

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H12-0546-26 **Applicant:** Mr S Butler

Proposal: Proposed dwelling and detached garage - approved under H12-0930-24. Modification to Condition 2 to allow amendments to previously approved plans and amendment to the wording of Condition 5 to remove the reference to the BNG enhancement area

Location: Sunindale Marriots Gate Lutton

Terminal Date: 3rd July 2026

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

- 01 Spatial Strategy
- 02 Development Management
- 03 Design of New Development

National Guidance

National Planning Policy Framework December 2024

- Section 2 - Achieving sustainable development
- Section 4 - Decision-Making
- Section 12 - Achieving well-designed places
- Section 15 - Conserving and enhancing the natural environment

Representations:

	Object	Support	No Obj.	Comments
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CASE OFFICER ASSESSMENT

Proposal

The application seeks permission for a non-material amendment (NMA) to planning permission H12-0930-24. Permission H12-0930-24 granted permission for a dwelling and a garage on 23 December 2024.

The current application seeks to amend the approved plans listed in condition 2 and the wording of condition 5 by removing the reference to a Biodiversity Net Gain enhancement area.

Site Description

The application site comprises land to the south and east of Sunindale, Lutton. The site is located

on the southern edge of the village. The front portion of the site is within the settlement boundary; however, the rear portion is outside the settlement boundary.

Relevant Planning History

H12-0930-24: (Full Application) Proposed dwelling and detached garage - approved 23 December 2024

H12-0170-26: (Discharge of Conditions) Details of biodiversity gain plan and boundary treatments (BNG condition and Condition 4 of H12-0930-24) - approved 25 March 2026

Consultation Responses

The local planning authority (LPA) has discretion regarding who to consult for NMA applications. Due to the nature of the proposed amendment, it was not considered necessary to consult neighbours or any specific statutory consultees.

Key Planning Considerations

Development Plan

Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the LPA makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

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, December 2024 (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 Determination of NMA Applications

The LPA 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 LPA is satisfied that the change is not material. There is no statutory definition of "non-material" as this varies depending on the site context. As such, an amendment that is considered to be non-material in one context, may be material in another.

South Holland District Council (SHDC) 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.

SHDC's "Development Control Procedure Note: Non-Material Amendments to Planning Permissions" indicates that non-material amendments will be approved subject to the following criteria being met:

- 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; and
11 - There would be no change to the description of development in respect of number of proposed units.

Proposed Changes to Conditions 2 and 5

Within planning permission H12-0930-24 condition 2 set out the approved plans, including the approved site plan (ref: 6965/02E). Within the approved site plan, the western portion of the site was labelled as 'Non-domestic paddock (Used for BNG enhancement, see report)'. This is because the western portion of the site was proposed to deliver the necessary Biodiversity Net Gain (BNG) habitat units.

After permission H12-0930-24 was approved an application was submitted to discharge the standard BNG condition. As set out previously, the BNG condition was discharged on 25 March 2026 under application H12-0170-26. As part of this application, it was agreed that BNG units have been purchased to deliver habitat units elsewhere rather than delivering BNG within the red line boundary. It was accepted that this was suitable as an alternative means of delivering BNG.

The approved site plan still refers to a BNG enhancement area to the rear of the site and as such, it is considered appropriate to accept the amended site plan that has been submitted with the current application as the western portion of the site has been re-labelled to remove reference to the deliver of BNG. Instead, the area is labelled only as 'Non-domestic paddock'. There is an annotation within the amended site plan to indicate where the rear garden ends and as such, the amended site plan is considered to be suitable.

The wording of Condition 5 of permission H12-0930-24 was as follows:

"The land which is located to the rear of the site (identified as an area which is outside the settlement boundary and is 'Used for BNG enhancement' on the submitted site plan - 6965/02E), shall not be used as a residential garden.

Reason: To ensure that the Local Planning Authority retains control over the future use of the premises/site in the interests of visual amenity.

This Condition is imposed in accordance with Policies 1, 2 and 3 of the South East Lincolnshire Local Plan, 2019."

Therefore, the purpose of the condition was only to clarify that the land within the western portion was not permitted as garden land, and this was largely because the land is outside the settlement boundary of Lutton.

Although condition 5 doesn't require BNG to be provided within the BNG area, it is understood that an amendment to the wording of the condition is sought in the interests of clarity. Therefore, it is considered appropriate to amend the wording of condition 5 to remove the reference to a BNG area. The site plan makes it clear where the end of the garden and domestic curtilage ends, and this excludes what was formerly the BNG area.

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

The proposed changes are acceptable as a Non-Material Amendment to permission H12-0930-24.

Recommendation

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