

DECISION DELEGATED TO HEAD OF PLANNING**DECISION DELEGATED TO HEAD OF PLANNING**

Application No: H11-1080-25 **Applicant:** Seagate Homes UK Ltd

Proposal: Residential development comprising 48 dwellings approved under H11-0289-25. Modification of Conditions 17 & 18 to amend wording relating to finished floor levels and changes to mitigation measures set out within the agreed Flood Risk Assessment

Location: Land Off Lime Walk Long Sutton Spalding

Terminal Date: 31st March 2026

Planning Policies**South East Lincolnshire Local Plan - Adopted: March 2019**

02 Development Management
03 Design of New Development
04 Approach to Flood Risk
30 Pollution

National Guidance**National Planning Policy Framework December 2024**

Section 2 - Achieving sustainable development
Section 4 - Decision-Making
Section 5 - Delivering a sufficient supply of homes
Section 12 - Achieving well-designed places
Section 14 - Meeting the challenge of climate change, flooding and coastal change
Section 15 - Conserving and enhancing the natural environment

Representations:

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

CASE OFFICER ASSESSMENT

Proposal

This is a Section 73 application seeking to vary Conditions 17 and 18, as well as changing the original 'airbrick' approved under the FRA of planning permission H11-0289-25. This last point was changed during the application time frame.

Conditions 17 and 18 currently require that "Finished floor levels shall be set at 3.40m AOD." The application seeks to amend this wording to read: "Finished floor levels are to be set no lower than 3.40m AOD."

The proposal, effectively seeks *Residential development comprising 48 dwellings approved under H11-0289-25. Modification of Conditions 17 & 18 to amend wording relating to finished floor levels and changes to mitigation measures set out within the agreed Flood Risk Assessment.*

Site Description

The application site forms part of housing allocation LOS008 (which abuts LOS026). The allocation extends to approximately 1.72 hectares and includes an existing dwelling and its curtilage. The allocation identifies an indicative capacity of 34 dwellings. Planning permission for 48 dwellings has been granted on appeal.

No. 36 Lime Walk lies immediately to the west of the site. To the south-west, Phase 1 of the wider development (comprising approximately 70 dwellings) is located on the opposite side of an LCC footpath, accessed via Anfield Road and Magpie Close. Recreational open space lies to the east, with residential development beyond off St John Swains Way. The northern boundary adjoins open countryside, with Lime Walk running along the western boundary.

History

H11-0289-25 - Residential development comprising 48 dwellings approved under H11-0842-23 (allowed on Appeal). Modification of Condition 2 to allow amendments to previously approved plans and Conditions 17 and 18 relating to finished floor levels. Approved 15-08-25

H11-0842-23 - Residential development comprising 48 dwellings - re-submission of H11-0994-22. Allowed at Appeal

H11-0418-25 - Details of Construction Method Statement (Condition 3 of H11-0842-23). Approved 25-06-25

H11-0935-25 - Details of schedule of external materials (Condition 8 of H11-0289-25). Approved 14th October 2025

H11-0972-25 - Details of landscaping & tree planting, a plan illustrating all areas of publicly accessible open space, boundary treatment or screening and details of treatments including the need for any retaining walls to be erected along the western boundary of the site adjoining 36 Lime Walk (Conditions 9, 11, 12 & 14 of H11-0289-25). 25th November 2025

H11-0979-25 - Details of management plan, management and maintenance schedule (Conditions 13 and 15 of H11-0289-25). 15th December 2025

H11-0913-25 - Details of on-site foul water drainage works and surface water drainage scheme (Conditions 6 & 7 of H11-0289-25). 4th November 2025

H11-0306-25 - Details of Contamination and Remediation Scheme (Conditions 4 and 5 of H11-0842-23) - Allowed on appeal. Approved 15-05-25

H11-0590-25 - Details of Biodiversity Net Gain Plan (Condition 10 of H11-0842-23) - approved on Appeal. Allowed 06-08-25

Consultation Responses

Long Sutton Parish Council

The Parish Council objects to what it considers to be ongoing changes to approved schemes and perceived departures from original proposals, citing concerns regarding the impact on the character of the town and residential amenity.

Environment Agency

Environment Agency position We have no objection to this application.

2nd Response "We have reviewed the flood resilience addendum dated 06 February 2026, ref: 'ECL1760 Flood Resilient Measures (Addendum)' and have no objection to the proposed amendments. "

Highways and Suds support

The LLFA state "The requested rewording of conditions 17 and 18 attached to 0289- 25 leaves it open to allow ffls to be raised to a level that could have an adverse impact on surrounding properties/land. There needs to be a limit on this and appropriate mitigation/justification should be submitted so as not to increase surface water flood risk in the vicinity of the site."

Planning Considerations

Evaluation

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.

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms 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 (December 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted.

The Authority is able to demonstrate a supply of deliverable sites equivalent to in excess of 5 years through the latest Housing Land Supply Assessment.

Evaluation - Section 73

The application is made under Section 73 of the Town and Country Planning Act 1990 and seeks to vary Conditions 17 and 18 of planning permission H11-0289-25. Section 73 applications allow for the variation or removal of conditions attached to an extant planning permission. In determining such applications, the Local Planning Authority may consider only the conditions subject to which planning permission should be granted and cannot revisit the principle of development.

Planning Practice Guidance confirms that permission granted under Section 73 results in a new, independent planning permission which sits alongside the original permission. The original permission remains intact and unamended. There is no statutory definition of a "minor material amendment"; however, such amendments are generally those that would not result in a development that is substantially different from that which has already been approved.

In R (Vue Entertainment Ltd) v City of York Council, the Court confirmed that Section 73 may be used to make changes to conditions that go beyond minor amendments, provided the description of development remains unchanged.

Assessment

This application seeks solely to amend the wording of Conditions 17 and 18 to allow flexibility for finished floor levels to be set no lower than 3.40m AOD.

The key matters for assessment are therefore:

- Flood risk
- Character and amenity
- Reattachment of conditions
- Impact on the legal agreement

Flood Risk

Policy 4 of the South East Lincolnshire Local Plan sets out the District's approach to flood risk. It states that development proposed within areas at risk of flooding (Flood Zones 2 and 3 of the Environment Agency's Flood Map, or areas at risk during a breach or overtopping scenario as identified in the Strategic Flood Risk Assessment) will be permitted where it is supported by a site-specific Flood Risk Assessment addressing all sources of flooding, including the impacts of climate change.

The application site benefits from an extant residential planning permission, and the principle of residential development in flood risk terms has therefore already been established. The appeal-approved scheme was supported by a site-specific Flood Risk Assessment and is subject to conditions securing flood mitigation measures, including minimum finished floor levels.

The current application does not seek to amend or remove the flood mitigation measures secured by the original permission. The proposed wording would continue to require that finished floor levels are set no lower than 3.40m AOD and therefore maintains the minimum level of flood protection previously approved.

The Environment Agency has been consulted on the proposal and raises no objection, confirming that the revised wording does not give rise to flood risk concerns within their remit.

The Lead Local Flood Authority has advised that the revised wording could, in principle, allow finished floor levels to be raised in a manner that may have an adverse impact on surrounding land or properties. This concern is acknowledged. It is considered, however, that any potential risk can be appropriately mitigated through the imposition of a condition requiring the submission and approval of detailed finished floor levels and external ground levels for all dwellings prior to first occupation. This would enable the Local Planning Authority to ensure that any changes to site levels do not result in increased surface water flood risk elsewhere.

Amendments to FRA

The amendments to the FRA are as follow:

- The Flood Risk Assessment states to use a specific 'flood angel' airbrick and we are wanting to substitute it for a like for like product, but we want to ensure we are building to the planning approved documents. We would look to add an 'or similar approved' note to the anti-flood air brick recommendation.

- To install the anti flood air brick above max flood levels only, above the max flood level we would want to install standard air bricks without the anti flood measures

The applicant has provided *Flood Resilient Measures (Addendum)* - 6 February 2026 and the Environment Agency have reviewed these features and have no objection. The changes are therefore acceptable.

Subject to this control, the proposal is considered to accord with SELLP Policy 4 and would not give rise to unacceptable flood risk impacts.

Character and Amenity

Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) require development proposals to respect residential amenity and to achieve a high standard of design that responds positively to local character and context. Policy 2 seeks to ensure that development is appropriate in terms of its size, scale, layout, density and relationship to existing development, and that it does not result in unacceptable impacts on the amenity, character or appearance of the area. Policy 3 further requires that new development is well-designed and does not detract from the character or quality of its surroundings.

The application seeks only to amend the wording of the conditions relating to finished floor levels (i.e. allowing them to be higher than 3.40m AOD). The finished floor levels in fact have been already approved in discharge of condition application H11-0913-25, which sought to discharge drainage related conditions.

It is therefore not necessary to apply appropriate mitigation other than reinstate through condition that these levels (agreed under H11-0913-25) are to be built out across the development. On this basis it is considered that the proposal would accord with both policies 2 & 3 of the South East Lincolnshire Local Plan.

Reattachment of Conditions

Conditions 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14 and 15 attached to the original planning permission (H11-0842-23) have been discharged through separate applications approved by the Local Planning Authority.

In accordance with Section 73 of the Town and Country Planning Act 1990, the grant of planning permission under this application would result in a new, stand-alone permission which sits alongside the original consent. Planning Practice Guidance confirms that where a Section 73 permission is granted, previously approved details and mitigation can be secured through appropriately worded compliance conditions, ensuring continuity between the original permission and the varied consent.

In this instance, it is considered appropriate and reasonable to re-secure the mitigation and approved details previously discharged by imposing compliance-based conditions which require the development to be carried out in accordance with those approved submissions. This approach ensures that the environmental, technical and design safeguards already agreed remain effective and enforceable, and that the development continues to be implemented in accordance with the approved scheme.

Impact upon Legal Agreement

Paragraph 26 of the appeal statement considered the submitted unilateral undertaking and confirmed that this scheme was subject to contributions (as well as affordable housing). The terms of this UU will remain unaltered by this application. The UU also contains under section 14, terms that would link any future S73 application to the terms set out. Therefore, it is considered that the changes made by this application, are not such that would require a deed of variation or a new UU to be submitted.

Planning Balance

The application seeks a limited variation to Conditions 17 and 18 of planning permission H11-0289-25 to allow finished floor levels to be set no lower than 3.40m AOD. The proposal does not seek to alter the approved description of development, the principle of residential use, or the scale, layout or disposition of the scheme, all of which have previously been established through an appeal decision.

The variation would allow for the scheme to be built out in accordance with the previously agreed drainage strategy.

The Environment Agency raises no objection to the proposal, and the concerns of the Lead Local Flood Authority can be appropriately addressed through the imposition of a condition requiring the development to accord with the already approved finished floor levels shown to discharge the drainage scheme.

The objections raised by the Parish Council are noted; however, they relate to general concerns regarding changes to approved developments and do not identify specific planning harm arising from the variation of these conditions. As such, limited weight is afforded to these comments in the context of this Section 73 application.

The proposal maintains consistency with the approved Flood Risk Assessment, the already approved drainage strategy and does not undermine the mitigation measures previously secured, and retains the protections afforded by the original planning permission. Previously approved details and mitigation would continue to apply through compliance-based conditions, and the unilateral undertaking securing planning obligations would remain unaffected.

Overall, when assessed against the Development Plan as a whole, and having regard to the National Planning Policy Framework and all other material considerations, it is concluded that the proposed variation would not result in unacceptable planning harm. Subject to appropriate conditions, the development would continue to accord with Policies 2, 3 and 4 of the South East Lincolnshire Local Plan (2019). Accordingly, the planning balance weighs in favour of the proposal.

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, & 4 of the South East Lincolnshire Local Plan (2019), along with the identified sections contained within the National Planning Policy Framework (December 2024).