

## DECISION DELEGATED TO HEAD OF PLANNING

**Application No:** H09-0522-23      **Applicant:** Ashwood Homes Ltd

**Proposal:** Erection of 83 dwellings with associated garaging, roads and sewers - approved under H09-0276-19. Amendment to position of plots 29-31 and path to rear access of plots 29 and 30.

**Location:** Land Rear: Fen Road (Partridge Road) Holbeach Spalding

**Terminal Date:** 5th July 2023

### Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2021

National Planning Policy Framework 2021

### Representations:

|  | Object | Support | No Obj. | Comments |
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### CASE OFFICER ASSESSMENT

#### Proposal

The proposal relates to a non-material amendment, under Section 96A of the TCPA 1990, to approval gained under full planning permission H09-0276-19 for the erection of 83 dwellings with associated garaging, roads and sewers.

This non-material amendment application seeks only to amend the position of Plots 29-31 and amend the location and layout of the path that provides rear access to Plots 29 and 30.

#### Site Description

The application site, as per the initial grant full planning permission approval under reference H09-0276-19, comprised generally flat agricultural land. The site lies on the southern edge of Holbeach, close to the B1168 and extends to 3 hectares with housing to the east, and northern boundary. To the west runs an IDB Drain.

#### History

H09-0276-19. FULL. Erection of 83 dwellings with associated garaging, roads and sewers. APPROVED. 09-10-20.

H09-0914-20. CONDITION COMPLIANCE. Details of boundary treatment, external materials, foul water disposal, site levels, notification relating to archaeological work, details of 2.0 metre wide footway, finished surface levels, surface water drainage scheme, construction management, precautions for mud deposits on road, plan showing areas of publicly accessible open space and management plan for areas of publicly accessible and outdoor play areas (Conditions 4, 5, 7, 8, 9, 11, 12, 13, 14, 15, 16 and 17 of H09-0276-19). APPROVED. 01-02-21.

H09-1142-22. CONDITION COMPLIANCE. Details of archaeological final report (Condition 10 of H09-0276-19). APPROVED. 03-01-23

### **Consultation Responses**

No consultation responses have been received.

### **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.

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 is designed to prevent amendments being accepted that would have a detrimental impact upon neighbours or amenity in the wider public interest.

The proposal is for a non-material amendment to the previously approved development, which seeks only to amend the position of Plots 29-31 and amend the location and layout of the path that provides rear access to Plots 29 and 30.

The revised positioning is not considered to result in a fundamental change to the initially permitted development. The amendments are considered to be modest in nature and the context of the overall scheme, and would not result in a conflict with any of the criteria outlined above; therefore it is considered that they would not lead to a significant alteration to the character of the approved development.

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.

### **Conclusion**

It is considered that these details are acceptable and can be considered as a non material amendment to the scheme.

Approve

## **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.