DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H08-1110-25**	**Applicant:**	**R K Wilson Builders Limited**
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. Modification of Condition 3 relating to measures in connection to Flood Risk.		
Location:	Riseholme Farm Windmill Lane Gosberton Risegate		
Terminal Date:	14th January 2026		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development
04	Approach to Flood Risk
30	Pollution

National Guidance

National Planning Policy Framework December 2024

Section 2 - Achieving sustainable development
Section 4 - Decision-Making
Section 5 - Delivering a sufficient supply of homes
Section 14 - Meeting the challenge of climate change, flooding and coastal change

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1
WELLAND AND DEEPINGS INTERNAL DRAINAGE BOARD	0	0	0	1

RESIDENTS	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This application is made under Section 73 of the Town and Country Planning Act 1990 (as amended). Planning permission was achieved (under (H08-0282-24), for the *Erection of 6 single storey dwellings and garages, formation of parking and bin collection point and reinstatement of existing access*.

This application seeks the variation of condition 3 which secured the measures set out in the Flood Risk Assessment prepared by RM Associates dated March 2024. The change relates to the removal of solid concrete base under each dwelling and the creation of voids. The Finished floor levels are not shown to be altered and the air bricks are to have a valved one way system not allowing for the egress of water.

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.

H08-1031-25 - NMA - 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. Refused

H08-0572-25 - NMA - 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 include minor alterations to Housetype HTB (Plot 2) - removed concrete window sill to front elevation, increased height of garage door, addition of header brick course above entrance door, revised notes. Revised roof material notes to Housetypes HTA and HTC. Minor alterations to agreed Materials Schedule (revised window colour and brick colour-to-plot schedule).

H08-0760-24 - Details of site section/levels, boundary treatment & external materials, landscaping, waste collection points or private refuse/recycling collection, remediation method statement, construction management plan, acoustic fencing & acoustic window details, design & position of external meter boxes etc and scheme detailing external lighting (Conditions 4, 5, 6, 7, 8, 10, 11, 14 and 15 of H08-0282-24).

Consultation Responses

Welland & Deepings IDB

Further to receipt of the above, I confirm that Welland & Deepings IDB have no comment to make with regard to this application at this stage.

Environment Agency

We have no objection to the proposed variation of Condition 3.

Highways & SuDs Support

No impact to finished floor levels or site layout - As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to drainage and surface water flood risk on all Major applications. This application is classified as a Minor Application and it is therefore the duty of the Local Planning Authority to consider the surface water flood risk and drainage proposals for this planning application.

Representations

The application has been advertised in accordance with eth Development Management Procedure Order 2015 (as amended). The following representation has been received:

Is this the best way as I live next to the buildings. The freight trains that go by shake my house. So I would be doing something stronger even pile foundations. And please keep ground level below neighbouring houses already floods off road.

Evaluation

Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms the development plan for the District, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework (December 2024) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals.

In this instance, no relevant neighbourhood plans have been adopted. The Authority is able to demonstrate a supply of deliverable sites equivalent to in excess of 5 years through the latest Housing Land Supply Assessment.

Evaluation - Section 73

The proposal relates to the variation of Condition 3 of H08-0282-24 through seeking permission under Section 73 of the Act. The purpose of an application made under Section 73 of the Town and Country Planning Act 1990 is to vary or remove conditions associated with an existing planning permission. These applications are used to allow for amendments to an approved scheme and can be made both retrospectively and prior to a permission being implemented, as long as the permission is extant.

The Act is very clear that: "On such an application the Local Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted." As such, the Local Planning Authority are not able to revisit the principle of development and only matters relevant to the specific conditions can be considered.

The effect of granting permission would be to issue a new permission with Condition 3 amended, together with any other relevant conditions from the original permission, or subsequent relevant revisions since this permission.
Planning practice guidance highlights that where less substantial changes are proposed, amending a proposal can occur through 'Amending the conditions attached to the planning permission, including seeking to make minor material amendments'.

The PPG clarifies that "Permission granted under Section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions.

The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted".

There is no statutory definition of a 'minor material amendment'; but this is likely to include any amendments where its scale and/or nature results "in a development which is not substantially different from the one which has been approved". In the case of R (Vue Entertainment Limited) v City of York Council, it was concluded that the decision gives clear support for use of s.73 in respect of changes to conditions which go beyond 'minor' amendments.
It places a clear emphasis on preserving the precise terms of the grant. If an amendment to a condition can be made which keeps the description of the development intact it may well be appropriate to make such an application under a s.73, even if the affect of the change will be significant".

Planning Considerations

The proposal seeks to alter condition 3 to allow for the dwellings to be built on an alterative foundation design. The assessment therefore relates to the effect this proposal would have on the mitigation set out by that condition.
The key issues for assessment are:

-The effect of the proposal on the mitigation set out under condition 3
-The reattachment of planning conditions.

The effect of the proposal on the mitigation set out under condition 3

This section considers the impact of the proposed amendment on the flood risk mitigation measures secured under Condition 3 of the original planning permission. Condition 3 was imposed to ensure that the development incorporated appropriate design and construction measures to minimise the risk of flooding to the dwellings and surrounding area. The assessment focuses solely on whether the proposed changes to the foundation design continue to provide an acceptable level of flood protection in accordance with the approved Flood Risk Assessment and relevant national and local planning policies.

Condition 3 of the original permission linked the development to the submitted flood risk assessment, it required:
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.

Under this amendment, the applicant proposes an alternative foundation design, retaining a void beneath the dwellings. The rationale, as set out in the FRA addendum, is that ground conditions at the site are unsuitable for a solid concrete floor. Notably, the approved finished floor levels remain unchanged, and ventilation is provided via periscope ventilators and Flood Angel anti-flood air bricks, which prevent water ingress while maintaining airflow.

The FRA addendum confirms that suspended beam and block floors are an acceptable alternative in low or residual flood risk areas, consistent with guidance in Improving the Flood Performance of New Buildings. The proposed design complies with Building Regulations and retains the flood mitigation measures required by the original permission. Given the low residual flood risk and the minimal nature of the proposed change compared to the approved scheme, the amendment is considered acceptable and in accordance with the South East Lincolnshire Local Plan and the NPPF.

No objections have been raised by consultees, including the LLFA, IDB, or the Environment Agency. On this basis, and as the mitigation measures of Condition 3 are retained, the LPA does not object to the alternative foundation design. Condition 3 will be amended to reflect the relevant elements of the original FRA, with references to solid base construction removed.

Reattachment of Planning Conditions

The original permission was granted subject to 17 conditions. Of these, the following required submission and approval of further details:

·Condition 4 - Site levels survey
·Condition 5 - Schedule of external materials
·Condition 6 - Landscaping
·Condition 7 - Waste collection arrangements
·Condition 8 - Contamination mitigation
·Condition 10 - Construction Management Plan
·Condition 11 - Noise mitigation
·Condition 14 - Design and positioning of external meter boxes
·Condition 15 - External lighting

Under planning permission H08-0760-24, details relating to site levels, boundary treatments, external materials, landscaping, waste/refuse collection, remediation, construction management, acoustic fencing and windows, design and location of external meter boxes, and external lighting (corresponding to Conditions 4, 5, 6, 7, 8, 10, 11, 14, and 15 of H08-0282-24) were submitted and approved.

Accordingly, should this application be approved, these conditions will be reattached as compliance conditions to ensure the development is carried out in accordance with the approved details under H08-0760-24. Compliance conditions, attached to the original permission will also be reinstated, these include working hours and removal of some permitted development rights.

Planning Balance

The application seeks a variation of Condition 3 of planning permission H08-0282-24 to allow a change to the foundation design of the approved dwellings, replacing the originally approved solid concrete floor with a suspended beam and block floor incorporating Flood Angel anti-flood air bricks. The key consideration is whether the proposed amendment continues to meet the flood risk mitigation requirements of the original permission.

The submitted Flood Risk Assessment addendum, supported by a ground investigation report, demonstrates that the prevailing ground conditions are unsuitable for a solid concrete floor. The

proposed suspended floor is an accepted alternative under guidance on improving the flood performance of new buildings. The design retains all key flood mitigation measures, including maintaining approved finished floor levels and providing flood-resilient air bricks to prevent water ingress while allowing ventilation.

Consultation responses raise no objections, with the Environment Agency, Lead Local Flood Authority, and Welland & Deepings IDB confirming the proposal is acceptable. The change is minimal in the context of the approved scheme and would have no greater impact on flood risk, residential amenity, or the character of the area.

The reattachment of previously discharged conditions ensures that all other detailed requirements, including levels, materials, landscaping, waste collection, noise, and external fittings, remain secured.

In balancing the planning considerations, the proposal represents a minor material amendment to the approved scheme, which allows a practical and acceptable construction solution while retaining the approved flood risk mitigation. Accordingly, the variation is considered acceptable and in accordance with the South East Lincolnshire Local Plan 2019, the National Planning Policy Framework (December, 2024), and relevant guidance on flood resilient construction.

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

Taking the above considerations into account, the proposal is considered to accord with policies 2, 3, 4 & 30 of the South East Lincolnshire Local Plan (2019), along with the identified sections contained within the National Planning Policy Framework (December 2024).