DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H13-0533-25**	**Applicant:**	**Postland Developments**
Proposal:	Details of reserved matters for schedule of materials and landscaping and tree planting - approved under H13-1148-20. Change of landscape proposals to front of Plots 24-27		
Location:	Primus Close Moulton Chapel Spalding		
Terminal Date:	30th June 2025		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework December 2024

Section 96A of The Town & Country Planning Act 1990 (As amended).

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

Proposal

This is an application under Section 96A of The Town & Country Planning Act 1990 (As amended). Reserved Matters Application for 'Details of reserved matters for schedule of materials and landscaping and tree planting - outline approval H13-0844-17' was achieved under H13-1148-20

The following amendments are proposed:

Change of landscape proposals at the front of plots 24 to 27 from that shown on landscape drawing number POST/20/02 to that shown on drawing number L(--)01-3-1 ref the reserved matters application H13-1148-20

Case Law

The Court of Appeal, in R (on the Application Of Fulford Parish Council) v City of York Council EWCA Civ 1359, has confirmed that the statutory power under section 96A of the Town and Country Planning Act 1990 to make non-material changes to a planning permission can be used to make non-material changes to conditional reserved matters approvals

Site Description

The site is approximately 2.9 hectares in size and comprises of agricultural land to the rear of properties/businesses on Roman Road and Cekhira Avenue. The part of the site adjoining Roman Road formerly accommodated a commercial vehicle repair business, which has now been demolished. The former village playing field is to the east, there are fields to the south and a Grade II Listed Mill is to the north-west
The site is currently under development.

History

H13-1148-20 - Details of reserved matters for schedule of materials and landscaping and tree planting - outline approval H13-0844-17. Approved 15-03-21

H13-0858-20 - Details relating to contamination (Condition 13 of H13-0844-17) (undecided) H13-0496-20 - Details of Conditions 3 (iii & v), 15, 17, 18, 19, 20 and 22 of H13-0844-17 (undecided) H13-1107-20 - Details of landscaping and tree planting, boundary treatment, public open space & landscape management (Conditions 8, 9, 10 & 11 of H13-0844-17) (approved March 2021)

H13-1096-19 - Reserved Matters - Residential development - comprising 58 dwellings and associated works - outline approval H13-0844-17 - Approved February 2020

H13-0370-19 - Details Relating to Archaeology (Condition 5 of H13-0844-17) (approved April 2020) H13-1096-19 - Reserved matters application for residential development - comprising 58 dwellings and associated works - outline approval H13-0844-17 (approved February 2020)

H13-0844-17 - Outline application for proposed development of up to 58 houses with vehicular access (garages to be removed) (resubmission of H13-1280-16) (approved October 2018). Subsequently a section 73 application H13-1148-20 was submit, to deal with both landscaping and appearance.

Consultation Responses

Non Requested

Planning Considerations

South Holland District Council Local Planning Authority sets out criteria for non-materials amendments. This is set out on the council webpages. It states:

Non-material amendment criteria - South Holland

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.

Planning Practice Guidance

The local planning authority must have regard to the effect of the change, together with any previous changes made under section 96A. They must also take into account any representations made by anyone notified, provided they are received within 14 days of notification. As this is not an application for planning permission, section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply.

Planning Matters

The proposal seeks minor alterations to the front of plots 25 - 27 inclusive. These 4 plots represent 2 x pairs of semi-detached dwellings. Previously these plots had a grassed are to the front, with two trees planted in each garden. This plan shows that the front areas will be bound in a resin-based gravel and paved path access, with a small, paved area at the entrance, this allows for better accessibility for residents.

Assessment

The proposal seeks only to supersede (part of) one of the landscaping plans *POST/20/02* the rest of the plans approved under H13-1148-20 will remain in force, including those relating to materials/appearance.

The proposal allows for a better means of accessibility for residents to 4 of the plots, there are 58 in total. The effect of the changes are, in the context of the broader scheme to have limited effect. In terms of all planning matters including amenity, highways safety and character.

The criteria set out on the website (SHDC) in relation to NMA considerations relates to the changes to approved schemes; these changes (despite substituting plans) relate only to a small area of front curtilage of 4 of the properties, reworked to allow for better accessibility.

The SHDC approach above states that *'each case is judged on its own merits'* and then offers an indicative guide of points SHDC may consider. PPG states that local planning authority must have regard to the effect of the change, together with any previous changes made under section 96A.

Only a small area to the front of 4 plots is reworked (in a scheme of 58), in this instance then when considering the effect of the change, (and that no other S96 applications have been received) the proposed changes would not materially alter the previously approved permission. Nor would the changes result in the requirement for any form of mitigation (conditionality).

It is therefore considered that the changes proposed by this application are considered not to have a material effect upon the previously approved scheme.

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 landscaping matters reserved under H13-1148-20.

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.