

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H11-0826-26 **Applicant:** Mr G Franklin

Proposal: New Dwelling - approved under H11-0730-20. Modification of Condition 1 to allow amendments to previously approved plans

Location: Pear Tree Farm St James Road Long Sutton

Terminal Date: 27th October 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
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
17	Providing a Mix of Housing
28	The Natural Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy

National Guidance

National Planning Policy Framework August 2026

Section 3 - Decision-making policies (DM1 - 10)
Section 4 - Achieving sustainable development (S1 - S6)
Section 12 - Making effective use of land (L1 - 3)
Section 14 - Achieving well-designed places (DP1 - 4)
Section 17 - Pollution, public protection and security (P1 - 6)

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
SOUTH HOLLAND	0	0	0	1

INTERNAL DRAINAGE BOARD				
SHDC INTERNAL	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

The application seeks consent to modify condition 1 of planning permission H11-0730-20.

Approval was originally granted for a new dwelling under permission H11-0245-18. This permission was subsequently amended through the approval of permission H11-0730-20.

Condition 1 of permission H11-0730-20 sets out the approved plans for the development and as such, the current application seeks to revise some of the approved plans by changing the green roof with a GRP roof covering and solar panels, and also to introduce stone quoin surrounds to the window and door openings.

Site Description

The site is located off Sutton St James Road to the north-east of Sutton St James. It was formerly occupied by a collection of farm outbuildings and a large area of concrete hardstanding. A house is situated to the north.

Relevant Planning History

H11-0280-02: (Full Application) Change of use from agricultural buildings/yard to HGV operating centre (part retrospective) - approved 09th September 2002

H11-1092-02: (S73 Application) Modification of condition to allow HGVs to enter/leave the site between 06:00 to 12:00hrs on Saturdays - approved 24th January 2003

H11-0245-18: (Full Application) New dwelling - approved 27th June 2018

H11-1083-18: (Discharge of Conditions) Details of Preliminary Environmental Risk Assessment, Geo-Environmental Report and Remediation Method Statement (Condition 9 i) and ii) of H11-024518) - Approved 20th December 2018

H11-0730-20: (Section 73 Application) New dwelling - approved under H11-0245-18. Modification of Condition 2 to allow amendments to previously approved plans - approved 13th December 2023

H11-0297-24: (Discharge of Conditions) Details of contamination of land or pollution of controlled waters (Condition 7 of H11-0730-20) - approved 28th May 2024

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.

Long Sutton Parish Council:

The Council have no objection to this application.

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.

Environmental Protection:

No comments regarding modification of condition 1.

Cllr A C Tennant: No response received.

Cllr J Tyrell: No response received.

Cllr R Woods: 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 response sets out c

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 a dwelling within the site has already been established as acceptable originally through the approval of permission H11-0245-18 and subsequently through the approval of permission H11-0730-20. The current application only seeks to amend condition 1 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 1; and
- Impact on Other Conditions.

These matters are assessed in turn below.

Evaluation under Section 73

The proposal relates to the variation of condition 1 of planning permission H11-0730-20 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 1

The current application seeks to replace the following plans listed in condition 1 of permission H11-0730-20:

- 1185-2_PL_BP02 Rev A - Proposed Block Plan;
- 1185-2_PL_PL02 Rev A - Proposed First Floor Plan;
- 1185-2_PL_GA01 Rev A - Proposed Elevations & Section;
- 1185-2_PL_SE01 Rev A - Proposed Sections; and
- 1185-2CC_PL_LD01 - Landscape Layout.

One of the proposed changes is the replacement of the previously approved area of green roof on the north-western area of the dwelling with a GRP roof covering. This is proposed to facilitate the installation of PV panels. PV panels were not previously proposed; however, the solar panels would remain largely hidden behind roof parapets as shown on submitted plan 1185-2_PL_GA01 Rev A. Solar panels on the roofs of dwellings are often permitted development and as such, this represents a potential fallback position. Therefore, the visual impact of the roof alterations is considered to be acceptable.

The other changes include the introduction of stone quoin surrounds to the window and door openings as shown on submitted plan 1185-2_PL_GA01 Rev A. The visual impact of the stone quoin surrounds is considered to be acceptable as the overall design would appear similar.

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

Permission H11-0730-20 included various other conditions and as such, it is necessary to consider the impact of the current application on the other conditions.

Condition 2 restricted various permitted development rights such as extensions and new windows and doors. It would be considered appropriate to retain condition 2.

Condition 3 required the approved landscaping scheme to be carried out as approved. It would be considered appropriate to retain condition 3 and to update the condition to refer to the revised landscaping plan.

Condition 4 required the existing trees within the site to be retained and it would be considered appropriate to retain condition 4.

Condition 5 required the boundary treatments to be carried out as approved. It would be considered

appropriate to retain condition 5 and to update the condition to refer to the revised landscaping plan as this shows the relevant boundary treatments.

Condition 6 required the renewable energy and energy efficiency measures outlined within the approved Energy Strategy and Sustainability Statement to be installed prior to the occupation of the development. It would be considered appropriate to retain condition 6.

Conditions 7 and 8 required contamination assessment information to be submitted and approved. Condition 7 was discharged on 28th May 2024 under application H11-0297-24. Although the condition was discharged, the council's environmental protection team noted that a validation report would need to be submitted to confirm that the proposed gas / vapour protection measures had been installed appropriately. This requirement was covered by condition 8 which still needs to be discharged as this requires details of a verification report. As such, condition 7 can be removed; however, condition 8 can be retained and updated to refer to the previously approved contamination assessment from application H11-0297-24.

Condition 9 required the development to be carried out in accordance with the approved Flood Risk Assessment and as such, it would be appropriate to retain condition 9.

Condition 10 required at least two barn owl boxes to be installed prior to the commencement of development. As the development has started, it would be considered to retain and update the condition to require the boxes to 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 1 are considered to be acceptable as the visual and amenity impact of the changes would be minor. It would also be appropriate to retain and update the other previously approved conditions as set out above. Therefore, the planning balance is in favour of the development in this instance.

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, 28, 30 and 31 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.