DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H08-0438-20**	**Applicant:**	**Mr A Drakard**
Proposal:	Residential Development - approved under H08-0252-19. Amendment to show removal of footpath		
Location:	Land Rear 1 Clough Road Gosberton Risegate Spalding		
Terminal Date:	2nd July 2020		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development

National Guidance

National Planning Policy Framework 2019

Section 9 - Promoting sustainable transport

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

Proposal

Outline planning permission was granted in March 2016 for 6 dwellings under application ref. H08-0033-16. This was modified under application ref. H08-0670-16 to remove the requirement for affordable housing.

Condition 6 of H08-0670-16 required the provision of a 1.5 metre wide footway to link the permitted dwellings to the existing footway network at Clough Road prior to occupation of any of the dwellings.

However, under application ref. H08-0286-20, this condition was removed due to an insufficient amount of land being available within the applicant's control upon which to construct the footway.

The purpose of this application is to remove the footpath from the previously approved Site Plan which formed part of the Reserved Matters approval.

Site Description

A greenfield site fronting on to Beach Lane. The rear of residential properties which front on to

Clough Road adjoin the northern boundary. There are open boundaries on the other 3 sides. There is a combination of hedging and fencing along the northern boundary as well as tall mature trees. There are a mixture of bungalows and two-storey dwellings that front on to Clough Road to the north.

History

H08-0286-20 - Residential Development - approved under H08-0670-16. Modification of Condition 6 to remove footpath condition (approved June 2020)

H08-0932-19 - Details of landscaping and boundary treatment and contamination (Conditions 5 and 10 of H08-0670-16) (approved January 2020)

H08-0252-19 - Reserved matters application for residential development - erection of four dwellings approved under H08-0670-16 (approved April 2019)

H08-0670-16 - Residential development - 6 dwellings (re-submission of H08-0590-15) - Removal of Condition 6 of H08-0033-16 relating to affordable housing provision (approved September 2016)

H08-0033-16 - Outline application for residential development - 6 dwellings (re-submission of H08-0590-15) (approved March 2016)

H08-0590-15 - Outline application for residential development - maximum six dwellings (refused December 2015)

Consultation Responses

Not applicable.

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.

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 amendment 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 application against the above criteria:

1. No alterations are proposed to the site boundary;
2. The proposal would not conflict with policies in the South East Lincolnshire Local Plan, 2019;
3. Concern was raised by a resident about pedestrian safety at outline stage however, for the reasons given at point 8, the requirement for the footpath has since been removed with no objection from the Highways Authority;
4. The proposed change would not be contrary to the latest s73 approval relating to the original outline;

5. The positioning of the buildings would not be materially altered;
6. There would be no height increase;
7. No potential overlooking issues would arise;
8. The removal of the footway would alter the design of the development from that approved. However, in order to construct the footway, a conifer hedge belonging to an adjacent landowner would need to be removed. Given that the land required for the construction of the footway is not in the applicant's nor Highway Authority's control, it was concluded in application ref. H08-0286-20 that this was part of the permission that could not be reasonably complied with. As such, in the absence of an objection from the Highways Authority previously, it is considered a reasonable alteration.
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

Overall, it is considered that the proposed amendment satisfactorily complies with the criteria of South Holland District Council's Development Control Procedure Note Non-Material Amendments to Planning Permission and, as such, is acceptable as a Non-Material Amendment.