DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H05-0439-22**	**Applicant:**	**GEDA Construction**
Proposal:	Residential Development - 55 dwellings including demolition of existing house - approved under H05-0670-20. Amendments to swale design and landscaping.		
Location:	Land Off Fleet Road Holbeach Spalding		
Terminal Date:	25th May 2022		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2021

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

Proposal

The site has outline planning permission and reserved matters approval for 55 dwellings including demolition of the existing dwelling (ref. H05-1183-16 and H05-0670-20). This application is solely to amend the design of the swales, which essentially involves the removal of the curved bends which are problematic from a construction point of view. A further S73 application has been submitted to revise other more significant elements of the scheme (ref. H05-0446-22).

Site Description

The application site (approximately 3.6ha) is currently grassland located to the rear of residential properties on the southern side of Fleet Road. Dwellings are situated to the north fronting Fleet Road, including semi-detached houses off Chapman Mews. Land to the east is the subject of outline planning permission ref. H05-0468-18 (phase 2). Residential properties are located to the west off Branches Lane.

Relevant Planning History

H05-1183-16 - O/A - Residential development - 55 dwellings including demolition of existing house - Granted 25 January 2018 subject to S106 planning agreement dated 15 January 2018.

H05-0468-18 - O/A - Residential development (Phase 2) - 25 dwellings (access via Phase 1 approved by virtue of planning permission ref. H05-1183-16) - Granted 1 April 2019 subject to a

S106 planning agreement.

H05-0670-20 - RM - Residential Development - 55 dwellings including demolition of existing house - outline approval H05-1183-16 - Approved 11 October 2021.

H05-1168-21 - Cond Comp - Details of boundary screening, roads & footways, surface water drainage, foul water disposal, construction management plan, plan illustrating areas of publicly accessible open space, landscape management & maintenance schedule, means & storage of refuse & recycling and scheme to deal with contamination & pollution (Conditions 5, 6, 9, 10, 11, 12, 15, 16 & 18 of H05-1183-16) - Approved 1 March 2022.

H05-1209-21 - Cond Comp - Details relating to estate road & associated footways & finished surface levels, management plan for open spaces & outdoor play areas and protected species survey (Conditions 8, 14 & 19 of H05-1183-16) - Approved 28 February 2022.

H05-0066-22 - Modified Agreement - Modification of 106 Agreement to update clause 8.10 (mortgagee in possession to bring in to line with current policy) - relating to planning approval H05-1183-16 - Under consideration.

H05-0303-22 - RM - Residential Development of 25 Dwellings (Phase 2) outline approval H05-0468-18 (with access via Phase 1 approved by virtue of planning permission H05-1183-16) - Under consideration.

H05-0204-22 - S73 - Residential Development - 55 dwellings including demolition of existing house - approved under H05-1183-16. Modification of Conditions 7 & 8 relating to highway & footpath details - Under consideration.

H05-0446-22 - S73 - Residential development - 55 dwellings including demolition of existing house - approved under H05-0670-20. Modification of Condition 1 to allow amendments to previously approved plans - Under consideration.

Planning Considerations

Section 96A of the Town and Country Planning Act 1990 (introduced by S190 of the Planning Act, 2008) makes it possible to apply for a non-material amendment to existing planning permissions.

The Council has therefore introduced a system whereby 'minor amendments' to a scheme can be considered as a way of allowing the planning system to respond in a reasonable and flexible manner to small changes to an approved scheme without seeking a fresh application.

South Holland District Council's "Development Control Procedure Note: Non-Material Amendments to Planning Permissions" indicates that non material amendments will be approved subject to the following criteria being met:

1. There would be no alteration to the application site boundary (red edge).
2. The amendment would not conflict with Development Plan Policies or other Government Guidance.
3. The proposal would not exacerbate concerns raised by third parties at original planning application stage.
4. The proposed change would not be contrary to a condition on the original approval.
5. The approved footprint/siting of the building will not be moved materially and will not have a material impact on a neighbour.
6. The height of the building or extension would not be increased.
7. The amendment would not result in any potential overlooking of any neighbouring property.
8. The amendments must not result in a fundamental change in the design of the building.
9. The proposal does not amount to new works or elements not considered by any Environmental Statement submitted with the application.

The criteria set out above are designed to prevent amendments being accepted that would have a detrimental impact upon neighbours or amenity in the wider public interest.

Assessing the proposal against the above:

1. No alterations are proposed to the site boundary;

2. The proposed alterations are minor and would not conflict with the South East Lincolnshire Local Plan, 2019;
3. No concerns were raised by third parties specifically relating to the design of the swales;
4. No specific conditions were imposed relating to this element;
5. No building would be moved;
6. The height would not be increased;
7. No potential overlooking issues would arise as a result of the amendment;
8. The proposal wouldn't fundamentally alter the design/appearance of the development;
9. No Environmental Statement was submitted.

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 proposal satisfactorily complies with the criteria of the South Holland District Council's "Development Control Procedure Note: Non-Material Amendments to Planning Permissions", and as such is acceptable as a Non-Material Amendment.