DECISION DELEGATED TO HEAD OF PLANNING

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| **Application No:** | **H11-0295-26** | **Applicant:** | **DCF Builders Ltd** |
| **Proposal:** | Residential Development - 6 Affordable Housing Units - Approved under H11-0699-22. Amendment to brick type | | |
| **Location:** | Land Adjacent To 6 St James Road Long Sutton Spalding | | |
| **Terminal Date:** | 27th April 2026 | | |

**Planning Policies**

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| **South East Lincolnshire Local Plan - Adopted: March 2019** |
| **National Guidance**<br>**National Planning Policy Framework December 2024** |

**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), seeking to amend planning approval H11-0699-22. The proposal seeks to amend the approved brick type from TBS Audley Antique (a red multi brick) to TBS Old Fulford Blend (a red multi brick).

**Site Description**

The site (some 0.28ha) is situated on the northern side of St James Road opposite Silverwood Garden Centre. It is currently grassed and has a number of trees, plus hedging, along its frontage. The site is outside of any defined settlements; however, it is within a pocket of development, characterised by linear residential dwellings and a garden centre.

**History**

H11-0936-18 - Outline - Residential development (6 affordable housing units) - Approved 8 February 2022

H11-0699-22 - RM - Residential Development - 6 Affordable Housing Units - outline approval H11-0936-18 - Approved 26 October 2022

H11-0405-23 - Condition Discharge - Details of existing/proposed site levels, proposed floor levels, hard surfaced areas, garden/amenity areas, foul/surface water disposal and ecological biodiversity measures. (Conditions 6, 8 and 10 of H11-0936-18) - Approved 16 June 2023

## 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.

Notwithstanding the fact that there is no definition of 'Non-Material' South Holland District Council Local Planning Authority sets out guidance criteria for non-materials amendments. This is set out on the council webpages. It states that a change may be considered non-material 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

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 proposal against the above, the following is considered:

1.There would be no change to red line boundary or application site
2.The amendment would not conflict with any government guidance or any provisions within the Local Plan
3. The amendment would not conflict with any of the conditions placed upon H11-0699-22
4. The proposal would not exacerbate any concerns raised during the consultation process of the original application. No consultation responses were received within the initial application regarding external materials
5. There would be no change to the siting or footprint of any buildings
6. The proposal would not result in an extension to the approved development
7. There would be no change to the scale of the buildings.
8.The amendments must not result in a fundamental change in the design of the building or the wider site. The change is from one red multi brick to another. The images presented and available online show near identical bricks, bar a greater degree of weathering on the Audley Antique. There would be no significant alteration in the design of the buildings, and a casual observer is unlikely to notice the alteration.
9.The original application did not contain an environmental statement.
10. Due to the nature of the proposal, no new openings would be created and no additional

overlooking would occur.
11.There would be no change to the number of proposed units

As such, when taking account of the above and the modest extent of the amendment proposed, the proposal is considered to be non-material.

## 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

It is considered that the amendment proposed is acceptable and can be considered a non-material amendment.

## Recommendation

The recommendation is for delegated approval