DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H09-0852-26**	**Applicant:**	**Mr M Stevens**
Proposal:	Demolition of glasshouse and erection of 2 detached dwellings - Approved under H09-0683-21. Modification of Condition 2 to allow amendments to previously approved plans for Plot 1 only		
Location:	Plot 1 - Middle Earth Main Road Holbeach Drove		
Terminal Date:	2nd November 2026		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
30	Pollution
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework August 2026

Section 2 - Plan-making policies (PM1 - 17)
Section 3 - Decision-making policies (DM1 - 10)
Section 4 - Achieving sustainable development (S1 - S6)
Section 6 - Delivering a sufficient supply of homes (HO1 - 13)
Section 12 - Making effective use of land (L1 - 3)
Section 14 - Achieving well-designed places (DP1 - 4)
Section 15 - Promoting sustainable transport (TR1 - 8)
Section 17 - Pollution, public protection and security (P1 - 6)
Section 18 - Managing flood risk and coastal change (F1 - 9)
Section 19 - Conserving and enhancing the natural environment (N1 - 9)

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	1	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

The application seeks consent to modify condition 2 of planning permission H09-0683-21.

Approval was originally granted for the demolition of a glasshouse and the erection of two new dwellings under permission H09-0783-18. This permission was subsequently amended through the approval of permission H09-0683-21. The permission has been implemented and plot 2 is largely constructed.

Condition 2 of permission H09-0683-21 set out the approved plans and as such, the current application seeks to revise some of the approved plans by changing some of the external materials for plot 1 and changing the detached garage into an attached garage.

Site Description

The site comprises land in Holbeach Drove which is located between Kel Mar which is a dwelling to the west, and Main Road which is a dwelling to the east. The site currently features a nearly completed dwelling within the eastern side of the site (plot 2) and works have commenced on plot 1 within the western portion of the site. There are a number of caravans located on land to the rear which comprises a Gypsy and Traveller site.

Relevant Planning History

H09-0783-18: (Full Application) Demolition of glasshouse and erection of 2 detached dwellings - approved 24th June 2019

H09-0762-19: (Discharge of Conditions) Details of scheme to deal with contamination (Condition 6 of H09-0783-18) - approved 26th September 2019

H09-0683-21: (S73) Demolition of glasshouse and erection of 2 detached dwellings - approved under H09-0783-18. Modification of Condition 2 to allow amendments to previously approved plans and removal of Condition 6 relating to Contamination - approved 11th August 2021

The following applications overlap the eastern part of the site:

H09-0683-21: (S73) Demolition of glasshouse and erection of 2 detached dwellings - approved under H09-0783-18. Modification of Condition 2 to allow amendments to previously approved plans and removal of Condition 6 relating to Contamination - approved 11th August 2021

H09-0845-21: (Full Application) Change of use from paddock to a residential use for travellers (retrospective) including 4 static caravan pitches, and associated touring caravans pitches - withdrawn 07th December 2021

H09-0087-22: (Full Application) Change of use from paddock to residential use for Gypsy and Travellers (retrospective) to include 2 static caravan pitches, and associated touring caravans - re-submission of H09-0845-21 - refused 19th May 2022 - appeal allowed 31st October 2022

H09-0065-23: (S73) Change of use from paddock to residential use for Gypsy and Travellers (retrospective) to include 2 static caravan pitches, and associated touring caravans - approved under H09-0087-22 (Appeal Decision). Modification of Condition 4 relating to drainage - approved 16th March 2023

H09-0760-26: (Full Application) Change of use of agricultural land to Gypsy / Traveller site comprising 4
no. mobile homes and 2 no. touring caravans - Retrospective - pending determination

Consultation Responses

Responses have been received from the below referenced consultees. The responses are summarised below; however, the responses can be viewed in their entirety on South Holland District Council's website.

Whaplode Parish Council:

No comments.

Lincolnshire County Council - Highways and SUDS:

The minor amendments proposed will not have an adverse impact upon the public highway or surface water flood risk.

South Holland Internal Drainage Board: No response received.

Holbeach Parish Council: No response received.

Cllr A C Beal: No response received.

Cllr P A Redgate: No response received.

Environmental Protection: No response received.

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no representations have been received from members of the public.

Key Planning Considerations

Development Plan

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.

The adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is 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, August 2026 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

There are no adopted Neighbourhood Plans for the area within which the site is located.

The principle of development for the development of two dwellings within the site has already been established as acceptable originally through the approval of permission H09-0783-18 and subsequently through the approval of permission H09-0683-21. The current application only seeks to amend condition 2 by changing the approved plans. The other approved parts of the development would remain unchanged. As such, the main issues and considerations in this case are considered to include the following:

- Evaluation under Section 73
- Proposed Changes to Condition 2; and
- Impact on Other Conditions.

These matters are assessed in turn below.

Evaluation under Section 73

The proposal seeks to vary condition 2 of planning permission H09-0683-21 in order to revise the approved plans, through seeking permission under Section 73 of the Town and Country Planning Act 1990. The purpose of an application made under Section 73 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 Town and Country Planning Act is 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 the relevant conditions 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 the following:

"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 this instance, the amendments submitted under this Section 73 application have not varied the description of development.

Proposed Changes to Condition 2

The current application seeks to update the following approved plans from permission H09-0683-21:

2144-21-P2 (Block Plan and Garage Details); and
2137-21-P1 (Plot 1).

The proposed changes relate only to plot 1 and no changes are proposed to plot 2.

Changes are proposed to the positioning of some of the windows on plot 1 including additional windows on the eastern elevation of the dwelling. A dormer window is also proposed on the eastern elevation of the front portion of the dwelling. It is considered that the visual and amenity impact the window changes is acceptable. For example, there are suitable separation distances between the new windows and the nearest dwellings, including plot 2 within the site. Furthermore, there are boundary treatments between plots 1 and 2 that provide a degree of screening to prevent an unacceptable degree of overlooking.

As part of planning permission H09-0683-21, the dwelling and garage within plot 1 were proposed to be detached buildings. The layout for plot 1 mirrored plot 2 which also featured a detached dwelling and garage. Under the current proposals, the garage is no longer proposed to be detached and instead would be attached to the dwelling. The garage would remain similar in terms of its height and overall scale; however, the key difference would be a merged link between the buildings. The visual impact of this change is considered to be acceptable as it is not considered that this significantly alters the character and appearance of the dwelling. Whilst plots 1 and 2 would no longer be symmetrical, it is not considered necessary for the dwellings to be symmetrical in order for the development to have an acceptable visual impact.

The proposed external materials are also proposed to be changed. The external materials include anthracite grey windows instead of cream windows, Flemish Antique facing brickwork instead of Adley Antique brickwork. The roof tiles would remain similar. The visual impact of these changes is also acceptable.

Initially, a site layout plan was not provided and this was queried with the applicant's agent. An amended site layout plan was subsequently provided to ensure the plans are consistent.

Therefore, it is considered that the proposed changes would accord with Policies 2 and 3 of the Local Plan and Policy DP3 of the NPPF which, amongst other things, require proposals to be suitably designed and to integrate with their surroundings.

Impact on Other Conditions

Condition 1 required the development to be commenced by 23rd June 2022. According to the application form, the development commenced in March 2022 and as the development has started condition 1 is no longer required and can now be removed.

Condition 3 required a landscaping scheme to be submitted and approved prior to the occupation of the development and this condition can be retained.

Condition 4 requires a footway to be provided next to the highway prior to the occupation of the development and this condition can be retained.

Planning Balance

As detailed above, 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.

The proposed changes to condition 2 would not materially harm the character or appearance of the locality or the amenity of nearby residents. The proposed development accords with the Local Plan and the NPPF. In this instance, there are no material considerations that weigh against the proposal and as such, the planning balance is in favour of the development.

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 and 3 of the Local Plan, along with the identified sections within the NPPF. There are no significant factors in this case that indicate against the proposal and outweigh the consideration in favour of the proposal and the policies referred to above.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be approved under delegated authority.