

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H11-0665-26 **Applicant:** Loosegate Developments (Long Sutton) Ltd

Proposal: Erection of 5 no. Dwellings - Approved under H11-0017-25 - Amendment to position & arrangement of associated driveway of Plot 183

Location: Land Between Seagate Road & Wisbech Road Long Sutton Spalding

Terminal Date: 2nd September 2026

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework August 2026

Section 96A of the Town and Country Planning Act 1990 (as amended).

Representations:

	Object	Support	No Obj.	Comments
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CASE OFFICER ASSESSMENT

Proposal

This application seeks a non-material amendment under Section 96A of the Town and Country Planning Act 1990 (as amended).

The proposed amendment relates to the position and arrangement of the private driveway serving Plot 183. The amendment is required as a result of the repositioning of the electricity substation, which is identified on the submitted revised site plan.

There would be no change to the approved house type, siting, footprint or appearance of the dwelling on Plot 183. The amendment is limited to the associated driveway arrangement.

The proposed changes would require the replacement of the currently approved Proposed Site Plan, drawing LDC3699-PL-81 G, with revised drawing LDC3699-PL-81 N.

Site Description

The application site forms the north western corner of previously approved planning application

H11-0017-25m this is linked to a broader residential scheme ref: H11-1207-17, which benefits from outline planning permission to erect up to 215 dwellings.

The site is within Flood Zone 3a, and the SFRA identifies flood hazard in 2115 as 'danger for most' and 'danger for some' and flood depth in 2115 as mostly 0.25m to 1.0m.

History

H11-0017-25 - Erection of 5 no. Dwellings. Approved 31-03-26

H11-1207-17 - Outline. Residential development of approximately 215 dwellings. Approved 26th September 2019 This was subject to a legal agreement dated 26 September 2019.

H11-1346-21 - Reserved Matters - Erection of 171 dwellings and associated works. Approved 1 September 2022.

H11-0882-21 - Full - Erection of 9 dwellings. Approved 16 February 2022.

H11-0076-22 - S73 - Residential Development of approximately 215 dwellings - approved under H11-1207-17. Modification of condition 12 to allow amendments to wording relating to Flood Risk Assessment. Approved 10 March 2022. This was subject to a legal agreement dated 9 March 2022.

H11-0972-22 - NMA - Erection of 171 dwellings and associated works - outline approval H11-1207-17 - approved under H11-1346-21. Amendment to position of plots 143, 144 and 172. Amendments to design of Yew, Blackthorn & Elder house types and solar panels added to all plots. Approved 3rd November 2022.

H11-0923-22 - Removal of 106 agreements relating to financial viability of the development - Planning approval H11-1207-17 - Refused 19 January 2023.

H11-0367-23 - Details of contamination, landscaping, boundary treatment, refuse & recycling, archaeological details, estate road & associated footways, surface water drainage scheme, travel plan, public open space including management plan and construction management including precautions to prevent mud deposit on public highway (Conditions 5, 6, 7, 8, 9, 16, 17, 18, 20, 21, 22 & 23 of H11-1207-17) - Undetermined.

H11-0365-23 - Details of external materials of construction of buildings and hard surfaced areas and management and maintenance schedule for areas of landscaping, incidental open space, drainage features, refuse & recycling collection points & parking courts/private drives (Conditions 2 & 5 of H11-1346-21) - Approved 1 March 2024.

H11-1047-23 - Section 73 - Erection of 171 dwellings and associated works - approved under H11-1346-21. Modification of Condition 1 to allow amendments to previously approved plans. Approved 1.5.2024.

H11-0349-23 - Modification of 106 Agreements relating to the removal of the affordable housing obligation from both the outline planning approval H11-1207-17 and full planning approval H11-0882-21. Approved 11 June 2024. This was subject to a legal agreement dated 7 June 2024.

H11-1122-23 - Full - Erection of 4 dwellings. Previous extant permission for 2 dwellings. Withdrawn 14 February 2024. H11-0137-24 - Non Material Amendment - Erection of 171 dwellings and associated works - outline approval H11-1207-17 - approved under H11-1346-21. Amendment of private drives to Plots 96 & 108 to improve access to both plots. Withdrawn 1.5.2024.

H11-0171-25 - Erection of 171 dwellings and associated works - outline approval H11-1207-17 - approved under H11-1346-21. Amendment to replace brick types (Plots 17-90, 97-107 & 115-180). Approved 18 March 2025.

Consultation Responses

None requested

Planning Considerations

Scope of Assessment for Non-Material Amendments

Section 96A of the Town and Country Planning Act 1990 enables a Local Planning Authority to make changes to an existing planning permission where those changes are considered to be non-material.

There is no statutory definition of what constitutes a non-material amendment and the question is therefore one of fact and degree, requiring the exercise of planning judgement in each individual case.

As an application to make a non-material amendment is not an application for planning permission, Section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply.

Government guidance confirms that applications submitted under Section 96A are not subject to the statutory consultation and publicity requirements contained within the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Planning Practice Guidance states:

"As an application to make a non-material amendment is not an application for planning permission, the existing Town and Country Planning (Development Management Procedure) (England) Order 2015 provisions relating to statutory consultation and publicity do not apply. Therefore local planning authorities have discretion in whether and how they choose to inform other interested parties or seek their views."

The guidance further confirms that consultation and publicity are generally unlikely to be necessary because, by definition, the changes sought should be non-material.

South Holland Guidance on NMAs

The LPA offers guidance on NMAs, critically this guidance is prefixed with "There is no statutory definition for 'non-material' changes. It depends on the context and is determined by the Local Planning Authority."

The guidance suggests:

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 proposed amendment arises from the repositioning of the electricity substation and consequently requires an alteration to the access and driveway serving Plot 183. The dwelling itself would remain in its approved position and the approved house type would remain unchanged.

The amended driveway would provide sufficient space for the parking of vehicles within the plot together with adequate manoeuvring space to enable vehicles to enter and leave the site in a forward gear. The amendment therefore raises no material highway safety or parking concerns.

The repositioning of the substation exceeds the 1 metre threshold referred to within the Council's guidance on non-material amendments. However, the guidance makes clear that there is no statutory definition of a non-material amendment and that each proposal must be considered on its individual merits. The 1 metre threshold is therefore a guide rather than an absolute limitation on the use of Section 96A.

In this instance, the substation constitutes ancillary infrastructure serving the approved residential development. Although its precise position would change, it would remain in broadly the same part of the development and its relocation would not materially alter the character, appearance or overall composition of the approved scheme. The relocation does not necessitate any change to the siting or design of Plot 183, with the alteration to its driveway being a consequential change required to maintain an appropriate access and parking arrangement.

There would be no change to the application site boundary, number of dwellings or description of development, and the amendment would not conflict with the conditions attached to the planning permission. No materially different effects upon residential amenity, highway safety or the character and appearance of the development have been identified. Consideration has also been given to the effect of the amendment cumulatively with previous amendments to the permission. The proposed changes would not, either individually or cumulatively, result in a materially different development from that which was approved.

Accordingly, notwithstanding the movement of the substation by more than 1 metre, having regard to the nature, scale and consequences of the amendment in the context of the development as a whole, the changes are considered non-material for the purposes of Section 96A of the Town and Country Planning Act 1990.

Conclusion

Having regard to the effect of the change, together with previous changes made under section 96A it is considered that the proposals would not have a material effect upon planning permission granted and are therefore considered 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.