

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H02-0500-26 **Applicant:** Mrs K Hutson

Proposal: Erection of Detached Single Storey Dwelling - Approved under H02-0866-25. Amendment to omit integral car port to increase rear garden area

Location: Land Rear Of 75 South Street Crowland

Terminal Date: 24th June 2026

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework December 2024

Section 96A of the Town and Country Planning Act 1990 (as amended)

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This application has been submitted pursuant to Section 96A of the Town and Country Planning Act 1990 (as amended) and seeks a non-material amendment to planning permission H02-0866-25.

The applicant seeks to amend the approved development through:

- Removal of the approved car port;
- Submission of external materials details;
- Submission of surface water drainage details; and
- Amendments to the approved site layout plan, including the apparent repositioning of the dwelling.

The approved car port is located to the south of the dwelling adjacent to the approved access. The submitted plans seek to remove this element from the scheme. In addition, the applicant has provided drainage information and details of external materials which are matters currently controlled through conditions attached to the planning permission.

Site Description

The application site is located within the Crowland Conservation Area, close to its south-western boundary.

The site lies to the east of Hereward Way and to the rear of properties fronting South Street and Reform Street. Historically the land formed part of a commercial and agricultural yard containing a variety of buildings of limited architectural and visual merit. The site has subsequently benefited from planning permission for residential redevelopment and forms part of a wider area undergoing residential transition.

The surrounding area contains a mixture of existing residential development together with recently approved and proposed residential schemes. The application site benefits from an extant permission for a detached dwelling forming part of a wider residential development. Further residential development has either recently been approved or remains under consideration on adjoining land.

The site lies within Flood Zone 1 according to the Environment Agency Flood Maps. The South East Lincolnshire Strategic Flood Risk Assessment identifies the area as being within a "Danger for Most" residual flood hazard area associated with breach modelling.

History

H02-0866-25 - Erection of Detached Single Storey Dwelling. Approved 22.01.2026

H02-0234-22 - Full - Erection of 4 Dwellings. Approved 20.06.2022

H02-0151-24 - Full - Erection of 6 Detached Dwellings. Approved 21.06.2024

H02-0644-25 - Full - Erection of 2 Dwellings with Garages. Pending Consideration

H02-0598-25 - Proposed Residential Development Comprising 3 Detached Dwellings. Approved

Scope of Assessment for Non-Material Amendments

Section 96A of the Town and Country Planning Act 1990 enables a Local Planning Authority to make changes to an existing planning permission where those changes are considered to be non-material.

There is no statutory definition of what constitutes a non-material amendment and the question is therefore one of fact and degree, requiring the exercise of planning judgement in each individual case.

As an application to make a non-material amendment is not an application for planning permission, Section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply.

Government guidance confirms that applications submitted under Section 96A are not subject to the statutory consultation and publicity requirements contained within the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Planning Practice Guidance states:

"As an application to make a non-material amendment is not an application for planning permission, the existing Town and Country Planning (Development Management Procedure) (England) Order 2015 provisions relating to statutory consultation and publicity do not apply. Therefore local planning authorities have discretion in whether and how they choose to inform other interested parties or seek their views."

The guidance further confirms that consultation and publicity are generally unlikely to be necessary because, by definition, the changes sought should be non-material.

Consultation Responses

None requested.

Planning Considerations

South Holland District Council has adopted guidance relating to the assessment of non-material amendment applications.

Non-Material Amendment Criteria

Each application will be considered on its merits. The proposed change may be a non-material amendment if:

1. There would be no change to the application site boundary and the proposal would be located within it (red line boundary)
 2. The amendment would not conflict with development plan policies or other Government guidance
 3. There would be no conflict with any conditions on the planning permission
 4. The proposal would not make worse any concerns raised by third parties when the original planning permission was considered
 5. The approved footprint/siting of the building will not be moved in any direction by more than 1 metre
 6. The proposal would not result in an extension to development already approved
 7. The height/volume of the building or extension would not be increased or significantly reduced
 8. The amendments must not result in a fundamental change in the design of the building
 9. The change does not amount to new works or elements which have not been considered by any environmental statement submitted with the original application
 10. Amendments to windows/doors/openings must not have any overlooking impact on neighbouring properties
 11. There would be no change to the description of development in respect of number of proposed units
- These criteria are designed to prevent amendments being accepted that would have a harmful impact.

If the above cannot be met:

- a Section 73 application or
- a new full application may be required

Assessment

The proposed removal of the approved car port would not, in isolation, materially alter the scale, appearance or nature of the approved development. Had this been the only amendment sought, it may reasonably have been capable of being regarded as non-material.

However, the application also seeks approval of external materials and drainage details.

These matters are expressly controlled through Conditions 3 and 4 attached to planning permission H02-0866-25.

Condition 3 requires the submission and approval of full details of the means of surface water disposal before development beyond oversite is commenced.

Condition 4 requires the submission and approval of a schedule of external materials prior to commencement beyond oversite.

The reason for Condition 4 specifically identifies the need for the Local Planning Authority to retain control over external materials in the interests of the character, appearance and visual amenity of this part of the Conservation Area.

The Local Planning Authority considers that these conditions were imposed because the details had not been approved as part of the original planning permission and required separate technical assessment before development could proceed.

The assessment of drainage details may require consultation with relevant drainage bodies and technical officers. Likewise, the assessment of external materials within the Conservation Area may require specialist heritage advice from the Council's Conservation Officer.

Government guidance confirms that applications submitted under Section 96A are not subject to statutory consultation procedures. The Local Planning Authority considers that approval of drainage and materials details through the Section 96A process would therefore bypass the separate technical assessment process established through Conditions 3 and 4.

Furthermore, approval of such details through the non-material amendment process would significantly prejudice, and potentially predetermine, the outcome of any future discharge of

condition application. The drainage strategy and external materials would effectively become incorporated into the approved development without having been assessed through the mechanism specifically established by the original planning permission.

Unlike an application made pursuant to Conditions 3 and 4, **a Section 96A determination does not result in the grant of a new planning permission and there is no mechanism to impose additional conditions governing the implementation or amendment of the submitted details.**

The Local Planning Authority therefore considers that the proposed inclusion and approval of drainage details and external materials would materially alter the manner in which the planning permission operates and cannot reasonably be regarded as a non-material amendment.

In addition, the amended site layout plan appears to alter the approved siting of the dwelling. The Council's adopted guidance states that the approved footprint or siting of a building should not be moved by more than one metre. Whilst the precise extent of the amendment has not been verified, the submitted plans indicate that the dwelling may have been repositioned beyond that originally approved. This further weighs against the proposal being regarded as non-material.

Taking all matters into account, the Local Planning Authority is not satisfied that the amendments sought fall within the scope of Section 96A of the Town and Country Planning Act 1990.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:

A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act

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

C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

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

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

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

Human Rights

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

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

Conclusion

The proposed amendments seek approval of drainage and external material details that are expressly reserved for subsequent approval through Conditions 3 and 4 of planning permission H02-0866-25. The Local Planning Authority considers that approval of such matters through this application would result in a material change to the overall planning permission.

These changes are therefore considered material and the application is recommended for refusal.