

## DECISION DELEGATED TO HEAD OF PLANNING

**Application No:** H14-0952-25      **Applicant:** J Feltwell

**Proposal:** Proposed warehouse with associated offices, ancillary accommodation and yard - Approved under H14-0062-23. Amendment to reduce height of building

**Location:** Land Off Elsoms Way Pinchbeck Spalding

**Terminal Date:** 5th November 2025

### Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework December 2024

### Representations:

	Object	Support	No Obj.	Comments

## CASE OFFICER ASSESSMENT

### Proposal

This application is made under Section 96A of the Town and Country Planning Act, seeking to amend H14-0062-23. It is proposed that the height of the building would be reduced by approximately 6m, from an approximate maximum height of 16m to 10m.

### Site Description

The site is approximately 2.65 acres of vacant land, currently grassed. The site is within the "Main Employment Area" of Wardentree Lane outlined within Policy 7 of the South-East Lincolnshire Local Plan, 2019 (SELLP). The site is within the settlement boundary of Spalding.

The area is dominated by Class B uses, and as such, there is a prevalence of large scale, industrial developments. To the south and west are examples of this industrial use. To the north and east are agricultural holdings. To the immediate north is Blue Gowt Drain, a drain under the care of South Holland Internal Drainage Board. To the immediate east is another, smaller drain and then the A16.

### Planning History

H14-0062-23 - Full. Proposed warehouse with associated offices, ancillary accommodation and yard. Approved 21/06/23.

H14-0747-24 - Condition Discharge. Details of finished floor levels & means of surface water

disposal (Conditions 3 & 6 of H14-0062-23). Approved 21/10/24.

H14-0766-25 - Non-material amendment. Proposed warehouse with associated offices, ancillary accommodation and yard - approved under H14-0062-23. Amendments to include moving the dock levellers and the ramp from side to rear of the building and increase the numbers from 3 to 10. Approved 02/09/25.

## Planning Considerations

### Policy Context and Considerations

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.

Notwithstanding the fact that there is no definition of 'Non-Material' South Holland District Council Local Planning Authority sets out guidance criteria for non-materials amendments. This is set out on the council webpages. It states that a change may be considered non-material 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.

The criteria set out above are designed to prevent amendments being accepted that would have a detrimental impact upon neighbours or amenity in the wider public interest.

### Assessment

Assessing the proposal against the above, the following is considered:

1. There would be no change to red line boundary or application site .
2. The amendment would not conflict with any government guidance or any provisions within the Local Plan.
3. The amendment would not conflict with any of the conditions placed upon H14-0062-23.

4. The proposal would not exacerbate any concerns raised during the consultation process of the original application. No consultation responses were received within the initial application regarding the building's height.
5. There would be no change to the siting or footprint of any buildings.
6. The proposal would not result in an extension to the approved development.

7. The height of the building would be reduced by approximately 6m, which equates to an approximately 37.5% decrease. This is considered to be a significant reduction in the overall height and volume of the building. On this basis, the proposal is contrary to point 7.

8. The amendments would result in a fundamental change in the design of the building. Whilst most key architectural features are maintained, the reduction in height would result in a fundamentally different appearance for the building. This change may be considered a betterment, as it would reduce the overall visual mass and dominance of the development; however, irrespective of the merits of the case, the change would still be fundamental.

9. The original application did not contain an environmental statement.

10. Due to the nature of the proposal, no new openings would be created and no additional overlooking would occur.

11. There would be no change to the number of proposed units.

As such, when taking account of the above the proposal is considered to be material. The height and volume of the building would be significantly reduced, and whilst it is accepted that this is a betterment, the change is considered to be so significant as to be inappropriate to proceed under a 96A application.

## **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**

It is considered that the amendment is material and so cannot proceed under a 96A application. The recommendation is for delegated refusal.