

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H08-1031-25 **Applicant:** R K Wilson Builders Ltd.

Proposal: Erection of 6 single storey dwellings and garages, formation of parking and bin collection point and reinstatement of existing access - approved under H08-0282-24. Amendments to foundation design to that required under Condition 3 of approval H08-0282-24

Location: Riseholme Farm Windmill Lane Gosberton Risegate

Terminal Date: 18th November 2025

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

04 Approach to Flood Risk

National Guidance

National Planning Policy Framework December 2024

Section 2 - Achieving sustainable development

Section 4 - Decision-Making

Section 12 - Achieving well-designed places

Section 14 - Meeting the challenge of climate change, flooding and coastal change

Representations:

	Object	Support	No Obj.	Comments
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CASE OFFICER ASSESSMENT

Proposal

This is an application made under S96A of the Town & Country Planning Act 1990 (as amended) to amend a previously approved permission. Planning permission was achieved under H08-0282-24, for the following:

Erection of 6 single storey dwellings and garages, formation of parking and bin collection point and reinstatement of existing access.

The applicant proposes the following amendments:

Minor amendment to foundation design to that required under Condition 3 of approval H08-0282-24.

The applicant has provided plans showing a proposed strip foundation for all 6 plots.

Site Description

The site is a farm on the northern side of Risegate Road, Gosberton Risegate. The red line of the application site is situated around a part of the farm which had commercial greenhouses on it, removed prior to the original submission.

The railway line is located to the east of the paddock. The site is set back from the road, and does not front the street. The site is within the defined settlement boundary of Gosberton Risegate & Clough which is designated as an 'Other Service Centre'. The application site benefits from planning permission to erect six number dwellings.

History

H08-0282-24 - Erection of 6 single storey dwellings and garages, formation of parking and bin collection point and reinstatement of existing access. Approved 30-05-24.

Scope of Assessment for Non-material amendments

As an NMA is not an application for planning permission, section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply.

The local planning authority must have regard to the effect of the change, together with any previous changes made under section 96A. They must also take into account any representations made by anyone notified, provided they are received within 14 days of notification. As this is not an application for planning permission.

In this instance there is one pending NMA (see planning history) and the Historic Environment Team have also been consulted.

Consultation Responses

Non-requested.

Planning Considerations

The Local Planning Authority has powers under Section 96A of the Town and Country Planning Act 1990 to make a "non-material" change to a planning permission if the Local Planning Authority is satisfied that the change is not material. There is no statutory definition of "non-material"; this is because it is dependent on the context of the overall scheme. As such, an amendment that is considered to be non-material in one context, may be material in another.

South Holland District Council Local Planning Authority sets out criteria for non-materials amendments. This is set out on the council webpages. It states:

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 proposal would include the following changes:

1. The applicant describes the changes as "Minor amendment to foundation design to that required under Condition 3 of approval H08-0282-24".

The wording (and requirement) of condition 3 is therefore relevant to this assessment. It states that: "The development hereby permitted shall be carried out in accordance with the measures set out in the Flood Risk Assessment prepared by RM Associates dated March 2024 forming part of this planning application, unless otherwise agreed in writing by the Local Planning Authority, in particular the following measures shall be fully implemented before the property is first occupied:

- The ground floor levels of the dwellings should be at least 300mm above the existing ground level and a maximum of 450mm above the level of RiseGate Road, south of the development site.
- Water, electricity and gas meters should be located above the predicted flood level. Electrical services, electrical sockets, heating systems boiler units and ancillary devices should be installed at least 500mm above the ground level to minimise damage to electrical services. Electrical ring mains should be installed at high level with drops to ground floor sockets and switches.
- The ground floors should be constructed with a solid concrete floor with no voids beneath and no low level wall vents.
- Avoid the use of mineral fibre insulation to the ground floor level (walls and floor) and use a rigid closed cell material as these retain integrity and have low moisture take up.
- All service entries should be sealed (e.g. with expanding foam or similar closed cell material). Closed cell insulation should be used for pipes which are below the predicted flood event.
- As this is an area that is capable of receiving flood warnings from the Environment Agency Floodline Warning Direct system on 0345 988 1188, property owners/occupiers should register each property with them to receive advance warning of flooding by telephone, mobile, fax, SMS text, email or pager. The Environment Agency aim to issue a 'severe flood warning' approximately 2 hours before existing defences are overtopped.

Reason: To ensure that the development does not increase the risk of flooding or be at risk of flooding. This Condition is imposed in accordance with Policies 3 and 4 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 14 of the National Planning Policy Framework, December 2023."

Whilst the applicant has provided a series of foundation plans and technical information regarding air bricks (flood resilient ones), the submission does not provide an update of the Flood Risk Assessment approved under H08-0282-24. Condition 3 was derived from the mitigation measures outlined in this report by RM Associates.

Under the heading 'Flood Resilience Construction' contained on page 14, the FRA outlines the following:

Any impact of damage to the properties can be foreseen and mitigated against by relatively simple design and construction techniques. There are two forms of flood protection works:

Flood-resistance or proofing works- these try to reduce the amount of water entering a building.
Flood-resilient works: - these reduce the amount of damage caused by water entering the building.
The report recommends that the proposed development will have flood resilient measures incorporated in the construction in accordance with "Improving the flood performance of new buildings" CLG (2007) one of which is "The ground floor to be constructed with a solid concrete floor with no voids beneath and no low-level wall vents".

Point 8 of the SHDC guidance on non-material amendments states that "The amendments must not result in a fundamental change in the design of the building". Given the mitigation measures set out by the FRA in that "The ground floor to be constructed with a solid concrete floor with no voids

beneath and no low-level wall vents". The move to a strip foundation with voids beneath would represent a fundamental change in the design of the building.

Moreover, the new proposed foundation design is not supported by any flood related justification (an updated FRA). Given the application site is located within flood zone 3 in accordance with EA maps, it would be necessary to receive and consult upon such design changes that are imperative to the safety of future residents as regards flood risk.

The approved Flood Risk Assessment (FRA) formed a fundamental component of the permission, setting out site-specific mitigation measures necessary to ensure the development's safety and compliance with national and local flood risk policy. One of the key resilience measures identified within the FRA was the requirement for the ground floor to be constructed as a solid concrete slab, with no voids beneath and no low-level wall vents, in order to minimise the risk of floodwater ingress and structural instability during a flood event. The proposed alteration to introduce a strip foundation with voids beneath would materially compromise these mitigation measures by creating potential pathways for floodwater to enter beneath the building. This would undermine the basis upon which the original permission was considered acceptable in flood risk terms and therefore constitutes a material change to the approved design. As such, the amendment cannot reasonably be regarded as non-material under Section 96A of the Town and Country Planning Act 1990 (as amended).

This position is consistent with Policy 4 of the South East Lincolnshire Local Plan (2019), which seeks to ensure development is appropriately designed to mitigate and manage flood risk, and with Paragraph 167 of the National Planning Policy Framework (NPPF), which requires that development in areas at risk of flooding incorporates suitable resilience and resistance measures.

It is therefore considered that the changes proposed by this application are considered to have a material effect upon the previously approved scheme.

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

Having regard to the effect of the change, together with previous changes made under section 96A it is considered that the proposals would have a material effect upon planning permission previously granted and would materially affect the purpose of the conditions attached that permission.

The recommendation is therefore to refuse Non-material amendment.