DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H12-0464-24**	**Applicant:**	**Multiflora Flowers Ltd**
Proposal:	Construction of 5,360 sq mt glasshouse together with a fresh water storage lagoon - Approved under H12-0687-23. Amendment to reposition the access		
Location:	Monmouth Lane Lutton Gowts Spalding		
Terminal Date:	28th June 2024		

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
28	The Natural Environment
36	Vehicle and Cycle Parking

National Guidance

National Planning Policy Framework 2023

12 - Achieving well-designed places
14 - Meeting the challenge of climate change, flooding and coastal change
15 - Conserving and enhancing the natural environment

Representations:

	Object	Support	No Obj.	Comments
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
RESIDENTS	3	0	0	0

CASE OFFICER ASSESSMENT

PROPOSAL

This is a non-material amendment application at Monmouth Lane, Lutton Gowts. This application seeks to amend the location of the vehicular access of an application approved under reference H12-0687-23 for the construction of 5,360 square metres glasshouse together with a fresh water storage lagoon.

The proposed access will be repositioned along the site frontage to 195 metres from the junction of Monmouth Lane & Lutton Gowts. On the application form it states that he reason that this amendment has been brought forward is that "L.C.C. Highways have indicated that the Passing Bay they requested would not be required if the access were slightly closer to the junction." The previously approved access was approximately 250 metres from the junction of Monmouth Lane. The access will remain 7.5 metres in width.

SITE DESCRIPTION

The site is currently in agricultural use and is outside of defined settlement limits in the open countryside. The surrounding area is predominately rural and is characterised by linear development of varying ages and designs. The site is in Environment Agency Flood Zone 3, and is in a "Danger for Most" hazard area, with a maximum predicted flood depth of 1 metre on the 2115 South Holland Strategic Flood Risk Mapping.

RELEVANT HISTORY

H12-0687-23

Full - Construction of 5,360 sq mt glasshouse together with a fresh water storage lagoon - Approved - 27th October 2023.

CONSULTATION RESPONSES

Initial Responses Received (Consultation period between 04 June 2024 and 25 June 2024)

South Holland Internal Drainage Board - 24 June 2024

"While I acknowledge that this application pertains to the development site's access point, I would like to take this opportunity to remind the applicant of our comments on the proposed surface water strategy for the site. The Board has concerns regarding the proposed use of the existing watercourse as an infiltration device. Therefore, we would encourage the applicant to consider adapting their surface water strategy to use appropriate SuDS features to dispose of surface water, like infiltration basins, which have been designed to accommodate surface water, rather than for land drainage. I would also like to remind the applicant that any discharge of surface water to a watercourse will require Land
Drainage Consent under Byelaw 3."

"I note the presence of watercourses which are not maintained by the Board (riparian watercourses) adjacent to the southern and western site. I note that the applicant intends to pipe the southern ditch to facilitate access to the site (Block and Location Plan, 2306-02-B, Cooper Architectural Design, March 2024). The applicant has approached the Board to apply for consent under Section 23 of the Land Drainage Act 1991 (and Byelaw 4). This application is currently under determination under reference number 24_27792_C."

"I note the presence of a Board maintained watercourse, K41 Lutton Leam (DRN201G4104). Whilst not currently proposed, should the applicant's proposals change to include works within 9 metres of the aforementioned Board Maintained watercourse, or if works within 9 metres of the watercourse are proposed at any time in the future, consent would be required under Byelaw 10."

Members of the public

This application has been advertised in accordance with the Council's Statement of Community Involvement and the Development Procedure Order. In this instance, three letters of representation have been received.
These can be summarised as:

Map appears to be not to scale - Having measured the map the annotated dimensions are in accordance with the scale of 1:500.

Car parking spaces increased from 13 to 18 - This does not impact the non-material amendment application.

Will passing points still be installed? - L.C.C. Highways have indicated to the applicant that the passing bay they requested would not be required if the access were slightly closer to the junction.

Can hedge on eastern boundary be moved inside the 3m grassed margin to allow maintenance on both sides? - This matter would be subject to a landscaping condition compliance application.

Can hedge on southern boundary be moved inside the 3m grassed margin away from the drain to allow maintenance? - This matter would be subject to a landscaping condition compliance application.

Does this application have the original conditions on noise, light, power and hours of working conditions? (as this application does not have that detail). - All original conditions on application H12-0687-23 are retained.

"Highway unsuitable as Monmouth Lane not wide enough for vehicles passing, essentially as single carriageway. Monmouth Lane already has significant agricultural + haulage associated with busy farm enterprise and vehicles for recently passed dog exercise area accessing lane/ junction. Moving the proposed site access a few metres will not mitigate vehicle usage of the lane without the use of passing places as indicated necessary in the original application by Highways as a condition."

KEY PLANNING CONSIDERATIONS

The main issues and considerations in this case are (but are not limited to):

Accordance with Non-Material Amendment assessment criteria.

EVALUATION

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.

The Council has therefore introduced a system whereby 'minor amendments' to a scheme can be considered as a way of allowing the planning system to respond in a reasonable and flexible manner to small changes to an approved scheme without seeking a fresh application.

South Holland District Council's "Development Control Procedure Note: Non-Material Amendments to Planning Permissions" indicates that non material amendments will be approved subject to specific criteria being met.

This application is assessed against the criteria for assessing whether the proposal amendments are non-material.
All of the following criteria must be met for amendments to be considered under this procedure:

1 - There would be no alteration to the application site boundary (red edge).

2 - The amendment would not conflict with Development Plan Policies or other Government Guidance.

3 - The proposal would not exacerbate concerns raised by third parties at original planning application stage.

4 - The proposed change would not be contrary to a condition on the original approval.

5 - The approved footprint / siting of the building will not be moved materially and will not have a material impact on a neighbour.

6 - The height of the building or extension would not be increased.

7 - The amendment would not result in any potential overlooking of any neighbouring property.

8 - The amendments must not result in a fundamental change in the design of the building.

9 - The proposal does not amount to new works or elements not considered by any Environmental Statement submitted with the application.

When assessed against the above criteria the following can be observed:

1. The red line application site boundary has not been altered.

2. The amendment does not conflict with any Development Plan Policies or other Government Guidance.

3. The amended access location would not exacerbate concerns raised by third parties.

4. The proposed changes would not be contrary to a condition on the original approval.

5. The approved footprint / siting of the glasshouse will not be moved and there will be no impacts on neighbours.

6. The height of the glasshouse would not be increased.

7. The amendments would not result in any potential overlooking of any neighbouring property.

8. The amendments would not result in a fundamental redesign of the site.

9. The proposal does not amount to new works or elements not considered by any Environmental Statement submitted with the application.

The proposal satisfactorily complies with the criteria of the South Holland District Council's "Development Control Procedure Note: Non-Material Amendments to Planning Permissions", and as such is acceptable as a Non-Material Amendment

Beyond the above considerations. The relocated access location is not considered to constitute a material amendment. The following can also be detailed:

- There were no residential objections to the existing access location.
- The scale of on site parking that the access serves has not been materially altered, as the number has increased from 13 to 18.
- The access remains 195 metres from the junction with Lutton Gowts so is not considered to materially impact highway safety.
- As the access has been brought closer to the junction with the roadway named Lutton Gowts, the County Highways department considers that there is no longer a requirement for a passing place between the site and Lutton Gowts.

CONCLUSION

The proposed amended access is considered to accord with the non-material amendment assessment criteria and comprises an acceptable amendment.

RECOMMENDATION

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

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.