.

Reason: To conform with Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

Conditions which apply or require matters to be agreed before the development commenced:

None.

Conditions which apply or are to be observed during the course of the development:

2. With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in

accordance with the following drawings: Existing and Proposed Ground Floor Utility/Bathroom Floor Plans (Rev B dated 22/05/2024), Proposed Ramp Plans (x3) and a Proposed Site Location/Block Plan for the Proposed Ramp received 23/01/2024. The works shall be carried out in accordance with the details shown on the approved plans and in any other approved documents forming part of the application.

Reason: To ensure the development proceeds in accordance with the approved plans and to accord with the National Planning Policy Framework.

3. The following features must be retained in situ:

- The original door opening, door, frame and architrave to the downstairs utility/bathroom.

Reason: To ensure the development proceeds in accordance with the approved plans to safeguard the fabric and setting of the Grade II Listed Building to accord with the National Planning Policy Framework.

4. Prior to the installation of the new internal doorway to the ground floor utility/bathroom a section through of the proposed new internal door to the ground floor utility/bathroom showing all finishes, the new door, frame, architrave etc. on a scale of no less than 1:20 shall be submitted to and approved in writing by the Local Planning Authority. The development must be completed in strict accordance with the approved details.

Reason: To ensure the development proceeds in accordance with the approved plans to safeguard the fabric and setting of the Grade II Listed Building to accord with the National Planning Policy Framework.

5. All new external and internal finishes and works of making good to the retained fabric, shall match the existing original work adjacent in respect of methods, detailed execution and finished appearance unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure the development proceeds in accordance with the approved plans to safeguard the fabric and setting of the Grade II Listed Building to accord with the National Planning Policy Framework.

Conditions which apply or relate to matters which are to be observed following completion of the development:

None.

Human Rights Implications:

The above objections, considerations and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.

Legal Implications:

Although all planning decisions have the ability to be legally challenged it is considered there are no specific legal implications arising from this report.

Prepared by : Richard Green

Date: 05/11/2024

Signed: R,J,Green

Authorising Officer: Ian Elliott

Date: 5th November 2023

Committee X

PAPER G

Planning Permission

Name and address of applicant

Amy Potts
GUILDHALL
MARSHALL'S YARD
GAINSBOROUGH
UNITED KINGDOM
DN21 2NA

Name and address of agent (if any)

Neil White
Project Centre Ltd
ONE AMERICA SQUARE
17 CROSSWALL
LONDON
UNITED KINGDOM
EC3N 2LB

Part One – Particulars of application

Date of application:
30/07/2024

Application number:
WL/2024/00585

Particulars and location of development:

Proposal: Planning application for the demolition of the remaining Baltic Mill wall.

Location:

BALTIC MILL LAND
BRIDGE STREET
GAINSBOROUGH
DN21 1LP

Part Two – Particulars of decision

The West Lindsey District Council hereby give notice in pursuance of the provisions of the Town and Country Planning Act 1990 that planning permission has been granted for the carrying out of the development referred to in Part One hereof in accordance with the application and plans submitted subject to the following conditions:

Conditions stating the time by which the development must be commenced:

1.The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91 (1) of the Town and Country Planning Act 1990 (as amended).

Conditions which apply or require matters to be agreed before the development commenced:

None.

Conditions which apply or are to be observed during the course of the development:

2.With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the following drawings:

- Site Location Plan 1000008345-4-BM-01 Rev 01;

- Demolition of Existing Brickwork Flank Wall- Site Plan 1000008345-4-BM-02 Rev 1;
- Existing and Proposed Elevation- 1000008345-4-BM-03 Rev 0.

Reason: To ensure the development proceeds in accordance with the approved plans.

3. The development hereby permitted shall proceed in accordance with the Method Statement and Risk Assessment produced by GBM Demolition dated July 2024.

Reason: In the interests of public safety and to ensure the damage to the walls behind remains minimal through using hand demolition techniques.

Conditions which apply or relate to matters which are to be observed following completion of the development:

4. Following the demolition of the southern wall of the former Baltic Mill, the exposed brickwork shall be assessed and a methodology providing repairs for making good, together with a time line for the works to be completed, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and preserving the setting of nearby listed buildings and Conservation Area in accordance with Policies S53 and S57 of the Central Lincolnshire Local Plan.

Notes to Applicant

Environment Agency

The Environmental Permitting (England and Wales) Regulations 2016 require a permit or exemption to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in the floodplain of a main river if the activity could affect flood flow or storage and potential impacts are not controlled by a planning permission

For further guidance please visit: <https://www.gov.uk/guidance/flood-risk-activitiesenvironmental-permits>

or contact our National Customer Contact Centre on 03708 506 506 (Monday to Friday, 8am to 6pm) or by emailing enquiries@environmentagency.gov.uk

The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

Highways

You are advised to contact Lincolnshire County Council to arrange a temporary closure to protect pedestrians, if the adjacent public footway on Bridge Street will be affected by the demolition works.

Please contact the Lincolnshire County Council Streetworks and Permitting Team on 01522

782070 to discuss any proposed statutory utility connections, Section 50 licences and any other works which will be required within the public highway in association with the development permitted under this Consent. This will enable Lincolnshire County Council to assist in the coordination and timings of these works. For further guidance please visit the Highway Authority's website via the following link: Traffic Management - <https://www.lincolnshire.gov.uk/traffic-management>

Reasons for granting permission

The application has been assessed against policies Policy S1: The Spatial Strategy and Settlement Hierarchy, Policy S47: Accessibility and Transport, Policy S48: Walking and Cycling Infrastructure, Policy S53: Design and Amenity, Policy S57: The Historic Environment, Policy S58: Protecting Lincoln, Gainsborough and Sleaford's Setting and Character, Policy S60: Protecting Biodiversity and Geodiversity, Policy S61: Biodiversity Opportunity and Delivering Measurable Net Gains and Policy NS73: Gainsborough Riverside Regeneration Area of the Central Lincolnshire Local Plan, the policies within the Gainsborough Town Neighbourhood Plan and the Statutory duties contained within the 'Act' and Policy M11 of the Core Strategy in the first instance as well as the provisions of the NPPF and guidance contained within the NPPG.

In light of this assessment the proposal would have a neutral impact upon the street scene, Riverside Conservation Area and the setting of nearby Listed Buildings. Matters of safety have been addressed and the repair works to the exposed wall will be secured by condition.

Working Practice Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Date: 10/10/2024

Signed:



Ian Knowles
Chief Executive and Head of Paid Service

West Lindsey District Council
Council Offices
Guildhall
Marshall's Yard
Gainsborough
DN21 2NA

Note: This permission refers only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other enactment, byelaw, order or regulation. You are strongly advised not to commence works until you have obtained any other permissions or consents that may be required, for example approval under the Building Regulations, otherwise there may be a risk of significant legal and financial consequences. For further advice on the Building Regulations, contact the Council's Building Control section.

Failure to adhere to the details of the approved plans or to comply with the conditions attached to this permission is a contravention of the provisions of the Town & Country Planning Act 1990 in respect of which enforcement action may be taken. Please contact the planning department for further advice relating to the discharge of condition process and the appropriate fee payable (if applicable). Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- **If you want to appeal against your local planning authority's decision then you must do so within six months of the date of this notice.**
Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN or online at www.planningportal.gov.uk/pcs. You must use a Planning Appeal Form when making your appeal. If requesting forms from the Planning Inspectorate, please state the appeal form you require.
- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.
- Please note only the applicant possesses the right to appeal.

Purchase Notices

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

If you require this document in another format e.g. large print, please contact Customer Services on 01427 676676, by email customer.services@west-lindsey.gov.uk or by asking any of the Customer Services staff.

OFFICERS REPORT

PLANNING APPLICATION NO: WL/2024/00585

PROPOSAL: Planning application for the demolition of the remaining Baltic Mill wall.

LOCATION: BALTIC MILL LAND
BRIDGE STREET
GAINSBOROUGH
DN21 1LP

WARD: GAINSBOROUGH SOUTH WEST

WARD MEMBER(S): Cllr T V Young and Cllr J S McGhee

APPLICANT NAME: West Lindsey District Council

TARGET DECISION DATE: 24/09/2024

CASE OFFICER: Danielle Peck

Recommended Decision: Grant planning permission with conditions

The application is presented to the planning committee for determination in line within the Councils constitution as West Lindsey District Council is the applicant.

The application is recommended for approval subject to the conditions at the end of this report. If the Planning Committee resolve to approve the application it is recommended to delegate back to officers to issue a decision once the re consultation period has expired on changes to the site location/ red line ownership plan.

Site Description: The application site comprises of an area of currently vacant land on the western side of Bridge Street within Gainsborough. Historically the site was occupied by Baltic Mill which was used as an oil mill, processing linseed imported from overseas, it is believed to have been built around 1830. The demolition of the building was carried out in 1995, leaving the south flank wall in place and the site has been vacant since. The site is adjoined by retail uses to the south, north and east with the Riverside Walk located to the west.

The site lies within the Gainsborough Riverside Conservation Area and is also within close proximity to a number of Grade II Listed Buildings, namely;

- No. 18 Bridge Street- c. 20m to the south;
- No. 18 Silver Street- c. 60m to the north;
- No. 27 Silver Street- c 55m to the north east.

The site is within Flood Zone 3 as defined by the Environment Agency's flood risk map for planning. It is also within a Sand and Minerals Safeguarding Area.

The Proposal: Planning permission is sought for the demolition of the remaining old Baltic Mill south flank wall, as shown on the photograph below. The wall is approximately 7.5m in height and 23.1m in length.



1. Relevant Planning History

Reference	Proposal	Decision
147536	Planning application for change of use of vacant Baltic Mill site into a landscaped area.	Granted time limit plus conditions 28/03/2024
WL/2024/00562	Request for confirmation of compliance with condition 7(artwork location) of planning permission 147536 granted 28 March 2024	Condition discharged 07/08/2024
124760	Planning application to change the use of a wasteland site to use as a pay and display car park for a temporary, 5 year period	Granted time limit plus conditions 29/09/2009

Representations (In Summary)- Full versions of the comments received can be viewed using the following link: [West-Lindsey | Public Portal \(statmap.co.uk\)](https://www.statmap.co.uk/West-Lindsey)

Chairman/Ward member(s): No representations received to date.

Gainsborough Town Council: No representations received to date.

Local residents: No representations received to date.

LCC Highways and Lead Local Flood Authority: 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: Should it be deemed that the adjacent public footway on Bridge Street will be affected by the demolition works then please contact Lincolnshire County Council to arrange a temporary closure to protect pedestrians. Recommends an informative.

Environment Agency: No representations received to date.

LCC Archaeology: No archaeological input is required for the above application.

Historic England: No representations received to date.

WLDC Conservation Officer: The proposal is to remove the freestanding brick wall from the previously demolished building. The site is within the CA and in the setting of LBs. The removal of the brick wall would not alter the setting as it would leave the exposed brick wall of the neighbouring property. This would have a neutral impact. I have no objections to this application subject to the following condition:

1) Upon the demolition of the free standing wall, the exposed brickwork shall be assessed and a methodology providing repairs for making good with a time line for the works to be completed shall be submitted to and approved in writing by the Local Planning Authority.

Relevant Planning Policies:

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Here, the Development Plan comprises the provisions of the Central Lincolnshire Local Plan (adopted in April 2023), the Lincolnshire Minerals and Waste Local Plan (adopted June 2016) and Gainsborough Town Neighbourhood Plan

Development Plan:

- **Central Lincolnshire Local Plan 2023**

Relevant policies of the CLLP include:

Policy S1: The Spatial Strategy and Settlement Hierarchy

Policy S11: Embodied Carbon

Policy S21: Flood Risk and Water Resources

Policy S47: Accessibility and Transport

Policy S53: Design and Amenity

Policy S56: Development on Land Affected by Contamination

Policy S57: The Historic Environment

Policy S58: Protecting Lincoln, Gainsborough and Sleaford's Setting and Character

Policy S60: Protecting Biodiversity and Geodiversity

Policy S61: Biodiversity Opportunity and Delivering Measurable Net Gains

Policy NS73: Gainsborough Riverside Regeneration Area

[Homepage | Central Lincolnshire Local Plan \(n-kesteven.gov.uk\)](https://www.n-kesteven.gov.uk)

- **Gainsborough Town Neighbourhood Plan (NP)**

Relevant policies of the NP include:

NPP 1 Sustainable Development

NPP 2 Protecting the Natural Environment and Enhancing Biodiversity

NPP 6 Ensuring High Quality Design

NPP 7 Ensuring High Quality Design in each Character Area

NPP 12 Western part of CL 4687, Baltic Mill, Area A on Map 21

NPP 18 Protecting and Enhancing Heritage Assets Gainsborough Heritage and Character Assessment dated 28th February 2018

Character Area TCA 06: Gainsborough Town Centre

[Gainsborough Town Neighbourhood Plan | West Lindsey District Council \(west-lindsey.gov.uk\)](https://www.west-lindsey.gov.uk)

- **Lincolnshire Minerals and Waste Local Plan (LMWLP)**

The site is in a Minerals Safeguarding Area and policy M11 of the Core Strategy applies.

National policy & guidance (Material Consideration)

- National Planning Policy Framework (NPPF)

[National Planning Policy Framework \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk)

The NPPF sets out the Government's planning policies for England and how these should be applied. It is a material consideration in planning decisions. The most recent iteration of the NPPF was published in December 2023. Paragraph 225 states:

However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the

closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

- **National Planning Practice Guidance**
<https://www.gov.uk/government/collections/planning-practice-guidance>
- **National Design Guide (2019)**
<https://www.gov.uk/government/publications/national-design-guide>
- **National Design Model Code (2021)**
<https://www.gov.uk/government/publications/national-model-design-code>

Other

- Statutory Duties contained within Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990- The 'Act'.

[Planning \(Listed Buildings and Conservation Areas\) Act 1990 \(legislation.gov.uk\)](#)

- Gainsborough Town Centre Conservation Appraisal
https://www.west-lindsey.gov.uk/sites/default/files/2022-02/Gainsborough%20Town%20Centre%20CA%20Appraisal_0.pdf

- Gainsborough Town Centre Heritage Masterplan
<https://www.west-lindsey.gov.uk/sites/default/files/2022-02/Gainsborough%20Town%20Centre%20Heritage%20Masterplan.pdf>

Main Considerations:

- Principle of Development;
*Policy S11 Assessment
Flood Risk.*
- Visual Amenity including the Historic Environment:
- Highway Safety;
- Demolition Safety;
- Residential Amenity.

Assessment:

Principle of Development

Policy S1 of the Central Lincolnshire Local Plan designates Gainsborough as a Main Town (Tier 2). The Policy states that; *“To maintain and enhance their roles as main towns, and to meet the objectives for regeneration, Sleaford and Gainsborough will, primarily via sites allocated in this Local Plan and any applicable neighbourhood plan, be the focus for substantial housing development supported by appropriate levels of employment growth, retail growth and wider service provision.”*

The site is located within the designated Gainsborough Riverside Regeneration Zone (ROA6) as defined on the CLLP Policies Map. The site-specific policy, NS73 of the CLLP states that;

‘Development proposals within the Gainsborough Riverside Regeneration Area, shown on the Policies Map as ROA6, will be supported in principle. This in principle support will apply to existing uses and a range of uses which are appropriate in this location including office, leisure, or residential uses. Proposals should not undermine the achievement of the ambitions for this regeneration area, as set out in a)-g) below. Proposals will be viewed particularly favourably where they:

- a) Protect, enhance or restore the historic identity of the town;*
- b) Strengthen the connection between the river and the town;*
- c) Make the most of the riverside location enhancing;*
- d) Deliver innovative design or design excellence which provides visual interest;*
- e) Contribute positively to the Conservation Area;*
- f) Expand leisure opportunities related to the riverside; and/or*
- g) Enhance public spaces and green infrastructure.’*

Policy 1 of The Gainsborough Neighbourhood Plan states that; *‘Development in the Gainsborough Neighbourhood Plan area should be located so that it can make a positive contribution towards the achievement of sustainable development. Development should assist in meeting the economic, social and environmental regeneration of the Town in accordance with CLLP policies and, as appropriate to its scale and nature, subject to complying with a set of criteria’*

Baltic Mill is also noted as an Opportunity Site within the Gainsborough Town Centre Heritage Masterplan.

This application to demolish the wall arises from structural reports that have been carried out at the site following the grant of planning permission for the landscaping scheme (147536). Investigations have shown that the works required for the landscaping scheme could cause the wall to collapse if not removed.

In principle the demolition of the wall is considered to be acceptable, the main consideration in this application is the impact upon the surrounding heritage assets.

Policy S11- Presumption against Demolition

Policy S11 of the CLLP states that; Proposals that result in the demolition of a building (in whole or a significant part) should be accompanied by a full justification for the demolition.

The policy requires submissions for demolition to satisfy one of the following criteria;

- 1. the building proposed for demolition is in a state of such disrepair that it is not practical or viable to be repaired, refurbished, re-used, or re-purposed; or***
- 2. repairing, refurbishing, re-using, or re-purposing the building would likely result in similar or higher newly generated embodied carbon than if the building is demolished and a new building is constructed; or*
- 3. repairing, refurbishing, re-using, or re-purposing the building would create a building with such poor thermal efficiency that on a whole life cycle basis (i.e. embodied carbon*

and in-use carbon emissions) would mean a lower net carbon solution would arise from demolition and re-build; or

4. demolition of the building and construction of a new building would, on an exceptional basis, deliver other significant public benefits that outweigh the carbon savings which would arise from the building being repaired, refurbished, re-used, or re-purposed

The application has been accompanied with justification for the demolition of the wall and states the following;

"The main area of concern for the flank wall is at the western end adjacent to the projecting wall stub. Here, there is cracking to the upper section of wall and a large crack that extends across the intermediate concrete floor. There is no evidence that these cracks have occurred recently or that there is relative movement occurring across the cracks, although no specific monitoring has been undertaken. It is possible that demolition of the Baltic Mill structure and removal of the cellar arches and infilling could have led to ground movements and the cracking exhibited in the flank wall.

As part of the site works to create a new green space the site will be excavated to allow for a build up of soils for planting. There is a potential that the excavations may impact the stability of the wall and increase the likelihood of collapse."

The impact of leaving the wall as it is would cause serious safety concerns in delivering the previously approved public landscaping scheme. Alternatives to the demolition of the wall have also been explored, however there were concerns with the visual impact propping would have (discussed in the following section of this report). To conclude the demolition would meet point 1 of Policy S11.

Flood Risk

The site lies within flood zone 3. The proposed works would not cause any additional flood risk and would not increase in vulnerability. The removal of the wall would not increase the risk of flooding in the area and would not put the occupants of adjoining properties at additional risk from flood water. The proposal would accord with S21 of the CLLP and the provisions of the NPPF.

Visual Amenity including the Historic Environment

The application site lies within the Gainsborough Riverside Conservation Area as well as being within close proximity to a number of Grade II Listed Buildings, namely;

- No. 18 Bridge Street- c. 20m to the south;
- No. 18 Silver Street- c. 60m to the north;
- No. 27 Silver Street- c 55m to the north east.

The Statutory Duties contained within Sections 66 and 72 the 'Act' place a legislative requirement on the Local Planning Authority to pay 'special regard' to the desirability of preserving the setting of listed buildings. With regard to conservation areas, Section 72 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. This is also reflected within Policy S57 of the CLLP.

Criteria d and e of Policy NS73 state that redevelopment projects within this area will be viewed favourable where they;

- 'd) Deliver innovative design or design excellence which provides visual interest;*
- e) Contribute positively to the Conservation Area;'*

Criteria a) of Policy NPP 12 of the Gainsborough Town NP states that development proposals should incorporate: *'A design that reflects the prominence of the location along the Riverside and within the Riverside Conservation Area and linkages with the nearby historic core of the Town when viewed from Silver Street;'*

The site is within the Gainsborough Town Centre character area (TCA 06) of the Gainsborough Heritage and Character Assessment. Page 65 lists the *"historic industrial character of the Riverside Conservation Area"* as a key characteristic of the character area. Page 75 states that *"the significance of the area as an industrial inland port town has led to the desire to preserve this declining element of the town's character and architectural and historic interest and its designation as a conservation area"*.

The existing remaining flank wall of Baltic Mill, measuring c. 23.1m in length with a height of c. 7.5m is not considered to be of any historic merit nor does it positively contribute to the street scene or the Gainsborough Riverside Conservation Area.

Alternatives to demolition have been investigated by the Applicant and discussed with the Councils Conservation Officer prior to submission. However the amount of steel structural propping that would be required to make the wall stable through the landscaping works is unlikely to preserve or enhance the character of the Conservation Area or the setting of the nearby listed buildings.

The Councils Conservation Officer has no objections to the proposals subject to a condition to ensure the wall behind is repointed and repaired appropriately where necessary, the amount of repair work will not be known until the wall is removed. It is considered that there would be a neutral impact upon the street scene through the removal of the wall.

Overall, the proposal, subject to a condition, would preserve the Riverside Conservation Area and the setting of the nearby Listed Buildings, in accordance with the Statutory duties and the policies within the Development Plan.

Highway Safety

Policy S47 of the Central Lincolnshire Local Plan states that; *Development proposals which contribute towards an efficient and safe transport network that offers a range of transport choices for the movement of people and goods will be supported.*

The proposals have been reviewed by the Highways Authority who have confirmed they have no objections to the proposals. The site is enclosed by high fencing, it is not considered that the proposal, due to its nature, would impact upon highway safety. Pedestrian safety through the demolition process is discussed further in the following demolition section of this report.

Demolition Safety

The statement submitted with the application details the proposed demolition methodology. In summary, it states the following;

The structure will be demolished using hand demolition techniques to ensure structural stability and eliminate the risk of damage.

The brickwork will be removed via hand demolition techniques, where operatives using handheld mechanical tools will physically remove the brickwork. The brickwork will be removed into manageable section and will then be released into a designated drop zone allocated by the Site Supervisor. Drop zones are to be fenced off and secured with no access until authorised by Site Supervisor. As works progress the drop zone will move accordingly.

Appended to the statement (Appendix 1) is a full Method Statement and Risk Assessment by a demolition contractor.

The site is not publicly accessible, the wall is however located adjacent to the footpath along Bridge Street to the east. Within the comments received from the Highways department they have advised that the applicant needs to contact them to organise any potential closure of the Bridge Street footpath, this will be added as a note to the applicant in the event permission is granted.

In the event permission is granted a condition will be added to ensure the works are carried out in accordance with the method statement.

Residential Amenity

The site is adjoined by commercial premises directly to the south. Due to the nature of the proposals there would be no unacceptable impacts upon residential amenity.

Biodiversity Net Gain

The 10% BNG is mandatory under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). Developers must deliver a BNG of 10% This means a development will result in more or better quality natural habitat that there was before development.

There are some exemptions to this requirement, one of which is development proposals meeting with the de- minimis exemption (ticked on the application form), the NPPG details this as follows¹;

- *the development must not impact on any onsite priority habitat; and*
- *if there is an impact on other onsite habitat, that impact must be on less than 25 square metres (e.g. less than a 5m by 5m square) of onsite habitat with a biodiversity value greater than zero and on less than 5 metres of onsite linear habitat (such as a hedgerow)*

¹ [Biodiversity net gain - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

As the proposal does not impact any onsite priority habitat, it is considered that this proposal meets with the de-minimis definition and is exempt from being subject to the biodiversity net gain condition.

Conclusion and reason for decision: The application has been assessed against policies Policy S1: The Spatial Strategy and Settlement Hierarchy, Policy S47: Accessibility and Transport, Policy S48: Walking and Cycling Infrastructure, Policy S53: Design and Amenity, Policy S57: The Historic Environment, Policy S58: Protecting Lincoln, Gainsborough and Sleaford's Setting and Character, Policy S60: Protecting Biodiversity and Geodiversity, Policy S61: Biodiversity Opportunity and Delivering Measurable Net Gains and Policy NS73: Gainsborough Riverside Regeneration Area of the Central Lincolnshire Local Plan, the policies within the Gainsborough Town Neighbourhood Plan and the Statutory duties contained within the 'Act' and Policy M11 of the Core Strategy in the first instance as well as the provisions of the NPPF and guidance contained within the NPPG.

In light of this assessment the proposal would have a neutral impact upon the street scene, Riverside Conservation Area and the setting of nearby Listed Buildings. Matters of safety have been addressed and the repair works to the exposed wall will be secured by condition. The application is recommended for approval subject to the following conditions.

RECOMMENDED CONDITIONS:

Conditions stating the time by which the development must be commenced:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91 (1) of the Town and Country Planning Act 1990 (as amended).

Conditions which apply or require matters to be agreed before the development commenced:

None.

Conditions which apply or are to be observed during the course of the development:

2. With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the following drawings:

- Site Location Plan 1000008345-4-BM-01 Rev 01;
- Demolition of Existing Brickwork Flank Wall- Site Plan 1000008345-4-BM-02 Rev 1;
- Existing and Proposed Elevation- 1000008345-4-BM-03 Rev 0.

Reason: To ensure the development proceeds in accordance with the approved plans.

3. The development hereby permitted shall proceed in accordance with the Method Statement and Risk Assessment produced by GBM Demolition dated July 2024.

Reason: In the interests of public safety and to ensure the damage to the walls behind remains minimal through using hand demolition techniques.

Conditions which apply or relate to matters which are to be observed following completion of the development:

4. Following the demolition of the southern wall of the former Baltic Mill, the exposed brickwork shall be assessed and a methodology providing repairs for making good, together with a time line for the works to be completed, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and preserving the setting of nearby listed buildings and Conservation Area in accordance with Policies S53 and S57 of the Central Lincolnshire Local Plan.

Notes to Applicant

You are advised to contact Lincolnshire County Council to arrange a temporary closure to protect pedestrians, if the adjacent public footway on Bridge Street will be affected by the demolition works.

Please contact the Lincolnshire County Council Streetworks and Permitting Team on 01522 782070 to discuss any proposed statutory utility connections, Section 50 licences and any other works which will be required within the public highway in association with the development permitted under this Consent. This will enable Lincolnshire County Council to assist in the coordination and timings of these works. For further guidance please visit the Highway Authority's website via the following link: Traffic Management - <https://www.lincolnshire.gov.uk/traffic-management>

Human Rights Implications:

The above objections, considerations and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.

Legal Implications:

Although all planning decisions have the ability to be legally challenged it is considered there are no specific legal implications arising from this report

Prepared by: Danielle Peck

Date: 27/08/2024

Authorising Officer: H.Horton

Date: 27/08/2024

PAPER H

From: [REDACTED]
Sent: 04 November 2024 14:27
To: Town Clerk <townclerk@gainsborough-tc.gov.uk>
Subject: Balfour street

I own a home a on Balfour street Gainsborough, I use my car to get to and from work to allow me to ensure my children are collected for school.

However, every day when I return home there are no available parking spaces.

The staff working at castle gate school, are consistently parking on our street, along with many others who work within town.

This is completely unfair to residents of Balfour street., some of whom rely on their cars for shopping, attending appointments and so forth.

I am at a loss of who to contact, as the school staff clearly are not bothered, I know the school has ample parking. Which doesnt seem to be used.

Could it be considered to make our street permit only? Or to remove the time restrictions around the old hall?

As this is usually the only place available for us, but we have to then keep moving our vehicles.

Kind regards

[REDACTED]
[REDACTED] Balfour Street
DN212LF

Sent from [Outlook for Android](#)

PAPER I

DMMO – Making An Application

Application Process

1. Making an application is free of charge
2. An application must be accompanied by documentary or user evidence demonstrating that a public right of way exists
 - a. The forms need to apply for a definitive map modification order.
3. An application can take several years to reach a conclusion for various reasons including the supplied evidence's quantity, quality and complexity as well as any factors/timescales which are beyond the Council's control.
 - a. An application may be given higher priority and be progressed sooner if it is proven that they meet certain exception criteria.

Evidencing Your Application

Documentary evidence examples

- Enclosure awards
- Tithe awards
- Finance 1909/10 Act 1910 documentation
- Railway and canal plans
- Quarter Sessions records

User Evidence

This evidence needs to highlight that the public right of way has been continuously used under 3 conditions:

- Without force
- Without secrecy
- Without permission
- Without interruption for at least 20 years

Uninterrupted use – over a 20-year period based on the presumption that the way has been dedicated to the public – i.e. there hasn't been an interruption of the public's use of way (or any action(s) by the landowner that made it clear they had no intention to dedicate):

1. **Signs** indicating private
2. Plans and statutory declarations – more details on pg 10
3. **Reports** from individuals who can give evidence the way was private and that no public right of way existed during the relevant timeframe.

Any use of Margaret Close by residents of the properties along it would not give rise to a public right of way, as a public right of way must connect one highway with another or to a place of public or popular resort.

Application Pack

Evidence forms – people need to complete and record their use, knowledge and experience of the claimed way. Each individual needs to do so independently to ensure it's an accurate record. To prevent users completing more than one evidence form and creating duplication, it's advising there is coordination of the distribution and collection of user evidence forms.

Contacting the Landowner

An applicant would be required to serve notice of an application on the owners and any occupiers of the land subject to the claim. Therefore, should the Town Council make an application, they would need to make reasonable attempts to identify the owners and occupiers of the land subject to the claim, and serve notice of the making of the application on them.

A guide to definitive maps and changes to public rights of way - 2008 Revision

Contents

1	Introduction	2
Definitive maps		
2	What is a definitive map?	4
3	What makes a way a public right of way?	7
4	Getting the definitive map and statement changed	9
Changes to public rights of way		
5	Making changes to public rights of way	14
6	The main types of public path order	17
7	Other ways of changing or restricting use of rights of way	20
Procedures		
8	The stages of an Order	24
9	Costs and compensation	29
10	Complaints procedures	31
Definitions and references		
11	Definitions	33
12	References	36
13	Useful addresses	40
	The Countryside Code	41
	Flowchart: Applications for modification orders	42
	Flowchart: Procedure for modification and public path orders	43

1 Introduction

About this booklet

This booklet gives guidance and information about definitive maps - the legal record of public rights of way - and the ways in which both those maps and individual rights of way can be changed. It is written for everyone who may have an interest, whether they are a landowner or farmer, a member of a local council, a group representing users of public rights of way or simply an interested member of the public. In particular it explains the tests that have to be satisfied - and the procedures that have to be gone through - before a way can be said to be a public right of way or before a right of way can be created, diverted or closed.

The booklet has no formal legal status but aims to provide a simple and clear explanation. The subject is a complex one and some matters have, inevitably, had to be simplified. If you have a concern or question about a particular route the relevant local authority (the county council where there is more than one authority) should be able to provide you with further information.

This booklet applies only to England. The law is similar in Wales, but you should ask for guidance from the Welsh Assembly Government, which is responsible for its administration or from the Countryside Council for Wales, or the relevant local authority for matters relating to a particular route. Scotland and Northern Ireland have different legal systems and this booklet is not applicable.

Every effort has been made to ensure the accuracy of the information given. However it is not intended to be a definitive statement of the law, nor can responsibility be accepted for errors or omissions. There are some prospective changes to the procedures described and these are referred to in the text.

This is the second edition of *A guide to definitive maps and changes to public rights of way (NE 112)*, which supersedes the first edition published by the Countryside Agency in 2002 (CA 142). Natural England welcomes any suggestions you have for future editions.

Definitive maps

Our countryside has a priceless heritage of public rights of way. The public have a right to walk on all of them. On about a quarter there is also a right to ride horses or bicycles. On a smaller number there is also a right to drive horse-drawn carriages or other non mechanically-propelled vehicles. On a small proportion there is also a right to ride or drive any type of vehicle, including motor cycles and four-wheel drive motor vehicles.

So that everyone - walker, rider, farmer and landowner alike - may know which paths are public rights of way, Parliament has required certain local authorities, known as surveying authorities to record those rights on special maps and statements, known as definitive maps and statements. The recording of a right of way on the definitive map is a legal record of its existence at the date of the map. This legal protection has both helped to preserve rights of way and also provided the backing for action by local authorities to ensure that they are usable.

Since the requirement to record began in 1949 over 117,000 miles of rights of way have been recorded on definitive maps in England. This information is used by the Ordnance Survey to show rights of way on its Explorer (1:25,000 scale) and Landranger (1:50,000 scale) maps.

Changes to public rights of way

There is a legal principle "Once a highway, always a highway". All public rights of way are highways, so that once a right of way exists it remains in existence unless and until it is lawfully closed or diverted. Such a closure or diversion can arise only out of legal action by either a local authority, a magistrates' court or a government department, or through an Act of Parliament. Acts of Parliament may make changes either for individual rights of way (eg. where the Act authorises a new transport link such as the Channel Tunnel Rail Link) or for all rights of way of a given type, as happened with the extinguishment of rights for mechanically-propelled vehicles over certain routes in the NERC Act 2006 (see p3).

These are the main ways to create new public rights of way:

- dedication by the landowner (called express dedication);
- public use which has been unchallenged by the landowner (called presumed dedication);
- agreement between the landowner and the local authority;
- order made by the local authority.

Prospective change in legislation

Extinguishment of unrecorded rights at the 'cut-off date'

A 'cut-off date' will be specified as either 1st January 2026 or a date up to five years later, when all rights of way over footpaths and bridleways outside Inner London which existed before 1949 and which have not been recorded on definitive maps will be extinguished.

There will be exemptions for paths in certain circumstances, and there is power for the Secretary of State to make exceptions for ways which are the subject of modification orders or applications at the 'cut-off date'. There is also power to extend the date indefinitely in areas where the definitive map provisions did not apply when the legislation was first introduced in 1949 (mainly areas which were county boroughs prior to 1974).

After the 'cut-off date' it will no longer be possible to record additional historic ways on definitive maps as byways open to all traffic, although unrecorded vehicular rights will not be extinguished.

Natural England initiated a 'Discovering Lost Ways' project intended to identify the extent of unrecorded rights, and to encourage their recording. The project established an Archive Research Unit which undertook documentary research in three counties and reported its findings to Natural England. In 2008, following a review of the project, Natural England decided not to undertake any further archive research. Instead it initiated a review of the legislation and associated process, and Defra announced that it would defer a decision on whether to implement the 'cut-off' provisions until that review was complete.

Please note: Natural England acknowledges and encourages that all or any part of this publication may be freely reproduced.

Definitive maps

2 What is a definitive map

Introduction

A definitive map is a map prepared by a surveying authority which is a legal record of the public's rights of way in one of four categories (footpath, bridleway, restricted byway or byway open to all traffic). If a way is shown on the map, then that is legal, or conclusive, evidence that the public had those rights along the way at the relevant date of the map (and has them still, unless there has been a legally authorised change). But the reverse is not true. So the showing of a way as a footpath does not prove that there are not, for example, additional unrecorded rights for horse-riders to use the way. Nor is the fact that a way is omitted from the definitive map proof that the public has no rights over it.

The definitive map is therefore useful in providing evidence of the public's rights, but may not tell the whole story. A check should be made with the surveying authority to see if it has reason to believe that there are additional rights, as yet unrecorded, over any particular area of land. This can be especially important if the land is for sale or is the subject of a planning application for development.

Definitive maps have to be compiled for all of England (and Wales) except the 12 inner London boroughs, where the borough council can choose whether or not to adopt the procedures and produce a map.

Surveying authorities are under a duty to keep the definitive map and statement under continuous review, and to make modification orders (see p26) as necessary to keep the map and statement up-to-date as an accurate record of the public's rights. Modification orders have to be kept with the map where it is available for public inspection, but to make the map itself more complete, surveying authorities can 'consolidate' it from time to time by incorporating the effects of modification orders on to the map.

When this is done, the map is given a new relevant date.

Surveying authorities which have separate definitive maps for different parts of their area (eg. because of local government reorganisation) have been given powers to merge those maps into one map covering the whole area when they consolidate the definitive map and statement.

The definitive statement

The definitive map is accompanied by a statement which describes each right of way in greater or lesser detail. If the statement defines the position or width of a right of way shown on the map, then that information is conclusive evidence of the position or width of the public's right of way at the relevant date. Similarly, if the statement contains a record of any limitation or condition attached to the public's rights, then that too is conclusive evidence of the existence of such a limitation or condition at the relevant date. An example would be where the statement records as a limitation the right of the landowner to erect and maintain a stile at a particular field boundary on a footpath. As with the definitive map, there may be additional limitations or conditions on the public's rights, as yet unrecorded.

The 'relevant date'

Each definitive map and statement, and each subsequent modification order, has a 'relevant date'. This means that the map provides evidence that public rights existed at that date. It is possible that a legal change, eg. the diversion of a way, has happened since the relevant date and that has not been recorded on the map. However, details of the change should be available for public inspection with the map and statement. If you are in doubt about whether, or how, the map

and statement have been changed in this way, please ask the surveying authority for further information.

The map and statement can be consolidated to incorporate all the changes made by modification orders: a consolidated map has a new relevant date for all the rights of way shown on it.

How can I find out which ways are included on the definitive map?

The definitive map and statement and amending modification orders must be available for the public to inspect free of charge at all reasonable hours. A telephone call to the surveying authority will tell you in which office you will find the map. In addition, in each district in a county there must be available for inspection a copy of at least that part of the map and statement which covers the district, and the modification orders which have amended it: this will often be available at the district council offices. Furthermore, local councils normally have a copy of that part of the map and statement which covers their parish or town, and some libraries have copies of definitive maps and statements for inspection. Some surveying authorities make definitive map information available on their websites.

The Ordnance Survey receives copies of definitive maps and modification and public path orders which have come into operation and uses them to provide the rights of way information that is shown on Explorer (1:25,000 scale) maps (in green) and Landranger (1:50,000 scale) maps (in red). Each map shows the date which Ordnance Survey used as its deadline for rights of way information. However, in case of dispute about the status of a right of way, reference should be made to the definitive map and amending orders, or the surveying authority, rather than the Ordnance Survey map, which cannot in itself provide conclusive evidence.

The four categories of rights of way

As mentioned above, public rights of way are shown on definitive maps in four categories. If a way is shown as a:

- footpath: then that is conclusive evidence that the public had a right of way on foot at the relevant date;
- bridleway: then that is conclusive evidence that the public had a right of way on foot, on pedal cycle, on horseback and leading a horse at the relevant date;
- restricted byway: then that is conclusive evidence that the public had a right of way on foot, on horseback and leading a horse and in or on any vehicle other than a mechanically-propelled vehicle at either 2 May 2006 (where the restricted byway is a former road used as a public path - see p12) or the relevant date of the modification order that caused the way to be shown as a restricted byway;
- byway open to all traffic: then that is conclusive evidence that the public had a right of way on foot, on horseback and in or on vehicles, including motor vehicles and pedal cycles, at the relevant date. Before a way can be shown as a byway, its use by the public must be shown to be mainly on foot or on horseback - the definitive map is not intended to be a map of all of the roads you can drive along

As noted on p4, the public may have rights additional to those shown on definitive maps but as yet unrecorded.

Prospective change in legislation

Extinguishment of unrecorded rights at the 'cut-off date'

A 'cut-off date' will be specified as either 1st January 2026 or a date up to five years later, when all rights of way over footpaths and bridleways outside Inner London which existed before 1949 and which have not been recorded on definitive maps will be extinguished.

There will be exemptions for paths in certain circumstances, and there is power for the Secretary of State to make exceptions for ways which are the subject of modification orders or applications at the 'cut-off date'. There is also power to extend the date indefinitely in areas where the definitive map provisions did not apply when the legislation was first introduced in 1949 (mainly areas which were county boroughs prior to 1974).

After the 'cut-off date' it will no longer be possible to record additional historic ways on definitive maps as byways open to all traffic, although unrecorded vehicular rights will not be extinguished.

Natural England initiated a 'Discovering Lost Ways' project intended to identify the extent of unrecorded rights, and to encourage their recording. The project established an Archive Research Unit which undertook documentary research in three counties and reported its findings to Natural England. In 2008, following a review of the project, Natural England decided not to undertake any further archive research. Instead it initiated a review of the legislation and associated process, and Defra announced that it would defer a decision on whether to implement the 'cut-off' provisions until that review was complete.

3 What makes a way a public right of way?

Apart from the cases where a new right of way has been specifically created, for example, by means of a public path creation order under the Highways Act 1980 or through an Inclosure Award, ways become public rights of way through dedication of the right to the public by the landowner. In a few cases, the dedication is express - the landowner consciously and deliberately makes a way a public right of way. But in the great majority of cases the dedication is presumed from evidence of :

- the use of the way made by the public;
- the actions - or inactions - of the landowner (see below);
- references to the way in historical documents, eg. old maps.

Documentary evidence

Documentary evidence from, or before, the relevant period can be important in helping to decide the question whether public rights exist. Although, for example, old maps, estate documents, tithe maps, or Inclosure Awards can provide supporting evidence, it may also appear contradictory. Evidence contained in such documents is sometimes open to more than one interpretation claimed, and the strength of that evidence may be contested.

The local record office may be able to tell you which documents it has that may be relevant to a particular way. Some documentary evidence may be sufficient on its own to establish the existence of public rights and, however old the document, the rights will still exist unless there is evidence of a subsequent legally authorised change.

Presumed dedication

The legal principles about presumed dedication go back several centuries, and form part of what is known as common law. But because it was not always clear or easy to apply, Parliament passed new rules, now in section 31 of the Highways Act 1980. However the common law rules still also

apply, so both are described here. Following changes made by the Natural Environment and Rural Communities Act in 2006, it is no longer possible to acquire a right of way for mechanically-propelled vehicles by presumed dedication.

a) Under section 31 of the Highways Act 1980

To establish that a way has become a right of way by means of presumed dedication it is necessary to show firstly that there has been uninterrupted use as of right by the public (not necessarily the same people all the time) over a period of 20 years. Deciding who 'the public' are can sometimes be difficult and may depend on the facts of the case. But in general it should be people other than those working for the landowner concerned, and use as of right excludes use which was known to be with the permission or licence of the landowner. The period of 20 years is counted back from the date on which the public's right was first brought into question, for example through the erection of a fence or locking of a gate across the way, however long ago that date was. Once the date that ended the 20-year period has been determined, evidence of use, or of interruptions of use, after that date is not relevant in deciding whether a public right of way exists. If the public's use has not been brought into question, the date of an application for a modification order can be taken as the end-date for the 20-year period.

b) At Common Law

Dedication may also be presumed to have taken place at common law. Again use must be made as of right, by the public, but the period of use is not fixed and, depending on the facts, can range from a few years to several decades. The burden of proof is on the person claiming the right to show that the owner of the land intended to dedicate a public right of way.

No intention to dedicate

Uninterrupted use by the public over a 20-year period establishes a presumption that the way has been dedicated to the public. But this presumption can be contradicted by evidence to show that the landowner had never intended to dedicate the way. This evidence could be of:

- an interruption of the public's use of the way, or other action by the landowner that made it clear to users at the time that the owner had no intention to dedicate;
- notices clearly displayed on the way, indicating that it was private;
- plans and statutory declarations deposited with the surveying authority or its predecessors - the surveying authority must maintain a register, open to public inspection, of plans and declarations that are currently valid;
- reports from people who can give evidence that a way was private and that no public right of way existed during the relevant period.

Extinguishment of rights for mechanically-propelled vehicles

The Natural Environment and Rural Communities Act 2006 (the 'NERC Act') extinguished rights of way for mechanically-propelled vehicles over routes not shown on the definitive map as byways open to all traffic, subject to various exceptions. These include routes that were shown on a highway authority's list of streets (highways maintainable at public expense) at the date the Act came into effect (2nd May 2006). Where there is historic evidence of rights for vehicles over a way the surveying authority, and the Secretary of State if an order is opposed, will consider whether the NERC Act extinguished rights for mechanically-propelled vehicles or whether any of the exceptions applied. If it is concluded that those rights had been extinguished the way will be recorded as a restricted byway: people will still be entitled to use it in or on vehicles that are not mechanically propelled.

4 Getting the definitive map and statement changed

Definitive map modification orders

As noted above, rights may exist over a way not shown on the map at all, or additional rights may exist over a way shown on the definitive map, even though they are not recorded there. Where such rights are alleged to exist, there are procedures to enable the allegations to be tested. These are set out in the Wildlife and Countryside Act 1981. They allow for a surveying authority to make an order, known as a **definitive map modification order**, to amend the map and statement to ensure that it is a correct record of the public's rights.

Grounds for making an order and the tests to be satisfied

Section 53 of the Wildlife and Countryside Act 1981 provides for six types of modification order:

Modification order to add a way to the definitive map : section 53(3)(b)

Before making an order the surveying authority must have evidence which shows that the right of way has come into being through presumed dedication following use over a period of time which has ended before the making of the order. An example would be evidence of use by the public over a period of 20 years not offset by any evidence that the landowner during that time had no intention to dedicate the way.

Before confirming the order, the authority or the Secretary of State must be satisfied that the right of way has been shown to exist.

Modification order to add a way to the definitive map : section 53(3)(c)(i)

Before making an order the surveying authority must have discovered evidence which (when considered with all other relevant evidence available to the authority) shows that the right of way exists, or has been reasonably alleged to exist. An example would be evidence from documents that showed the way as a public right of way, possibly supplemented by evidence of use.

Before confirming the order, the authority or the Secretary of State must be satisfied that the right of way has been shown to exist.

Modification order to record additional rights over a way already shown on the definitive map : section 53(3)(c)(ii)

Before making an order the surveying authority must have discovered evidence which (when considered with all other relevant evidence available to the authority) shows that the additional rights exist.

Before confirming the order, the authority or the Secretary of State must be satisfied that the additional rights exist.

Modification order to remove some recorded rights from a way shown on the definitive map : section 53(3)(c)(ii)

Before making an order the surveying authority must have discovered evidence which (when considered with all other relevant evidence available to the authority) shows that the recorded rights in question were wrongly recorded.

Before confirming the order, the authority or the Secretary of State must be satisfied that the recorded rights in question were wrongly recorded.

Modification order to delete a way to the definitive map : section 53(3)(c)(iii)

Before making an order the surveying authority must have discovered evidence which (when considered with all other relevant evidence available to the authority) shows that the right of way was wrongly recorded.

Before confirming the order, the authority or the Secretary of State must be satisfied that the right of way was wrongly recorded.

Modification order to amend the particulars contained in the map or statement (without changing the recorded status of the way) : section 53(3)(c)(iii)

Before making an order the surveying authority must have discovered evidence which (when considered with all other relevant evidence available to the authority) shows that the particulars as proposed to be amended will be a correct record of the public's rights.

Before confirming the order, the authority or the Secretary of State must be satisfied that the particulars as proposed to be amended will be a correct record of the public's rights.

Definitive map modification orders are about whether rights already exist, not about whether they should be created or taken away. The suitability of a way for users who have a right to use it, or the nuisance that they are alleged to cause, or to be likely to cause, are therefore irrelevant. So also is the need for public access, locally, if the order alleges that public rights do not exist. See Section 5 for the powers available to make changes to the rights of way network.

Evidence is the key

The definitive map is a legal recognition of existing public rights to walk, ride and use vehicles. As such, any proposal to modify it by means of a definitive map modification order to add a right of way has to be judged by the legal test: "Do the rights set out in the order already exist?". If they do, then the map must be modified, regardless of any effect on anyone's property interests, or whether or not the routes physically exist at the present time on the ground. Similarly, if the evidence in support of the order proves to be insufficient, and the test is not satisfied, then the map remains as it is, however desirable it may seem for the public to have those additional rights.

Evidence is also the key where the proposal is to remove some or all of the rights recorded on a way already shown on the map. In this case it must demonstrate clearly that a right of way, of that status, did not exist when it was first shown on the definitive map, and that an error was made.

The Planning Inspectorate has produced a set of Consistency Guidelines and a series of Advice Notes which are given to inspectors considering opposed definitive map modification orders (see p38).

Applying for a modification order

A surveying authority can make a modification order without receiving an application. The authority has a duty to keep the map under continuous review, and it may find new evidence which suggests the map needs to be amended. But in addition to this, anyone can apply to a surveying authority for a modification order to be made. There is a procedure for doing this which is set out in a flow diagram "Applications for modification orders" on p42. It involves completing:

- an application form and sending it to the surveying authority;
- a 'notice' which must be sent to every landowner or occupier affected by the application; and
- a 'certificate of service of notice' which has to be sent to the surveying authority to say the notice of application has been sent to all who own or occupy land affected.

If the landowners or occupiers cannot be located, the surveying authority has a power to say that the notice can be placed on the land which would usually mean attaching it to a fence or a tree for example.

After the application is made

Entering details on the register of applications

When the authority receives an application it has to enter relevant details in a register, which is available for public inspection at the authority's offices, and via its website. The register has to contain details of applications outstanding on 31 December 2005 or made since, and their progress, except that details can be deleted if an application results in an order coming into effect.

Investigating the application

Once the authority has received the certificate of service of notice, it must investigate the matters in the application. If there is a local or district council or national park authority for the area concerned, it must consult them. The authority must then decide whether to make the order that has been applied for.

If no decision is made within 12 months

If an authority fails to make a decision on an application within 12 months of receiving the certificate, then the applicant may apply to the Secretary of State (via the National Rights of Way Casework Team - see p40 for contact details) for the authority to be given a deadline for its determination of the application. This is an application under Schedule 14 to the Wildlife and Countryside Act 1981. If you use this procedure, it is helpful to provide a copy of the application form, and give any reasons why you consider it should be determined quickly although it is expected that any cases that are over two years old will receive priority status. The Secretary of State has to consult the authority before deciding whether to set a deadline.

If the authority decides not to make an order

When the authority has made its decision, it must tell the applicant and also everyone on whom notice of the application was served by the applicant. If the authority decides not to make the order, the applicant may, within 28 days of the service of the notice of that decision, appeal to the Secretary of State under Schedule 14 to the Wildlife and Countryside Act. The notice of appeal should be addressed to the National Rights of Way Casework Team. It should be made in writing, giving the grounds for the appeal, and be accompanied by copies of the application, the map showing the way concerned, the supporting documentation, and the authority's decision. A copy of the notice of appeal only must also be served on the surveying authority at the same time.

Once the appeal is received the Secretary of State will ask the authority to submit a statement explaining their decision not to make the order. This will be copied to the applicant for comments and these will, in turn, be copied to the authority. In operating the appeal system the applicant is given every opportunity to comment on all submissions relating to the appeal and a decision is only made once both parties have nothing further to add. There may be a site visit by an officer from the National Rights of Way Casework Team but there is no specific provision for a public inquiry to be held at appeal stage. Once the exchange of representations has been completed, the Secretary of State will re-examine the evidence submitted with the application and contained in the representations, to decide whether there is a case for the making of the order, and if so direct the authority accordingly. A direction to an authority to make an order can include a deadline by which the order must be made. The Secretary of State is not empowered to authorise the modification of the definitive map and statement, nor to make the order. There is no charge to apply for a modification order, a direction or an appeal against a surveying authority's decision.

Once the applicant has submitted an appeal under Schedule 14 of the Wildlife and Countryside Act 1981 it is likely that they will be referred to as the appellant for matters relating to that appeal, but remaining as the applicant for matters referring to the original application.

Objecting to a modification order

The procedure for definitive map modification orders is set out in section 8 and in the flowchart entitled "Procedures for modification and public path orders" on p43. In particular there is a requirement to publicise the making of an order by putting a notice in a local newspaper and by placing notices on site at both ends of the way in the order. A period of 42 days is allowed for objections.

An objection must be about whether the order correctly reflects existing public rights. The grounds for objecting must be specified in the objection: the Secretary of State has power to disregard irrelevant objections. It is not necessary to submit evidence at this stage, but a short outline may be useful. The evidence may be expanded upon at a public inquiry or hearing if one is held, and you may call witnesses to

support your case. Their names do not have to be given to the authority before the inquiry. Suggestions that the route in the order could be improved by changing its line cannot be considered at an inquiry into a modification order. See section 5 for the procedures for changing rights of way under the Highways Act 1980.

During the period allowed for objections anyone has the right to ask the surveying authority to tell them what documents, including forms testifying to use of the way, it took into account in deciding to make the order and either to allow them to inspect and copy them if it has them in its possession, or to tell them where they can be inspected. The authority must comply with this duty within 14 days of being asked. However, the authority may still bring forward other evidence at any subsequent inquiry or hearing.

The surveying authority has to send any opposed modification order to the Secretary of State for determination, although in practice the decision is normally delegated to an Inspector from the Planning Inspectorate. See Section 8 for more on how opposed orders are dealt with. It is possible for a surveying authority to make a modification order that affects more than one right of way: for example an order to add three alleged rights of way to the definitive map. It may be that only part of such an 'omnibus' order may be opposed. In such a case, the authority is allowed to split the order into opposed and unopposed parts, and then to confirm the part containing the unopposed proposals, whilst sending the opposed part to the Secretary of State for determination.

Amending a modification order

An Inspector considering an opposed modification order may conclude that the evidence demonstrates that the public's rights are different from those shown in the order. For example, an authority may make an order to add a way to the definitive map as a footpath. Horse-riders object to the order, and bring evidence of use to a public inquiry, sufficient to convince the Inspector that the correct status of the way is bridleway. The Inspector then has power to modify the order so that it adds a bridleway to the map, but must advertise the proposed modification so that objections can be lodged to the proposed amendment, for example by someone who has evidence that horse-riders

used the way only by permission or that their use was interrupted. However, as with modification orders generally, objections can only be on the basis of the evidence (or otherwise) of the existence of public rights - a desire for the way in question to be a footpath rather than a bridleway would not be a valid objection.

'Legal event' modification orders

'Legal event' modification orders are orders under section 53(3)(a) of the 1981 Act made, as their name implies, simply to record on the definitive map legal changes that have already taken place under some other legislation. An example would be to record the fact that a way has been diverted or extinguished. They follow a simpler procedure to that set out in section 8. They do not have to be advertised, are not subject to objections, and take effect as soon as they are made. Orders have to be on display for public inspection, together with the definitive map and statement, in exactly the same way as all other modification and reclassification orders. If you know a case where a 'legal event' modification order might be appropriate, but has not been made, you should discuss it with the surveying authority.

Since April 2008 authorities that are surveying authorities have been able to include in orders that they make to change rights of way provisions that have the effect of modifying the definitive map and statement. In such cases there is no need for the authority to make a separate 'legal event' modification order.

Roads used as public paths, byways open to all traffic and restricted byways

Historically highways were classified in three ways : footpath, bridleway and carriageway, with carriageways being what we now refer to as 'roads'. However, some ancient carriageways have not been given hard surfaces suitable for ordinary modern motor traffic, and these ways are sometimes referred as to 'green lanes' (p33) (although this term has no legal meaning). In order to protect these ways for public use the category of 'road used as a public path' (RUPP) (p35) was introduced when legislation in 1949 first required definitive maps to be compiled. In practice, this was not successful, as there was confusion both about which ways to record as RUPPs, and also about what rights the public had when ways were recorded as RUPPs. Attempts

were made in legislation in 1968 and 1981 to deal with the problem by reclassification, but until recently there were still RUPPs in many parts of Wales. The Wildlife and Countryside Act 1981 required surveying authorities to make definitive map reclassification orders to reclassify those ways shown on the map as a RUPP.

The Countryside and Rights of Way Act 2000 has now reclassified, as restricted byways (p34), ways previously shown on definitive maps as RUPPs. This change took effect on 2nd May 2006.

However the Act also required that any reclassification order made before then, or a definitive map modification order to change the recorded status of a way shown as a RUPP (or an application for such an order) made before then, has to be processed to a conclusion. There may therefore still be outstanding a number of such orders and applications relating to RUPPs.

The procedure for these orders is described in section 8. The condition of the way and its suitability, or otherwise, for motor traffic are not relevant factors that the authority should consider. The procedure is concerned solely with recording the rights that exist (and can therefore be exercised) already.

Grounds and tests : RUPP reclassification orders

A way formerly shown on the definitive map as a RUPP had to be reclassified as follows:

- as a byway open to all traffic if the public can be shown to have a right of way for vehicles;
- as a bridleway if no rights for vehicles can be shown to exist and bridleway rights have not been shown not to exist;
- as a footpath only if neither of the other options applies.

In whichever category a RUPP was reclassified as a consequence of a reclassification order, its surface has to be maintained by the authority. However, reclassification as a byway open to all traffic does not place the authority under any extra obligation to surface the way so as to make it suitable for vehicles; nor does reclassification as a byway limit the ability of the authority to make a traffic regulation order to restrict or prohibit the use of the way by all or certain types of user.

Changes to public rights of way

5 Making changes to public rights of way

Introduction

The closure or diversion of a right of way can only be achieved by a proper legal process. This is normally done by a local authority making a public path order. A public path order can also create a new footpath, bridleway or restricted byway. Although a new path can also be established in other ways, eg. by agreement, an order has the advantage of being a public process. Anyone who has an opinion (not just the owner of the land) can have their views taken into account eg. whether the path is needed or where it should run.

Public path orders follow the procedure set out in Section 8, and illustrated in the flow diagram entitled "Procedures for modification and public path orders" on p43. There are additional methods, mostly used only occasionally, for making changes to rights of way. Some of these follow quite different procedures, and are explained in Section 7.

The process for deciding whether and how any footpath, bridleway or restricted byway should be diverted or closed is a public one. The procedures that have to be followed are designed to ensure that the public are made aware of the change that is proposed, and that anyone who wishes to do so has the opportunity to state their views and have them taken into account before a final decision is made.

It is an offence physically to divert or close a path, even temporarily, without lawful authority and anyone who does so runs the risk of action being taken against them. He or she may be prosecuted, for example, or have to pay the local authority's costs in removing the obstruction. The only course of action that is open to anyone who wants to change a right of way, therefore, is to try to persuade one of the authorities with the necessary power to make a public path order.

Who might want to change the rights of way network?

Proposals to change the rights of way network can arise from applications or requests made to the local authority (eg. from local residents, path users, farmers or landowners) or the authority itself may propose to make a change.

Path users might want a change that gives them access to a new area, or one that gives them more interesting views, a more direct route or a better surface to walk or ride on. A farmer might want a change to reduce interference with agricultural operations. A landowner might want a change to increase privacy. A developer might want a change so that the path fits in better with development proposals. The highway authority might want a change because of difficult maintenance problems such as permanently boggy ground or natural erosion, to improve the amenities in the area, or increase path users' safety and enjoyment by avoiding the need to walk or ride on roads.

Rights of way improvement plans

Changes may also be proposed as a result of policies in a highway authority's rights of way improvement plan. Authorities had to prepare these plans by November 2007, although not all complied with that duty. An authority's plan has to be available for public inspection at its offices, and on its website. In considering the confirmation of a public path order, the order-making authority and the Secretary of State are obliged to have regard to extent of any 'material provision' in such an improvement plan.

'Access land'

The rights of way improvement plan may improve proposals to improve the connection between the rights of way network and the areas

of open country and registered common land over which a right of access on foot has been created under Part I of the Countryside and Rights of Way Act 2000. Natural England has power to apply to the Secretary of State for a public path creation order to be made to improve access to that land. But the existence of the right of access to open country or common land is not to be taken into account when considering proposed changes to rights of way. For more information about 'access land' and the public's rights see *Managing Public Access and Out in the Country* (p38).

What reactions might they get?

Other people's reaction to a proposed change will often depend on how they see their own interests being affected. If the change is one that they might have sought themselves or which gives them benefits they are likely to agree to it. If they see it as harming their interests, they are likely to oppose it.

Peoples' attitudes may also be coloured by past events on the path or elsewhere on the same land-holding. If previous attempts have been made to obstruct the path, to divert it unofficially or discourage people from using it, or if there is a history of trespass, misuse or vandalism on the land, it is likely to be more difficult to achieve agreement to any formal proposal to change the path or to create a new one.

Who decides whether the change should take place?

It is for the local authority to decide if it wishes to make a public path order. Before it decides to do so, it must be satisfied that the tests relevant to the particular type of order have been satisfied. However, the authority is not obliged to make an order.

Once the order is made, however, it must be advertised and anyone can object to the proposal. Unresolved objections are considered not by the authority, but by an Inspector appointed by the Secretary of State for the Environment. It is only after the order has been finally approved that the changes can legally take effect, either on a specified date or when any necessary works have been carried out on the ground. See Section 8 for more detail of these procedures.

In areas where there is both a county council and a district council, an applicant may ask either (or both) of the authorities to make an order. If no authority is prepared to make an order the applicant can ask the Secretary of State to do so. However the Secretary of State exercises his power to make orders only very rarely and in exceptional cases.

Deciding whether to apply for a public path order

Going through the steps laid down by Parliament to change a footpath or bridleway inevitably takes time. They are also likely to involve both the applicant and the local authority in considerable expense. Proposals may give rise to local controversy, and if someone's interests in a property are adversely affected by a confirmed order the local authority may be required to pay them compensation. The authority also has to be satisfied that its other legal obligations are met, for example its duties as a service provider under the Disability Discrimination Act.

Careful consideration is therefore needed before deciding whether to apply for a public path order. The Rights of Way Review Committee has published a Practice Guidance Note *Securing agreement to public path orders* (see p38) from which the following is taken:

"Applicants for orders should bear in mind that there must be good reasons for wanting to make any changes to the existing network. Public rights of way and private rights of ownership should not be interfered with lightly. The 'do nothing' option should always be evaluated alongside any proposals for change. It may prove to be the best option even though the existing situation may be inconvenient for the owner or inadequate for the user."

Prospective change in legislation

Temporary diversion orders

New powers will be given to occupiers of land over which paths run to divert them for a limited period to allow specified dangerous activities to take place on the land. The highway authority will have a duty to ensure that the rules governing such diversions are adhered to by occupiers.

Power to apply for certain orders

Those who own lease or occupy land used for agriculture, forestry or the breeding or keeping of horses will be given a formal right to apply for diversion and extinguishment of footpaths and bridleways across their land. There will also be formal rights of application for school proprietors to apply for special diversion and extinguishment order for school security and for English Nature to apply for SSSI diversion orders. Natural England will be given power to apply to the Secretary of State for the making of public path creation orders to provide access to access land.

Register of applications for public path orders

Order-making authorities will be required to keep, and make available for public inspection, a register of the applications which they have received under the new powers to apply for orders (except for SSSI diversion orders).

6 The main types of public path order

Under the Highways Act 1980

The orders most commonly made to change rights of way are those made under the Highways Act 1980 : sections 26 (public path creation order), 118 (public path extinguishment order) and 119 (public path diversion order).

Before making such an order the authority has to consult any other local authority (including a national park authority, if there is one) for the area, but not local councils. If the right of way is in a National Park it also has to consult Natural England. However these bodies cannot veto the making of an order.

If the authority wishes to make an order for a path outside its area it has to obtain the consent of every authority for the area concerned: this normally arises only when there is a proposal to change a right of way that crosses the local authority's boundary.

Grounds for making an order and the tests to be satisfied

Public path creation order : creation of a new footpath, bridleway or restricted byway or creation of a bridleway or restricted byway over an existing public footpath or of a restricted byway over an existing bridleway

It must appear to the authority that there is a need for the new path or way and they must be satisfied that it is expedient to create it having regard to:

- the extent to which it would add to the convenience or enjoyment of a substantial section of the public or of local residents;
- the effect that the creation would have on the rights of those with an interest in the land, taking into account the provisions for compensation.

Public path extinguishment order : extinguishment of an existing footpath, bridleway or restricted byway

Before making an extinguishment order, it must appear to the authority that it is expedient to stop up (extinguish) the path or way on the ground that it is not needed for public use.

Before confirming an extinguishment order the authority or the Secretary of State must be satisfied that, it is expedient to confirm it having regard to the extent to which the path or way is likely to be used and the effect which closure would have on land served by it, taking into account the provisions for compensation.

Both in making and confirming an extinguishment order, the authority and the Secretary of State must disregard any temporary circumstances (such as obstructions) preventing or diminishing the use of the path or way by the public.

Public path diversion order : diversion of an existing footpath, bridleway or restricted byway

Before making a diversion order the authority must be satisfied that it is expedient to divert the path or way in the interests either of the public or of the owner, lessee or occupier of the land crossed by the path or way.

The authority must also be satisfied that the diversion order does not alter any point of termination of the path or way, other than to another point on the same path or way, or another highway connected with it, and which is substantially as convenient to the public. Nor can the termination

be altered where this is not on a highway, ie. a cul-de-sac.

Before confirming a diversion order the authority or the Secretary of State must be satisfied that:

- the diversion is expedient in the interests of the person(s) stated in the order;
- the path or way will not be substantially less convenient to the public as a consequence of the diversion;
- it is expedient to confirm the order having regard to the effect it will have on public enjoyment of the path or way as a whole, on other land served by the existing path or way and on land affected by any proposed new path or way, taking into account the provisions for compensation.

In practice the Secretary of State disregards any temporary circumstances (such as obstructions) preventing or diminishing the use of the path or way by the public when considering an opposed diversion order.

Concurrent orders

An authority may sometimes make two or more orders that it wishes to be considered concurrently. For example, a creation order may be made in association with an extinguishment order. It is still necessary, however, to ensure that each order meets the appropriate tests and criteria laid down in the legislation. So in the example above, the creation order has to be considered on its own merits. If it is decided to confirm the creation order the extent to which the newly-created path or way would provide an alternative path or way to that proposed for closure can then be taken into account in considering the extinguishment order.

The Department of Environment, Food and Rural Affairs has advised authorities that if objections are made to one of the concurrent orders but not the other, both orders should be submitted to the Secretary of State for determination.

The needs of agriculture, forestry and nature conservation

In making any public path or rail crossing order under the Highways Act 1980, the authority must also have due regard to the needs of nature conservation, agriculture and forestry. The term 'agriculture' is defined as including the breeding or keeping of horses.

Code of practice for the creation of new rights of way

A guide to the creation of new rights of way and the compensation that might be payable has been published jointly by the former Countryside Agency (now part of Natural England) and the Countryside Council for Wales (see p38).

Paths affected by development

The other commonly-used power is that contained in section 257 of the Town and Country Planning Act 1990, under which an order can be made for a footpath, bridleway or restricted byway to be closed or diverted to enable development to take place. Development in this context includes buildings or works for which planning permission has been granted and development that is proposed by a government department.

Orders are made by the planning authority that granted the planning permission, or which in normal circumstances would have granted the permission. The authority does not have to consult any other authority before making an order.

Because the need for the closure or diversion arises from the granting of planning permission, it is important that the authority takes the existence of the path into account when considering the planning application and consider what effect the development will have on the path. The authority must publicise any planning application it receives which affects a right of way, by putting an advertisement in a local newspaper and by placing a notice on site. It must then consider any representations it receives in response to this publicity.

The granting of the planning permission inevitably constrains the scope for debate about an order under section 257. But while it is not open to question the merits of a planning permission when considering such an order, it should not be assumed that the order has to be made or confirmed simply because planning permission exists. The courts have held that there is a need to consider the merits of the proposed

change and the effect that it will have on the rights of those affected by it, especially as there is no provision for compensation.

The powers under this section are for an order to be made to enable development to be carried out. An order cannot be made or confirmed, therefore, if the development has already been completed, or is substantially complete; some other way will have to be found of resolving the problem.

Orders under section 257 may be made only for footpaths, bridleways and restricted byways. Where development affects other highways, including ways recorded on definitive maps as byways open to all traffic, similar powers under section 247 can be used: in these cases the order is made by the Secretary of State, except in Greater London, where the order is made by the London borough council.

Grounds for making an order and the tests to be satisfied

Diversion or extinguishment of footpaths, bridleways and restricted byways affected by development

Before making an order the authority must be satisfied that it is necessary to do so to enable development to be carried out:

- in accordance with a planning permission that has been granted; or
- by a government department.

Before confirming an opposed order the Secretary of State must also be satisfied that the above criteria have been met.

7 Other ways of changing or restricting use of rights of way

This booklet deals only with the most common types of order made in relation to footpaths and bridleways. Several other types of order can be made, which may, or may not, follow similar procedures. In addition to the powers to create new rights of way by order, it is open to any landowner to agree the creation of a footpath, bridleway or restricted byway either with the local authority or local council.

Other types of order

Orders to divert or extinguish byways and other highways with vehicular rights are normally made under section 116 of the Highways Act and do not follow the procedures set out above. Important differences include the fact that such orders are made not by the authority but by a magistrates' court (on application by the highway authority); that it is the magistrates who also determine any objections; and that the local council have the power to veto an order by refusing to consent to the authority's application. The limits on the recovery of the authority's costs set out above similarly do not apply to section 116 orders; anyone who asks the authority to apply for an order may be asked to meet the whole of the authority's costs.

It is occasionally necessary to use these powers in connection with a footpath, bridleway or restricted byway, for example where the path is being dealt with simultaneously with a vehicular right of way. However, the Secretary of State has advised authorities that they should not use these powers in respect of footpaths, bridleways and restricted byways unless there are good reasons for doing so.

Special diversion and extinguishment orders for school security

Highway authorities have been given powers to make diversion or extinguishment orders for the purposes of school security. These powers apply not only to footpaths, bridleways and restricted byways, but to all ways shown on definitive maps. The powers apply to all school sites.

Grounds for making an order and the tests to be satisfied

Special extinguishment order for school security

- Before making an extinguishment order, it must appear to the authority that it is expedient to stop up (extinguish) the path or way for the purpose of protecting the pupils or staff from violence or the threat of violence, harassment, alarm or distress arising from unlawful activity, or any other risk to their health or safety arising from such activity. The authority must also consult the Police Authority.
- Before confirming an order, the authority or the Secretary of State has to be satisfied that the extinguishment is expedient for the reasons given above for making an order and that it is expedient to confirm the order having regard to all the circumstances and in particular to:
 - any other measures that have been or could be taken for improving or maintaining the security of the school;
 - whether it is likely that the coming into operation of the order will result in a substantial improvement in that security;
 - the availability of a reasonably convenient alternative route or, if no reasonably convenient alternative route is available, whether it would be reasonably practicable to divert the path

or way rather than stopping it up;

- the effect of extinguishment on land served by the way taking into account any compensation payable under section 28 of the Highways Act 1980.

Special diversion order for school security

- Before making a diversion order, it must appear to the authority that it is expedient to divert the path or way for the purpose of protecting the pupils or staff from violence or the threat of violence, harassment, alarm or distress arising from unlawful activity, or any other risk to their health or safety arising from such activity. The authority must also consult the Police Authority.
- Before confirming a diversion order the authority or the Secretary of State has to be satisfied that the diversion is expedient for the reasons given above for making an order and that it is expedient to confirm the order having regard to all the circumstances and in particular to:
 - any other measures that have been or could be taken for improving or maintaining the security of the school;
 - whether it is likely that the coming into operation of the order will result in a substantial improvement in that security;
 - the effect that the order would have over land served by the existing right of way and land over which the new right of way would be created.

Special diversion and extinguishment orders for crime prevention

Highway authorities have been given powers to make diversion or extinguishment orders for the purposes of crime prevention, but only in those parts of their areas designated by the Secretary of State after an application by the authority. These powers apply not only to footpaths, bridleways and restricted byways, but to all ways shown on definitive maps.

Grounds for making an order and the tests to be satisfied

Special extinguishment order for crime prevention

- Before making an extinguishment order, it must appear to the authority that it is expedient to stop up (extinguish) the path or way for the purpose of preventing or reducing crime which would otherwise disrupt the life of the community, that premises adjoining or adjacent to the path or way are affected by high levels of crime, and that the existence of the path or way is facilitating the persistent commission of criminal offences. The authority must also consult the Police Authority.
- Before confirming an order, the authority or the Secretary of State has to be satisfied that the extinguishment is expedient for the reasons given above for making an order and that it is expedient to confirm the order having regard to all the circumstances and in particular to:
 - whether, and if so, to what extent the order is consistent with any strategy for the reduction of crime and disorder prepared under the Crime and Disorder Act 1998;
 - the availability of a reasonably convenient alternative route or, if no reasonably convenient alternative route is available, whether it would be reasonably practicable to divert the path or way rather than stopping it up;
 - the effect of extinguishment on land served by the way taking into account any compensation payable under section 28 of the Highways Act 1980.

Special diversion order for crime prevention

- Before making a diversion order, it must appear to the authority that it is expedient to divert the path or way for the purpose of preventing or reducing crime which would otherwise disrupt the life of the community, that premises adjoining or adjacent to the path or way are affected by high levels of crime, and that the existence of the path or way is facilitating

the persistent commission of criminal offences. The authority must also consult the Police Authority.

- Before confirming a diversion order the authority or the Secretary of State has to be satisfied that the diversion is expedient for the reasons given above for making an order and that it is expedient to confirm the order having regard to all the circumstances and in particular to:
 - whether, and if so, to what extent the order is consistent with any strategy for the reduction of crime and disorder prepared under the Crime and Disorder Act 1998;
 - the effect that the order would have over land served by the existing right of way and land over which the new right of way would be created.

Rail crossing orders

Special powers to close or divert footpaths and bridleways that cross railway lines on the level were introduced into the Highways Act 1980 by the Transport and Works Act 1992. The powers are in Sections 118A and 119A and operate in a similar way to the powers in Sections 118 and 119, but are directed primarily at improving public safety. So as to avoid creating a cul-de-sac that might encourage people to trespass onto the railway, an order may also provide for the extinguishment or diversion of any sections of path that lead up to the level crossing.

An application for such an order must be made by the railway operator and must be in the form as prescribed in regulations. These require the applicant to provide information on the need for the order and the opportunity for alternative action, such as safety improvements to the existing crossing. The 'railway operator' is whoever is responsible for maintaining the railway track; if a separate body operates the trains they have no right to apply. Since these orders are concerned with public safety and may need to be dealt with quickly, the Secretary of State has special reserve powers; if the authority has not made and confirmed an order (or submitted an opposed order for confirmation) within six months of receiving a valid application, he may intervene and make an order himself. Guidelines about the safety requirement for footpaths and bridleways at level crossings originally produced by the Health and Safety Executive are now available from the Office of Rail Regulation (see p39).

Grounds for making an order and the tests to be satisfied

Rail crossing diversion or extinguishment orders

Before making an order, the authority must be satisfied that it is expedient to do so in the interests of the safety of members of the public who use, or are likely to use, the crossing.

Before confirming an order the authority or the Secretary of State must be satisfied that it is expedient to do so in all the circumstances and particularly:

- whether it is reasonably practicable to make the crossing safe;
- the arrangements that have been made (if the order is confirmed) for barriers and signs to be erected and maintained.

In considering the objections to an order, the Secretary of State may consult the Secretary of State for Transport on whether a bridge or tunnel should be provided at or reasonably near to the crossing as an alternative measure.

A rail crossing diversion order shall only alter the point of termination of a path:

- if that point is on a highway over which there is at least a similar right of way; and
- to another point on the same highway or a highway connected to it.

SSSI diversion orders

Highway authorities have powers to divert all footpaths and bridleways, and any restricted byways and byways open to all traffic shown on definitive maps, in order to prevent damage to the nature conservation features of sites of special scientific interest (SSSIs). The powers are exercisable when an application has been made to the authority by Natural England.

Creation agreement made by a local authority

Under section 25 of the Highways Act 1980, a local authority may enter into an agreement with anyone having the capacity to dedicate a footpath, bridleway or restricted byway in its area. Before making such an agreement the authority must consult any other local authority or any National Park authority for the area, but it does not have to consult a local council or the public. The authority must have regard to the needs of agriculture (including the breeding or keeping of horses), forestry and nature conservation.

The agreement may provide for payments to be made, and for the new path to be subject to limitations and conditions. When an agreement is made, the authority must ensure that the path is physically created and must also publish a notice in a local newspaper informing the public. A path created by agreement under section 25 automatically becomes maintainable at public expense.

Code of practice for the creation of new rights of way

A guide to the creation of new rights of way and the compensation that might be payable has been published jointly by the former Countryside Agency (now part of Natural England) and the Countryside Council for Wales (see p38).

Creation agreement made by a local council

Under section 30 of the Highways Act 1980 a local council may enter into an agreement with anyone having the capacity to dedicate a highway (including a footpath, bridleway or restricted byway) in its area. It has to be satisfied that the highway would be beneficial to the inhabitants of all or part of the parish or town, and can only enter into an agreement in respect of land in its own parish or an adjoining one.

Unlike the local authority, a local council is under no obligation to take into account the needs of agriculture, forestry or nature conservation when agreeing to create a highway; to see that the path is created physically; or to publicise its existence. The council may carry out works in connection with the path or way including maintenance and improvement, or may contribute to such expenses, but it has no power to pay compensation. Nor is the path or way automatically maintainable at public expense. However the duties of the highway authority to signpost and waymark the path or way and record it on the definitive map still apply.

Restrictions on use of rights of way

Traffic regulation orders

There are powers that can be used in certain circumstances to restrict access to rights of way. Traffic authorities can make traffic regulation orders (TROs) on all highways, including footpaths and bridleways. These are normally used only temporarily, for example to avoid danger when works are taking place in the highway or on adjoining land, but they can be permanent, for example to ban all or some motor vehicles from an unsurfaced road. National Park authorities have power to make TROs on rights of way in their area.

Gating orders

Highway authorities also has power to make orders similar to traffic regulation orders that allow highways to be 'gated' through the erection of gates or other barriers that can be locked to some or all users at all or certain times.

Prevention of animal disease

Defra has power to restrict access to rights of way to prevent the spread of animal disease: these powers were used extensively in 2001 when there was an outbreak of foot-and-mouth disease.

Prospective changes in legislation

Temporary diversion orders

New powers will be given to occupiers of land over which paths run to divert them for a limited period to allow specified dangerous activities to take place on the land. The highway authority will have a duty to ensure that the rules governing such diversions are adhered to by occupiers.

Procedures

8 The stages of an order

The terms used in connection with orders can be confusing. An authority makes an order, but this is the initial stage, not the end of the process. The right to object comes when the order is made and advertised. The conclusion of the process comes when a decision is made to confirm the order (with or without modifications) or not to confirm it.

There are some differences between modification orders and public path orders and these are identified in the text below, in the respective sections on the different types of orders and in the flow diagram on order procedures on p43.

Applications

There is a formal application procedure for modification orders although it is possible for a surveying authority to make an order without having received an application. A surveying authority has to keep a public register of any applications for modification orders.

For public path orders there is no formal application procedure but the legislation envisages that applications will be made, as it empowers local authorities to charge applicants and to require them to enter into agreements to defray certain costs. For rail crossing orders the application is made by the railway operator, and for SSSI diversion orders the application is made by Natural England.

Consultation

The requirement to consult varies according to the type of order being sought. For modification and public path orders the other local authority for the area (if there is one) has to be consulted. For modification orders only, the local council or parish meeting also has to be consulted. There is no legal requirement to consult the owner and occupier of any of the affected land or any organisations representing users of rights of way.

In practice many authorities do find it helpful to carry out such consultations. They are encouraged to do so by the Department of Environment, Food and Rural Affairs (in circular 1/08) and by the Rights of Way Review Committee.

Deciding whether to make an order

Orders are not made automatically each time someone applies but are at the discretion of the local authority. In taking a decision the authority will need to make a judgment on any conflicting points of view about the application or proposal.

Changes can only be made for one or other of the reasons provided for in the legislation. Before making an order the authority has also, therefore, to be certain that the various tests imposed by the Acts can be satisfied. There is no right of appeal against a local authority's refusal to make a public path order, but there is a right to ask the other authority (where there is one) or the Secretary of State to make the order. There is a right of appeal against a surveying authority's refusal to make a definitive map modification order which has been the subject of a formal application.

Making the order

The order has to be made in the form set out in the relevant regulations. It must contain a plan. There also has to be a notice that briefly describes what effect the order will have; states where the order and plan can be inspected free of charge and where a copy can be purchased; and gives the address to which any objections should be sent and the date by which they must be received. A period starting on the date the notice is first published must be allowed for objections (this is at least 28 days for public path orders, and 42 days for definitive map modification orders).

Giving notice

Not less than 28 days before the closing date for objections to a public path order (42 days for a definitive map modification order) the authority must do everything set out below.

The notice must be:

- Published in a local newspaper;
- Sent to anyone who has formally requested, and paid for, notice of such an order;
- Prominently displayed at council offices in the locality, and at any other places the authority considers are appropriate.

The notice and a plan must be:

- Prominently displayed at the ends of the part of a path affected by the order;
- This plan must show, as a minimum, the effect of the order on that path.

The notice, order and the plan that forms part of the order must be:

- Sent to any other local authorities in the area, including the local council or parish meeting;
- Sent to the owners, occupiers and lessees of any land affected by the order;
- Sent to the prescribed bodies (see p28).

Statement of reasons

There is no formal requirement which obliges an authority to set out its reasons for making an order. It is, however, often helpful if it does so and this has been recommended by the Rights of Way Review Committee in Practice Guidance Note 3 (see p38).

Objections

Objections must be in writing and reach the authority by the closing date set out in the notice. They should state clearly the objector's reasons for opposing the order, and those reasons must relate to the grounds and tests which apply to that particular type of order.

For example, objections can be made to a public path order, on the grounds that the tests set out in the Act have not been satisfied eg. that a path proposed for closure is, in fact, needed for public use; to the principle of what is in the order eg. that a path should not be diverted at all, or should not be diverted to the particular new line;

or to the details of the order, eg. that the proposed new path is not wide enough. All are valid objections.

For a modification order, the tests are solely about whether the evidence does or does not justify the change to the definitive map contained in the order, eg. whether there is sufficient evidence of use by the public to justify the addition of a way to the map. The Secretary of State has power to disregard objections which do not specify the grounds for objection or where the grounds put forward are irrelevant.

Unopposed orders

If no objections are made within the objection period, or any objections that are made are later withdrawn, the authority may confirm the order itself as an unopposed order. But it can only confirm the order as it was made.

If the authority wants to change the order in any way it must submit the order to the Secretary of State (even if there are no objections) with a request that the order be confirmed with appropriate modifications.

Opposed orders

If there are objections to an order the order-making authority cannot determine the objections itself or confirm the order. In the case of a public path order the authority can decide not to proceed with the order, in which case it has to make, and publicise, a decision not to confirm the order. However for a modification order the surveying authority has to submit the order for determination, although it can, if it wishes, submit it with a request that the order be not confirmed (for example, if it has discovered an error in the order, or if the objections have contained new evidence which has caused the authority to change its conclusion about the correct status of the way).

Determination of opposed orders is by the Secretary of State, but there is a power to transfer the decision-making to an inspector from the Planning Inspectorate and this is normally used. In a few special cases the decision will be made not by the Inspector, but by the Secretary of State, to whom the Inspector will report. In such cases the Secretary of State has to tell the objectors the reason.

The Inspector can deal with the order either by

holding a public local inquiry, or by holding a hearing, or by an exchange of correspondence - the 'written representations' procedure. The Planning Inspectorate will correspond with all objectors to an order about the procedure that will be followed. It will also send its publication on the handling of public path and definitive map orders. This explains the rules that now apply when orders are considered at a public inquiry or hearing, and the similar procedure that the Inspectorate applies when the written representations procedure is used. The rules, and the procedure for written representations, set a timetable for the submission of statements of case and evidence which have to be followed by all the parties concerned.

At a public inquiry

A public inquiry is held in the locality, for example in the local village hall, to hear the arguments and evidence for or against the order. The Planning Inspectorate notifies each objector of the details of the inquiry and also asks the authority to put up notices and place an advertisement in a local paper. Anyone can attend an inquiry but only those who have made formal objections have a right to speak. Others may do so at the discretion of the Inspector.

Once the inquiry has opened, the Inspector has full jurisdiction over the proceedings. It may very occasionally be possible to make special arrangements for those who cannot get time off work. This should be raised with the Inspector at the start of the inquiry. At the inquiry the Inspector will ask for the names of those who wish to speak and, where appropriate, the organisations they represent. An order of appearance will then be decided with allowances made wherever practicable for anyone who has limited time to attend the inquiry, eg. they cannot get time off work.

A representative from the order-making authority will state its case, calling whichever witnesses it wishes. Statements made by such witnesses should be made available to objectors. The objectors are entitled to cross-examine the witnesses but not question the representative.

The objectors will then be called upon to make their case and their witnesses may be called and cross-examined. The Inspector may question any of the participants at the inquiry. The authority will then make a closing statement. After the

closing statement, the Inspector will hear no further representations but will announce the arrangements for the site inspection. This will either be alone or accompanied by both parties. During the visit the Inspector may ask questions about the route to clarify any of the points raised at the inquiry. However, there will be no re-opening of issues raised during the inquiry. The Inspector may also make an unaccompanied visit before the inquiry, without giving notice, or may choose to make an accompanied visit during the course of the inquiry.

In making a decision the Inspector will consider the oral evidence given and also any written submissions presented during the inquiry, or received beforehand.

At a hearing

A hearing is less formal than a public inquiry, and takes the form of a round-table discussion led by the Inspector. Witnesses are not called or cross-examined. Details of the procedure at hearings are contained in the Planning Inspectorate's booklet.

Written representations

If an opposed order is dealt with by written representations the Inspectorate will invite each party to comment on views expressed by the other. Correspondence continues to be exchanged, through the Inspectorate, until each side has had the opportunity to comment fully on everything the other party has said. The Inspector will also make a site visit (normally unaccompanied) before coming to a decision.

The decision

The decision is contained in a letter that summarises the evidence presented to the Inspector, and explains the reasons for the decision. A copy of the letter will be sent to the order-making authority, to those who made formal objections, and to anyone who requested a copy.

Modifications to the order

The Inspector will sometimes decide that the order should be modified, and can make minor modifications as part of the decision unless the modifications affect land not affected by the

order, eg. to make a diversion follow a different route. If this is the case, the Inspector's proposals must be advertised and a second local inquiry may have to be arranged if further objections are received. The second inquiry is primarily concerned with the proposed modifications, however, and the Inspector will only consider representations about the unmodified part of the order if they raise new issues.

Modifications cannot be made to correct serious legal errors or discrepancies. If the order is found to be defective it will have to be rejected, regardless of the merits of the proposals. A new order will then have to be made if the authority wishes to proceed with the proposal.

Confirmation

If and when the order is confirmed, either by an Inspector or by the authority, the authority must give notice of its confirmation in the same way as it gave notice of the making of the order. If the order is not confirmed, then the authority has to inform those people or bodies who were notified of the making of the order, but does not have to publish notice of the decision in the press, nor put notices up on the path.

Challenge in the courts

Any challenge in the High Court can potentially be the subject of an appeal to the Court of Appeal and thence to the House of Lords. Legal action of this sort can be very costly and should not be commenced without first seeking legal advice.

Challenging a decision to confirm an order
A decision to confirm an order can only be challenged on legal grounds in the High Court. To be successful, it would be necessary to show either:

- that the order-making authority, the Inspector or the Secretary of State exceeded their powers in some way; or
- that any of the relevant requirements were not complied with, and that consequently your interests were substantially prejudiced.

The High Court cannot change the decision: it can only quash the order. Any application to challenge a decision must be made to the High Court within six weeks of the confirmation of an order.

Challenging a decision not to confirm an order
There is also power to challenge, by way of application for judicial review, a decision not to confirm an order (this would only apply if the local authority or the Inspector had abused their powers or had acted unreasonably). In such a case, the Court has power to direct the authority or Secretary of State to reconsider the case. Application has to be made promptly and within three months of the date of the decision you are challenging.

If the High Court does not uphold a challenge, there is no other way that the decision can be overturned.

Coming into operation of orders

Modification orders

Modification orders come into operation on the date they are confirmed, and so provide conclusive evidence of the existence of public rights as specified in the order as from that date.

Public path orders

The confirmation of a public path order does not automatically mean that the legal change has occurred. When that happens depends on the wording of the order. In some cases the order takes effect when it is confirmed, but normally it will be when the authority certifies that the new path or way is ready and fit for the public to use. In some cases a further notice of coming into operation has to be published so that the public can be aware that the change has taken place. If the new path or way is not certified as fit for use, the order will not come into operation even though it has been confirmed.

Amending the definitive map and statement

The definitive map and statement is amended only after a path order has come into operation. To do this a separate 'legal event' modification order has to be made by the surveying authority unless the order has been made by that authority and contains provisions that modify the definitive map and statement.

Amending the Ordnance Survey map

The order-making authority has to notify Ordnance Survey of the confirmation and coming into operation of modification and public path orders. It will amend its maps when they are next revised, but this may be some years later.

Marking the change on the ground

It is the responsibility of the highway authority to see that any new path created by a public path order is properly signposted and waymarked (even if it is not the authority that made the order). Although there is no specific requirement to put up a sign on any length of former path to indicate that it has been closed, it is often helpful for this to be done and for the sign to indicate where the new path (if any) runs.

The prescribed bodies

The following bodies are prescribed to receive copies of modification and public path orders and accompanying notices and orders.

For all orders in England:

- Auto Cycle Union
- British Driving Society (modification orders only)
- British Horse Society
- Byways and Bridleways Trust
- Cyclists Touring Club
- Open Spaces Society
- Ramblers' Association

For orders in part of England:

- Chiltern Society
- Peak and Northern Footpath Society

Prospective changes in legislation

Power to apply for certain orders and register to be kept of such applications

Those who own, lease or occupy land used for agriculture, forestry or the breeding or keeping of horses will be given a formal right to apply for diversion and extinguishment of footpaths and bridleways across their land. There will also be formal rights of application for school proprietors to apply for special diversion and extinguishment orders for school security. There will also be requirements for registers to be kept of such applications.

9 Costs and compensation

Costs arise in making and advertising an order and in determining any objections. Compensation may also become payable if a public path order is confirmed which adversely affects someone's interests in a property.

Costs of orders

Modification orders

The costs of modification orders are borne by the surveying authority, and there is no power to charge applicants for modification orders either for their applications or for any subsequent appeals.

Public path orders

An applicant who expects to gain some financial benefit from extinguishing or diverting a path will normally be expected to bear at least part of the costs associated with the order.

Local authorities have powers to recover from the owner, occupier or lessee of the land the costs of making up a newly created path and any compensation that may be payable arising from a public path diversion order (eg. where the diversion puts the path onto a neighbour's land).

Regulations introduced in 1993 also enable authorities to recover their advertising and administrative costs in making a public path diversion or extinguishment order, a rail crossing order or an order to divert or extinguish a footpath or bridleway to enable development to take place. They can also recover costs associated with a public path creation order where this has been made concurrently with a public path extinguishment order.

The costs that can be charged to the applicant include the cost of putting in one local newspaper the notices of the making, confirmation and coming into effect of a public path order. The applicant will also be required to contribute towards the authority's costs in making the order. The authority has discretion, however, to take into account factors such as the applicant's financial hardship or the potential benefits to rights of way users and may waive all or part of the charge where appropriate.

The fact that an order is not confirmed does not mean that the applicant is automatically entitled to a refund. Costs must be refunded, however, if the authority decides not to proceed with an order, eg. they fail to confirm an unopposed order, or if the order cannot be confirmed because it has been invalidly made.

Costs at an inquiry

Any application by one party that its costs at an inquiry should be met by another party will be decided by the Department of Environment, Food and Rural Affairs. Its policy is that the parties at a local inquiry are normally expected to meet their own expenses irrespective of the outcome. Costs will therefore be awarded only exceptionally, if the party against whom costs are sought is shown to have behaved unreasonably.

However, a public path creation order is considered to be analogous to a compulsory purchase order. If a person with an interest in the land objects to the order, and attends or is represented at the inquiry, an award of costs will normally be made to them if the order is not confirmed. Extinguishment and diversion orders made under the Highways Act 1980 may occasionally be analogous, depending on the circumstances.

The power to award costs following inquiries also applies to hearings, but not to orders determined by the written representations procedure. It also covers the situation in which an inquiry is arranged, but then cancelled, for example because of the last-minute withdrawal of the only objection.

Compensation

There is provision for compensation to be paid to anyone whose property interests can be shown to have been adversely affected by the coming into operation of any public path order made under the Highways Act 1980 (but not orders made under the Town and Country Planning Act 1990). An applicant for a diversion order can be required to meet the cost of any compensation which the authority become liable to pay if the order is confirmed, eg. if the path is diverted on

to someone else's land. Disputes about the level of compensation are decided separately, after a decision has been made on the merits of the order, by the Lands Tribunal.

No compensation is payable in respect of modification orders, as these simply record on the definitive map public rights that exist already.

Code of practice for the creation of new rights of way

A guide to the creation of new rights of way and the compensation that might be payable has been published jointly by the former Countryside Agency (now part of Natural England) and the Countryside Council for Wales (see p38).

10 Complaints procedures

Introduction

Once a decision has been made either to confirm or not to confirm an order, the only way that decision can be challenged is through an application to the High Court. As explained on p32, legal action of this sort can be very costly and should not be commenced without first seeking legal advice.

There are, though, several ways that a complaint about the way a particular case has been handled can be investigated. If an authority has decided that it does not wish to make an order, it is open to the authority to reconsider that decision at any time. With this one exception, however, it is not possible to overturn or reverse a decision that has been taken. Nor can any of the other bodies set out below discuss the merits of the authority's or Inspector's decision on a particular case, or question the merits of any order that has been made.

Local authority complaints procedures

Local authorities have complaints procedures, and use of these should be the first step for anyone who feels dissatisfied with the way in which the authority has dealt with an application or order.

Complaints to the Planning Inspectorate

As soon as an order is referred to the Planning Inspectorate, they write to everyone who is concerned indicating the name of the case officer dealing with the procedures. He or she is the first point of contact for any queries or complaints about the way the order is being handled. If it is felt that the case officer, or his or her senior colleagues, have not dealt with the matter satisfactorily, it can be raised with the Inspectorate's Complaints Officer.

If there are any complaints about an Inspector's decision letter or about the way an Inspector is conducting, or has conducted, an inquiry or hearing these should be put in writing to the Complaints Officer. If these concerns give rise to

an application for statutory or judicial review, then the time limits for those procedures will apply.

The Administrative Justice & Tribunals Council

If it is considered that there was something wrong with the basic procedure used by the Secretary of State or the Planning Inspectorate in processing the order, a complaint may be made to the Administrative Justice & Tribunals Council (p40). The Council will take the matter up if it comes within its scope.

Complaints of maladministration

If you consider that something a government department or agency has done - or has not done - amounts to maladministration, you can ask for the matter to be investigated by the Parliamentary and Health Service Ombudsman. References must be made to the Ombudsman through a Member of Parliament.

If you consider that something a local authority has done - or has not done - amounts to maladministration, you can ask for the matter to be investigated by the Local Government Ombudsman (the Commission for Local Administration). In this case the Ombudsman can be approached direct, but you should first give the local authority a chance to resolve the complaint itself.

The term 'maladministration' can include unreasonable delay, muddle, bias, failure to follow the correct procedures and decisions that are badly made, but neither Ombudsman can question a decision that has been made just because someone else disagrees with it. Booklets are available from the addresses on p40 explaining the procedures that are involved.

If you complain to an Ombudsman about a body without first making a complaint direct to the body, the Ombudsman's first step will be to refer the matter to the body concerned, so it is always advisable to make a complaint direct to the body in the first instance and then complain to the Ombudsman only if you feel that your complaint

has not been dealt with to your satisfaction by the body.

Complaints of failure by authority members to follow their code of conduct

Every member of a local authority now has to sign up to the authority's code of conduct, which must be consistent with nationally-prescribed rules of behaviour for authority members. Details of an authority's code can be obtained from the authority's monitoring officer.

The nationally-prescribed rules include provisions that members should:

- serve only the public interest;
- never improperly confer an advantage or disadvantage on any person;
- not place themselves in situations where their honesty and integrity may be questioned;
- not behave improperly and on all occasions avoid the appearance of such behaviour;
- make decisions on merit;
- be accountable to the public for their actions and the manner in which they carry out their responsibilities;
- be as open as possible about their actions and those of their authority, and be prepared to give reasons for those actions;
- uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them;
- do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law;
- promote and support these principles by leadership, and by example;
- act in a way that secures or preserves public confidence.

If you think that a member of an authority has failed to comply with the authority's code of conduct in dealing with a matter relating to rights of way a written complaint should be sent to the chief executive of the authority. If the authority's response is not satisfactory the matter can be reported to the Standards Board for England (see p40).

Definitions and references

11 Definitions

Definitions of additional terms often encountered in rights of way or countryside access can be found in the Glossary in the Natural England publication *Out in the Country*

Word or phrase	Definition
Bridleway	A public right of way for walkers and those on horseback or leading a horse, but not a way at the side of a road. Pedal cyclists also have a right of way on a bridleway, but must give way to walkers and horse-riders. A bridleway can run along a way where certain individuals have a right to drive other vehicles, such as a farm access drive.
Byway open to all traffic	A particular type of way shown on a definitive map. Although motorists are entitled to use them, the predominant use of byways open to all traffic is normally by walkers, horse-riders and pedal cyclists. A carriageway has to be used, or be likely to be used, mainly by walkers and horse-riders to be eligible to be added to the definitive map as a byway open to all traffic.
Creation order	An order made by a local authority to create a new footpath, bridleway or restricted byway.
Cut-off date	The date (1st January 2026 or any later date set by the Secretary of State) on which certain rights will be extinguished if not recorded on definitive maps by then.
Definitive map	The legal record of public rights of way (footpaths, bridleways, restricted byways, and byways open to all traffic). Warning - not all rights of way are yet shown on definitive maps, so a way not on the definitive map may still be a right of way. Also a way which is shown on the definitive map may not have all the public's rights yet recorded, eg. a way shown on the map as a footpath may really be a bridleway.
Definitive map modification order (DMMO)	An order made by a surveying authority to amend the definitive map and statement.
Definitive statement	A statement which accompanies the definitive map. Where it contains specific information about a route shown on the map, such as its position or width, that information is conclusive evidence as to, for example, the position or width of the right of way. The statement does not have priority over the definitive map, nor does the map have priority over the statement.
Diversion order	An order made by a local authority to divert a footpath, bridleway or restricted byway.
Extinguishment order	An order made by a local authority to close a footpath, bridleway or restricted byway.
Footpath	A public right of way for walkers but not at the side of a carriageway. A footpath can run along a way where certain individuals have a right to drive vehicles, such as a farm access drive.
Green lane	A descriptive term for a way. It is normally used where the way is bounded by hedges or stone walls, and where the surface is not, or does not appear to be, metalled or otherwise surfaced (sometimes there is an old surface under the grass or mud).
Highway	Any way over which the public have a right to pass and re-pass.

Word or phrase	Definition
Highway authority	<p>The public authority that is responsible for maintaining highways within its area. These authorities are :</p> <ul style="list-style-type: none"> • in London - the London borough councils; • elsewhere in England; <ul style="list-style-type: none"> - the county council if there is both a county and district council in the area;- - otherwise, the unitary authority, which may be called either a county, district, borough or city council. <p>Some of the powers of the highway authority may be delegated to other authorities (such as National Park authorities).</p>
Local authority	<p>These authorities are :</p> <ul style="list-style-type: none"> • in London - the London borough councils; • elsewhere in England; <ul style="list-style-type: none"> - the county council if there is both a county and district council in the area; - otherwise, the unitary authority, which may be called either a county, district, borough or city council.
Local council	A parish or town council.
Mechanically-propelled vehicle	<p>The Countryside and Rights of Way Act 2000 amended various pieces of legislation substituting 'mechanically-propelled vehicle' for 'motor vehicle' because the definition of 'motor vehicle' was felt to be too narrow (see 'motor vehicle'). A 'mechanically-propelled vehicle' is, broadly, one that has mechanical means of propulsion and the term covers motorised vehicles not intended or adapted to be used on public roads, as well as motor vehicles that are. Invalid carriages are mechanically-propelled vehicles but are specifically excluded from the application of certain road traffic legislation by virtue of section 20 of the Chronically Sick and Disabled Persons Act 1970</p>
Motor vehicle	<p>'Motor vehicle' is defined by section 185 of the Road Traffic Act 1988 as a mechanically-propelled vehicle intended or adapted for use on roads. As such, it was interpreted as excluding quad and scrambler bikes intended to be used 'off-road'. The term, as applied to rights of way legislation, has been amended by the Countryside and Rights of Way Act 2000 (see 'mechanically-propelled vehicle') and now includes these vehicles.</p>
Planning Inspectorate	An executive agency of the government to which the Secretary of State normally delegates the decision-making on opposed orders.
Prescribed organisation	A voluntary organisation prescribed by regulations to receive copies of modification and public path orders and notices. See list (p28).
Public path	A footpath or a bridleway
Public path order	A collective term for creation, diversion and extinguishment orders.
Public right of way	legally the same as highway, with the main difference in meaning being that highway is used to refer to the physical feature and public right of way to the right to walk, ride or drive over it. The two terms are often used interchangeably, but in many cases public right of way is used to refer to those highways shown on definitive maps, (footpaths, bridleways, restricted byways, and byways open to all traffic).
Reclassification order	An order made by a surveying authority to reclassify a way shown in the definitive map and statement as a road used as a public path to either a footpath, bridleway or byway open to all traffic.
Relevant date	The date on which the definitive map or a subsequent modification or reclassification order provides conclusive evidence of the existence of public rights over a particular right of way.
Restricted byway	A public right of way for walkers, horse-riders and carriage-drivers and pedal cyclists. Many restricted byways were created by the reclassification in 2006 of ways previously recorded as roads used as public paths.

Word or phrase	Definition
Road used as public path (RUPP)	A particular type of way formerly shown on a definitive map. The test for adding a way to the definitive map as a RUPP (in the 1950s) was that its predominant use by the public was by walkers and horse-riders, even though it was not a footpath or bridleway. The term caused confusion all remaining RUPPs were reclassified as restricted byways in 2006.
Surveying authority	The public body responsible for preparing and keeping under continuous review the definitive map and statement of rights of way. They are the same councils that are highway authorities (see above).
Traffic authority	The public body that exercises traffic management powers and is responsible for making traffic regulation orders. They are the same councils that are highway authorities (see above).

The relevant duties of those councils that are highway, surveying and traffic authorities can be summarised as follows:

- to record public rights of way on definitive maps and statements and keep those maps and statements available for public inspection;
- to maintain those highways which are maintainable at public expense;
- to signpost and waymark public rights of way;
- to protect and assert the public's rights of passage over all highways and to keep them free from obstruction and to ensure that landowners fulfil their responsibilities to make good and re-define public rights of way after ploughing or other disturbance, and ensure they are kept free from any encroaching crops;
- to make traffic regulation orders to regulate traffic (including cyclists, horse-riders and walkers) on highways and other roads.

12 References

Acts, regulations and circulars

These can be obtained in printed form online via the TSO Online Bookshop (www.tso.co.uk/bookshop/bookstore.asp) or via the telephone order line 0870 600 5522.

All Acts of Parliament from 1987 onwards, and some from earlier years, are available on the Internet at www.opsi.gov.uk/acts.htm, but note that this site simply gives you the text of the Act as passed. It does not tell you whether or when the Act was brought into force, or if it has been subsequently amended or even repealed. The Statute Law Database at www.statutelaw.gov.uk gives details of legislation as subsequently amended.

Acts

Acts do not automatically come into force when they are enacted (receive Royal Assent), but normally have to be brought into operation by commencement orders made by Parliament. So, for example, some of the provisions in the Countryside and Rights of Way Act 2000 relating to rights of way still remained to be brought into force at the end of December 2007.

- Countryside and Rights of Way Act 2000
www.opsi.gov.uk/acts/acts2000a
This Act contains, in part II and Schedules 5 to 7, most of the changes to legislation referred to as forthcoming changes in this booklet.
- Highways Act 1980
This Act contains, in sections 26 and 118 to 121 and Schedules 2 and 6, the provisions relating to public path and rail crossing orders. Note: The Highways Act 1980 has been amended by several later Acts of Parliament. Important changes in respect of public path orders include those made under Schedule 16 of the Wildlife and Countryside Act 1981 (which amended section 119 and Schedule 6), sections 47-48 and Schedule 2 of the Transport and Works Act 1992 (which inserted provisions relating to rail crossing orders) and Schedule 6 of the Countryside and Rights of Way Act 2000 (which amended section 119 and inserted provisions relating to special diversion and extinguishment orders), the Clean Neighbourhoods and Environment Act 2005

(which inserted provisions relating to gating orders) and the Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006.

- Town and Country Planning Act 1990
www.opsi.gov.uk/acts/acts1990a
This contains, in section 257 and Schedule 14, the provisions relating to orders for rights of way which are affected by development.
- Natural Environment and Rural Communities Act 2006
www.opsi.gov.uk/acts/acts2006a
This Act contains, in section 66-70, provisions extinguishing rights for mechanically-propelled vehicles in certain cases, and other amendments to definitive map procedure.

Regulations

- Dedicated Highways (Registers under Section 31A of the Highways Act 1980) (England) Regulations 2007 SI 2007 No 2334
www.opsi.gov.uk/si/si2007/20072334.htm
These regulations set out the form and content of the registers that surveying authorities are required to keep of plans and declarations made by landowners in respect of admitted rights of way across their land and to protect themselves against future dedications.
- Highways Act 1980 (Gating Orders) (England) Regulations 2006 SI 2006 No 537
www.opsi.gov.uk/si/si2006/20060537.htm
These regulations prescribe the content and procedure for gating orders.
- Highways, Crime Prevention etc.(Special Extinguishment and Special Diversion Orders) Regulations 2003 SI 2003 No 1479
www.opsi.gov.uk/si/si2003/20031479.htm
These regulations prescribe the form of special diversion and extinguishment orders for the purposes of crime prevention and school security.
- Highways (SSSI Diversion Orders) (England) Regulations 2007 SI 2007 No 1494
www.opsi.gov.uk/si/si200714.htm
These regulations prescribe the form of diversion orders for rights of way across SSSIs (Sites of Special Scientific Interest) and associated notices.

- Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993 [SI 1993 No. 407 as amended by SI 1996 No 1978]
www.opsi.gov.uk/si/si1993/Uksi_19930407_en_1.htm
as amended by
www.opsi.gov.uk/si/si1996/Uksi_19961978_en_1.htm
These regulations empower local authorities to charge applicants for public path orders.
- Public Path Orders Regulations 1993 [SI 1993 No. 11 as amended by SI 1995 No 451 and SI 2006 No 1177]
www.opsi.gov.uk/si/si1993/Uksi_19930011_en_1.htm
as amended by
www.opsi.gov.uk/si/si1995/Uksi_19950451_en_1.htm
and www.opsi.gov.uk/si/si2006/20061177.htm
These regulations prescribe the form of public path orders and associated notices.
- Public Rights of Way (Combined Orders) (England) Regulations 2008 SI 2008 No 442
www.opsi.gov.uk/si/si2008/pdf/ukxi_20080442_en.pdf
These regulations set out the types of orders for which surveying authorities may include provisions that also modify the definitive map and statement, and the content of such orders.
- Public Rights of Way (Register of Applications under section 53(5) of the Wildlife and Countryside Act 1981) (England) Regulations 2005 SI 2005 No 2461
www.opsi.gov.uk/si/si2005/20052461.htm
These regulations set out the form and content of the registers that surveying authorities are required to keep of applications for definitive map modification orders.
- Rail Crossing Extinguishment and Diversion Orders Regulations 1993 [SI 1993 No. 9 as amended by SI 1995 No 451 and SI 2006 No 1177]
www.opsi.gov.uk/si/si1993/Uksi_19930011_en_1.htm
as amended by
www.opsi.gov.uk/si/si1995/Uksi_19950451_en_1.htm
and www.opsi.gov.uk/si/si2006/20061177.htm
These regulations prescribe the form of rail crossing orders and associated notices.
- Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 SI 2006 No 1177
www.opsi.gov.uk/si/si2006/20061177.htm
These regulations made amendments to legislation so that it applied also to restricted byways.
- Rights of Way (Hearing and Inquiry Procedure) (England) Rules 2007 SI 2007 No 2008
www.opsi.gov.uk/si/si2007/20072008.htm

These rules set out the procedure and timetable for public inquiries or hearings into opposed definitive map modification and public path orders submitted to the Planning Inspectorate after 1st October 2007.

- Town and Country Planning (Public Path Orders) Regulations 1993 [SI 1993 No.10 as amended by SI 1995 No 451 and SI 2006 No 1177]
www.opsi.gov.uk/si/si1993/Uksi_19930010_en_1.htm
as amended by
www.opsi.gov.uk/si/si1995/Uksi_19950451_en_1.htm
and www.opsi.gov.uk/si/si2006/20061177.htm
These regulations prescribe the form of orders for rights of way affected by development and associated notices.
- Wildlife and Countryside (Definitive Maps and Statements) Regulations 1993 [SI 1993 No 12 as amended by SI 1995 No 451 and SI 2006 No 1177]
www.opsi.gov.uk/si/si1993/Uksi_19930012_en_1.htm
as amended by
www.opsi.gov.uk/si/si1995/Uksi_19950451_en_1.htm
and www.opsi.gov.uk/si/si2006/20061177.htm
These regulations prescribe details of definitive maps and the form of modification orders and associated notices.

Circulars and guidance

- Defra Circular 1/08: Public rights of way
www.defra.gov.uk/wildlife-countryside/issues/public/circular.htm
This is a comprehensive circular giving guidance to local authorities on a wide range of matters relating to public rights of way, including definitive maps and changes to public rights of way and the related orders
 - Department of the Environment, Transport and the regions circular 04/2001 : Countryside and Rights of Way Act 2000
www.defra.gov.uk/wildlife-countryside/cl/circular/index.htm
This circular gives guidance about the provisions in the Countryside and Rights of Way Act 2000.
- Defra has also produced the following guidance, which can be downloaded from its website at the addresses given or obtained from its Recreation and Access Team (see p40 for contact details):
- Combined Orders and the power to include modifications in other orders
www.defra.gov.uk/wildlife-countryside/issues/public/combined-orders.htm

- Guidance for National Park Authorities making Traffic Regulation Orders under section 22BB Road Traffic Regulation Act 1984
www.defra.gov.uk/wildlife-countryside/cl/mpv/index.htm#nppowers
- Non Statutory Guidance on the recording of widths on public path, rail crossing and definitive map modification orders
www.defra.gov.uk/wildlife-countryside/issues/public/non-stat-guid-width.pdf
- Part 6 of the Natural Environment and Rural Communities Act 2006 and Restricted Byways : A guide for local authorities, enforcement agencies, rights of way users and practitioners : 4th edition, November 2006
www.defra.gov.uk/wildlife-countryside/cl/nerco6.htm
- Register of definitive map modification order applications : Guidance for English surveying authorities to accompany Statutory Instrument 2005 No 2461
www.defra.gov.uk/wildlife-countryside/issues/public/index.htm
- Register of Highway Act Declarations, Statements and Maps Guidance for English Local Authorities to accompany Statutory Instrument No 2334
www.defra.gov.uk/wildlife-countryside/issues/public/index.htm

Other publications

Natural England publications

This booklet is one of a series of information booklets available from Natural England Publications.

Other titles include:

- Waymarking Public Rights of Way - CA 77.
- Out in the Country - CA 9. A detailed guide to your rights and responsibilities in the countryside, which includes a glossary of terms to do with rights of way and countryside access.
- Managing public access - CCP 450 (published with the National Farmers Union and Country Land and Business Association). Information for farmers and landowners on rights of way and public access.
- New rights, new responsibilities : What the new countryside access arrangements will mean to you - CA 65
- Drawing the boundaries : mapping and consultation for new countryside access rights - CA 66

The former Countryside Agency (now part of Natural England) has also published jointly with the Countryside Council for Wales a guide, Creation of new public rights of way: A code of practice for local highway authorities and landholders involved in negotiating compensation, available from www.iprow.co.uk/gpg/index.php/Creation_of_Public_Paths#Code_of_Practice

Planning Inspectorate publications

The Planning Inspectorate (see p40) has published Guidance on procedures for considering objections to Definitive Map and Public Path Orders in England about the way it handles opposed definitive map modification and public path orders submitted after 1st October 2007. The guidance both explains and includes a copy of the rules for inquiries and hearings.

The Inspectorate has also published a series of Rights of Way Advice Notes and a set of Consistency Guidelines for definitive map modification orders.

All these publications are freely available from the Inspectorate or via its website:

www.planning-inspectorate.gov.uk/pins/appeals/rights_of_way/rights_way.htm

Rights of Way Review Committee Practice Guidance Notes

The Rights of Way Review Committee (see p41) brings together a wide range of bodies and organisations concerned with public rights of way. It is an informal, non-statutory committee set up to review matters relating to public rights of way with the aim of agreeing, by consensus, proposals for action.

The Committee has published the following Practice Guidance Notes (PGNs), all of which were revised in 2007 and are available from www.iprow.co.uk/gpg/index.php/RWRC_Practice_Guidance_Notes

PGN 1: Code of practice on consultation over changes to public rights of way

PGN 2: Deemed dedication of rights of way: section 31(6) of the Highways Act 1980

PGN 3: Minimising objections to definitive map modification and reclassification orders

PGN 4: Securing agreement to public path orders

PGN 5: Investigating the existence and status of public rights of way

PGN 6: Planning and Public Rights of Way

Other publications

Railway safety principles and guidance part 2, section E Guidance on level crossings (1996). Originally published by the Health and Safety Executive's Railway Inspectorate, and now available from the Office of Rail Regulation www.rail-reg.gov.uk/upload/pdf/rspg-2e-levxngs.pdf

Rights of way: A guide to law and practice, by John Riddall and John Trevelyan. Published by the Ramblers' Association and the Open Spaces Society. 4th edition, 2007. Contains the text of the Acts, regulations and circulars relevant to public path and definitive map modification orders as amended by subsequent legislation. Details at www.ramblers.co.uk/rightsofwaybook or from the Association or Society (see p41).

13 Useful addresses

Government departments and agencies

Administrative Justice & Tribunals Council
81 Chancery Lane, London WC2A 1BQ
Tel: 020 7855 5200
www.ajtc.gov.uk

Department of Environment, Food and Rural Affairs (Defra)
Recreation and Access Team, Zone 1/02, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6EB
Tel: 0117 372 6274
www.defra.gov.uk/wildlife-countryside/index.htm

Local Government Ombudsman (Commission for Local Administration)
Tel: 0845 602 1983 - address varies according to the local authority concerned
www.lgo.org.uk/

National Rights of Way Casework Team
Government Office for the North East, Citygate, Gallowgate, Newcastle upon Tyne NE1 4WH
Tel: 0191 202 3595
email:
national.rightsofway.casework@gone.gsi.gov.uk
www.gos.gov.uk/gone/planning/planning_casework/highways/rights_of_way/

Natural England
1 East Parade, Sheffield S1 2ET Tel: 0114 241 8920
www.naturalengland.org.uk

Natural England Publications
Communis Print Management, Balliol Business Park West, Benton Lane, Newcastle upon Tyne NE12 8EW
Tel: 0800 694 0505
email: natural.England@communis.com
<http://naturalengland.communis.com/NaturalEnglandShop/>

Office of the Parliamentary and Health Service Ombudsman
Millbank Tower, Millbank, London SW1P 4QP
Tel: 0845 015 4033
www.ombudsman.org.uk

Planning Inspectorate
Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN
Tel: 0117 372 6372
www.planning-inspectorate.gov.uk

Standards Board for England
Fourth Floor, Griffin House, 40 Lever Street, Manchester M1 1BB
General enquiries tel: 0161 817 5300
email: enquiries@standardsboard.gov.uk
Complaints tel: 0800 107 2001
email: newcomplaints@standardsboard.gov.uk
www.standardsboard.gov.uk

Wales

For advice on the application of definitive map procedures in Wales, contact:
Countryside Council for Wales
Maes y Ffynnon, Ffordd Penrhos, Bangor Gwynedd LL57 2LQ
Enquiry line: 0845 1306 229
www.ccw.gov.uk

Welsh Assembly Government
Cathays Park, Cardiff CF10 3NQ
Tel: 029 2082 5111
www.wales.gov.uk

Voluntary organisations

Auto Cycle Union
Wood Street, Rugby, Warwickshire CV21 2XY
Tel: 01788 566400
www.acu.org.uk

British Driving Society
83 New Road, Helmingham, Stowmarket, Suffolk IP14 6EA
Tel: 01473 892001
www.britishdrivingsociety.co.uk

British Horse Society
Stoneleigh Deer Park, Kenilworth, Warwickshire CV8 2XZ
Tel: 0844 848 1666
www.bhs.org.uk

Byways and Bridleways Trust
PO Box 117, Newcastle upon Tyne NE3 5YT
www.bbtrust.org.uk

Chiltern Society
The White Hill Centre, White Hill, Chesham,
Bucks HP5 1AG
Tel: 01494 771250
www.chilternsociety.org.uk

Country Land and Business Association
16 Belgrave Square, London SW1X 8PQ.
Tel: 020 7235 0211
www.cla.org.uk

Cyclists Touring Club
Parklands, Railton Rd, Guildford, Surrey GU2 9JX
Tel: 0870 873 0060
www.ctc.org.uk

National Farmers Union
Agriculture House, Stoneleigh Park, Stoneleigh,
Warwickshire CV8 2TZ
Tel: 024 7685 8500
www.nfu.org.uk

Open Spaces Society
25A Bell Street, Henley-on-Thames, Oxon RG9 2BA.
Tel: 01491 573535
www.oss.org.uk

Peak and Northern Footpath Society
Taylor House, 23 Turncroft Lane, Offerton,
Stockport SK1 4AB
Tel: 0161 480 3565
www.peakandnorthern.org.uk

Ramblers' Association
2nd Floor, Camelford House,
87-90 Albert Embankment, London SE1 7TW
Tel: 020 7339 8500
www.ramblers.co.uk

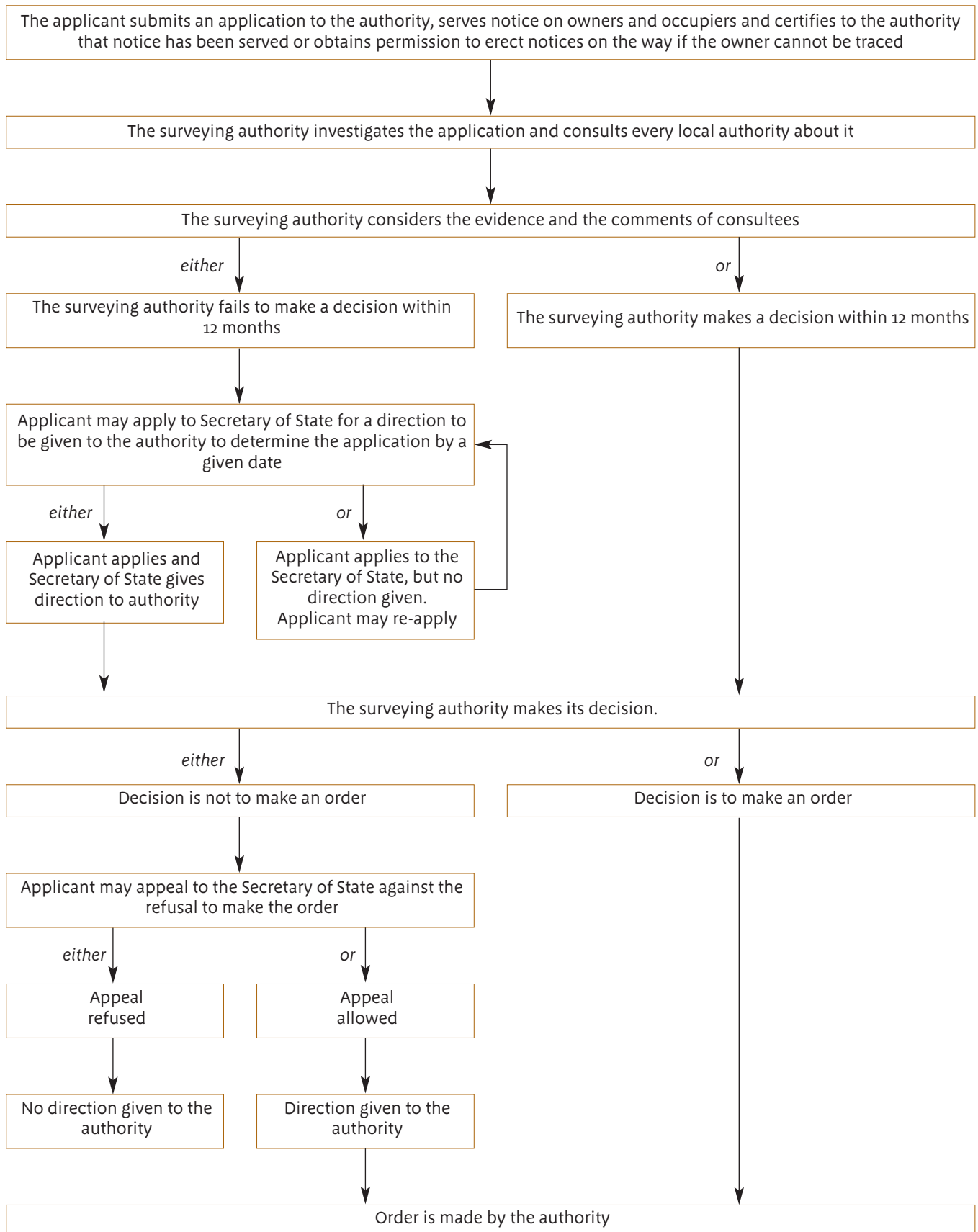
Rights of Way Review Committee
15 Lansdown Park, Bath BA1 5TG
email: suetoland@hotmail.com

The Countryside Code

- Leave gates and property as you find them
- Protect plants and animals, and take your litter home
- Keep dogs under close control
- Consider other people
- Be safe - plan ahead and follow any signs

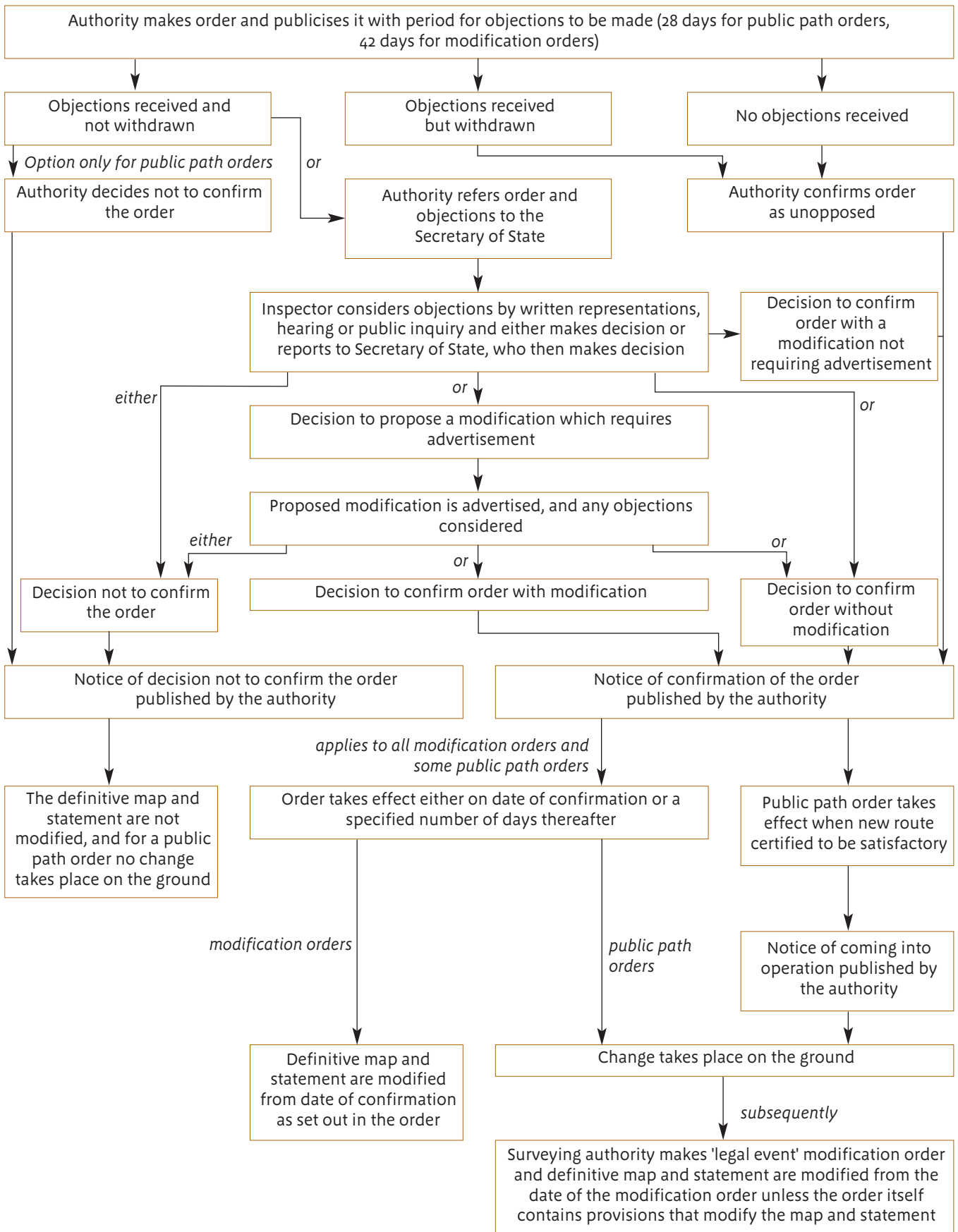
Flowchart:

Applications for modification orders



Flowchart:

Procedure for modification and public path orders





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PAPER J

Traffic / Highways Requests

Date of Planning Meeting	Agenda No.	Agenda item	Resolution	Email/letter sent?	Response	Action taken?	Notes
2021 - 2022							
26/05/2021	N/A	TRAFFIC REGULATIONS ORDER REQUEST (Paper L) Committee considered a request from a member of the public to install double yellow lines on Spital Hill from the junction of Hawthorn Avenue heading up towards Corringham Road.	RESOLVED to write to the County Councillor requesting that the inclusion of double yellow lines be looked into from the Hawthorn Avenue junction heading up towards Corringham Road due to the lack of visibility when cars are parked on the junction.	Letter	28.10.2024 - nothing further - contact Cllr Boles	13.11.2024 - emailed Cllr Boles	
26/05/2021	N/A	Committee considered a request from a member of the public to install a speed reduction device near Wintern Court on Lea Road.	RESOLVED to write to the County Councillor requesting that a speed reduction device be looked into being installed near Wintern Court on Lea Road.	Letter	28.10.2024 - nothing further to be done		
2022 - 2023							
28/06/2022	PL23/037	To consider Traffic Regulation Order request from Thonock Park for a speed reduction on the Belt Road, Gainsborough, or/and speed calming measures (the current SLOW painted on the road needs re-painting), the junction between The Avenue, The Belt Road and Thonock Park is notoriously bad.	The Committee resolved to support the request for traffic calming measures on the Belt Road.	ASO to write to the County Councillor and applicant advising the Council support their TRO request.	From Cllr Matthew Boles - "This was discussed at the Gainsborough Transport Strategy Board on Monday (26th September) and will be looked in conjunction with potential junction improvements at the golf club junction and the junction at the bottom of the hill. It was agreed that one full scheme of works addressing all current & future issues would be the way to progress"		Email chain can be found in "Planning" --> "2024 - Response Log --> "PL23037 - Belt Road Speed Reduction - Thonock Park"
23/08/2022	PL23/088	Gainsborough Transport Strategy summary document To note LCC new strategy which aims to improve transport and support future development to 2036 and beyond. Paper F	The Committee noted the Gainsborough Transport Strategy summary document. The Committee resolved to write to Cllr Richard Davies, Executive Councillor for Highways & Transport at LCC raising concerns that the Belt Road isn't specifically mentioned in the strategy to improve transport and support future development with the northern SUE in the pipeline.	DC to send a letter to Richard Davies at LCC.	Done		
27/09/2022	PL23/113	Gainsborough Transport Strategy May 2022 - 2036 To receive the full LCC new strategy which aims to improve transport and support future development to 2036 and beyond. Paper H	The Committee resolved to contact Cllr Boles (LCC) to see if any progress has been made following supporting traffic calming measures on The Belt Road in June and write to Cllr Richard Davies (LCC) regarding the same issue.	DC to write to Cllrs Boles & Davies (LCC)	Done		
27/09/2022	PL23/116	CCTV Safe zone To consider Cllr Dobbie request for a CCTV safe zone.	The Committee resolved to write to WLDC requesting they look into a CCTV safe zone in the Town Centre.	DC to write to WLDC.	Response from Grant White - Rachel to look through emails		
27/09/2022	PL23/117	To consider Cllr Craig issues with traffic on Cross Street.	The Committee resolved to write to the local Lincolnshire County Councillor to request that LCC look into making Cross Street one way due to road safety concerns.	DC to write to Cllr Young	28.10.2024 - not had anything back	14.11.2024 - emailed Cllr Young	
25/10/2022	PL23/187	Land off Corringham Road (The Gap) To consider approaching WLDC to make the area a designated Dog Walk.	The committee resolved to approach West Lindsey District Council requesting the area be turned into a designated dog walk with gated fencing at its northern end.	TC to write to WLDC.	PL23/265- "The Gap off Corringham Road To consider response from WLDC Paper J" The Committee resolved to note the below response from WLDC - Our position currently is that we would not wish for this site to become a specific area for designated dog walking. Our reasons for this are as follows: - The area is identified as Important Open Space in the new Local Plan (Policy S65). Making it designated for dog walking may limit the general public's ability to use it. - The area is currently a well-used pedestrian access connecting different parts of the town and is important for connectivity. This is a public right of way and would need to remain so. - Any designation of dog walking land would require further management and development of the land by the Council, which it is not prepared to do currently. - If the area were to be enclosed for use in this way, it may require planning permission as it could be a material change of use.	Response details can be found in 25.04.2023 minutes	
28/03/2023	PL23/235	Lea Road Traffic Calming To consider correspondence received regarding speeding traffic on Lea Road and consider supporting the complaint and forwarding it to the highways Authority. Paper L	The Committee resolved to write to the local Lincolnshire County Councillor advising the Town Council support the complaint and to request that LCC look into implementing traffic calming measures.	DC to write to the County Councillor.			No longer relevant - mph dropped

Traffic / Highways Requests

28/03/2023	PL23/236	Pingle Hill Cycling Issue To consider concern raised regarding cyclists using Pingle Hill and no chicane fencing.	The Committee resolved to write to the local Lincolnshire County Councillor advising the Town Council support the complaint to request that LCC look into traffic calming measures.	DC to write to the County Councillor	We did ask for the bottom of Pingle Hill - okay to leave as is		Done - barriers are now in place - cemetery
28/03/2023	PL23/237	Heapham Road Traffic Calming To note a complaint regarding speeding cars on Cox's Hill and Heapham Road and consider supporting the complaint and forwarding it to the highways Authority. Paper M	The Committee resolved to write to the local Lincolnshire County Councillor advising the Town Council support the complaint and to request that LCC look into implementing traffic calming measures.	DC to write to the County Councillor	No longer relevant		
2023-2024							
26/09/2023	PL24/103	Proposed Removal of Puffin Crossing – Lea Road, Gainsborough To consider consultation from LCC regarding proposed removal of puffin crossing on Lea Road. Paper F	The Committee resolved to request that the removal of the puffin crossing on Lea Road is not until the build of the roundabout begins and that all entrance and exits of the roundabout have refuge island to aid pedestrian safety.	Email - 27.09.2023	Thank you for your email dated 27 September regarding the above proposal. Both legs of the new roundabout going north along Foxby Hill and south along Lea Road will include refuges to support pedestrians crossing at these points, while the existing Puffin crossing on the northern leg will remain. I regret that owing to the complexity of the works the installation of these crossing points is integral to the construction of the roundabout. It will therefore not be possible to build these in advance. We will, however, have temporary provision for pedestrians set up throughout the works to maintain public safety.		No longer relevant
28/11/2023	PL24/153	Dropped Kerbs (Paper F) Members considered the complaint received regarding the lack of dropped kerbs to enable mobility scooter users access throughout the town.	RESOLVED: to contact the County Councillors requesting consideration be made to extend the network of cycleways and Toucan crossings within the town.	Letter - 29.11.2023	28.10.2024 - no response yet		
26/03/2024	PL24/237	Lord Street To consider vehicular movement issues on Lord Street, Gainsborough.	RESOLVED: to write to LCC and County Councillor to look at loading and unloading times (i.e. 7am to 9am or 4pm to 6pm), a time limit and no vehicular access on market days.	Letter - 08.04.2024			Work on bollards - Lord Street and Silver Street - that is being worked on currently.
23/04/2024	PL24/261	Traffic Regulation Orders Members considered requests for additional road signage *Request for additional school crossing signage and markings on North Street. *Request for signage and markings at the Church Street + Gladstone Street intersection.	RESOLVED to write to the local County Councillor asking for additional school crossing signage on North Street, and advise of concerns on Church Street / Gladstone Street intersection.	Letter - 29.04.2024	28.10.2024 - no response yet		
2023-2024							
16/07/2024	PL25/056	Traffic Regulation Orders Members considered two requests from a member of the public for zebra or pelican crossings. 1.Caskgate Street, directly outside Sports Direct on the raised section 2.Ropery Road, before or after the turn into Cobden Street	RESOLVED to support the request for a zebra crossing on Caskgate Street (directly outside Sports Direct) due to the access to the riverside walk and the regeneration of the Baltic Mill site and to write to the local County Councillor asking for it to be looked into.	Letter - 24.07.2024	06.08.2024 - Cllr Young response to Town Clerk inbox: "I can confirm that I made a request to Lincolnshire County Highways for a zebra crossing some months ago and they are currently carrying out a feasibility study. Once they have made a decision I will update you along with the timescales."		
20/08/2024	PL25/074	Traffic Regulation Order (Paper B) Parking on Etherington Street.	RESOLVED: to write to the ward County Councillor about the enquiry for Etherington Street regarding a specified bay for parking for that specific property.	Letter - 22.08.2024	28.10.2024 - no response yet (just double-check it)		
20/08/2024	PL25/075	Traffic Regulation Order (Paper C) Parking on Mercer Road.	RESOLVED: to write to the ward County Councillor regarding extending double yellow lines on Mercer Road from Ropery Road.	Letter - 22.08.2024	28.10.2024 - no response yet		

Traffic / Highways Requests

20/08/2024	PL25/076	Coach Parking	RESOLVED: to write to West Lindsey District Council to request coach parking spaces to be allocated in the Poundstretcher carpark on Ropery Road.	Email - 22.08.2024	<p>Coach parking was considered under the current parking strategy 2022-2025. The report, subsequent findings & recommendations went before our Land, Property & Growth board for discussion and actions.</p> <p>The report can be found online here with coach parking found on page 24: West-Lindsey-DC-Appendix-1-Parking-Strategy-Report-Parking-Matters.pdf (patrol-uk.info)</p> <p>As outlined in the report, riverside car park was identified as a potential car park for coach parking however as outlined in the report it is usually difficult to justify using town centre car parks due to the number of bays you would lose, alongside relevant weight limits within proposed car parks & the engineering feasibility etc.</p> <p>With this being the case, at that time it was agreed that the current on-street coach pick up & drop off points provided on both Gladstone Street & Hickman Street alongside long stay coach parking provided at Gainsborough leisure centre is sufficient for demand. There are currently 6 coach parking bays for use at Gainsborough leisure centre.</p> <p>West Lindsey have not had any information or contact to suggest otherwise and contact that we have had with coach companies has always been generally positive with these arrangements.</p> <p>For confirmation the car park strategy is due for renewal next year, again as part of the new parking strategy coach parking will once again be included.</p> <p>Hopefully this helps but if you have any more queries please do not hesitate to drop me an email.</p>		
18/09/2024	PL25/096	Hedgehog Crossing Signs (Paper H) Members considered a request from a member of the public regarding hedgehog crossing signs on The Avenue.	RESOLVED: to support the request, asking Lincolnshire County Council for permission to put temporary signs in place (before purchasing), signs which are reusable for future use on other sites.	Letter - 20.09.2024	28.10.2024 - as of now, no response		