DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H17-0740-26**	**Applicant:**	**Nna Surfleet Ltd.**
Proposal:	Residential development of 6 self-build dwellings - approved under H17-0819-24. Modification of Conditions 2, 3 & 9 relating to amendments to previously approved plans, landscaping and boundary treatments		
Location:	Land Off Thary Lane Surfleet Spalding		
Terminal Date:	21st October 2026		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development
04	Approach to Flood Risk
28	The Natural Environment
30	Pollution
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework August 2026

Section 3: Decision-making
Section 4: Achieving sustainable development
Section 6: Delivering a sufficient supply of homes
Section 14: Achieving well-designed places
Section 18: Managing flood risk and coastal change
Section 19: Conserving and enhancing the natural environment

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	1	0
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1

OTHER STATUTORY BODIES	0	0	0	1
RESIDENTS	0	0	0	2

CASE OFFICER ASSESSMENT

Proposal

This Section 73 application seeks to vary Conditions 2, 3 and 9 of planning permission H17-0819-24, which permits six self-build dwellings on land off Thary Lane, Surfleet.

The proposed variation of Condition 2 would amend the site layout and replace the approved house-type drawings for Plots 3-6. Plot 3 would comprise a two-storey dwelling, while Plots 4, 5 and 6 would comprise detached bungalows. The submitted drawings provide floor plans, elevations and external materials, together with the arrangement of gardens, driveways and parking areas. The approved house types for Plots 1 and 2 would remain unchanged.

The variations to Conditions 3 and 9 seek approval of the landscaping and boundary treatments shown on the revised site plan. These include tree planting, grassed areas, hard surfacing, timber fencing and masonry walling.

The development would remain six self-build dwellings served by the access from Thary Lane. No additional dwellings are proposed.

Site Description

The application site lies outside but adjacent to the settlement boundary of Surfleet, to the north-west of the settlement and west of the junction of Thary Lane and Coalbeach Lane South. A recent residential development lies to the south.

The site benefits from planning permission for six self-build dwellings. Development has commenced, with the approved access road and drainage infrastructure installed, including drainage works covered by a Section 104 agreement. Construction of the dwellings is ongoing.

History

H17-0819-24 - Residential development of 6 self-build dwellings - approved under H17-0357-22. Modification of Condition 3 to remove design requirements of self-build properties and Modification of Condition 16 to remove the requirement of a private refuse collection company. Approved 05-08-26

Consultation Responses

SUDS

The proposal is for minor amendments to Conditions 2, 3 & 9. The minor amendments proposed will not have an adverse impact upon the public highway or surface water flood risk.

Parish

No comment

EA

No objection

Ecology

Thank you for consulting us on this application. We have reviewed the proposals and have no ecological concerns to raise at this time; therefore, we have no objections.

Tree Officer

Raises concerns about compliance with the Tree Protection Plan during construction and whether the proposed planting specification will be followed. Requests that Conditions 13 and 14 of H17-0819-24 are reattached in full to secure the retention, replacement and protection of existing trees.

Considers that there is insufficient space for the proposed small-leaved lime trees to grow naturally, particularly the two limes and silver birch proposed beneath the retained Norway maple.

Representations

The application has been advertised in accordance with the Development Management Procedure Order 2015 (as amended). In this instance, the LPA have received representation.

The comments from local residents concerned about the length of time of the construction works. The impact from construction traffic. Questions have been asked regarding the layout of the scheme but also support for the proposal of bungalows. Other residents raise the loss of trees and impacts upon wildlife, especially birds.

Evaluation - Section 73

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

This application seeks to vary Conditions 2, 3 and 9 of planning permission H17-0819-24 under Section 73 of the Town and Country Planning Act 1990. Section 73 allows conditions attached to an existing planning permission to be varied or removed. The assessment concerns the conditions subject to which permission should be granted and the planning implications of the proposed changes. The principle of the development established by the existing permission is not being reconsidered.

Planning Practice Guidance confirms that Section 73 cannot be used to change the description of development or extend the time limit for commencement. A permission granted under Section 73 is a new, independent permission, which sits alongside the original permission without amending it.

If approved, the new permission would incorporate revised Conditions 2, 3 and 9, together with the other conditions that remain necessary and relevant. The assessment below therefore considers the amended layout and house types, landscaping and boundary treatments, and their compatibility with the remaining requirements of the existing permission.

Planning Considerations

Proposed changes

The application seeks to amend the site layout and house types for Plots 3-6 within the approved development of six self-build dwellings. It also seeks approval of landscaping and boundary treatments. No additional dwellings are proposed.

Condition 2 of H17-0819-24 requires development to follow the approved plans and documents. Condition 3 requires approval of landscaping details before occupation of each plot, followed by planting and maintenance. Condition 9 requires approval of boundary details before installation,

followed by their implementation and retention.

If permission is granted, Condition 2 will be updated to include the replacement drawings. Conditions 3 and 9 will become compliance conditions requiring the landscaping and boundary treatments approved through this application to be carried out and maintained or retained as appropriate. No further details will be required under those conditions.

The other relevant conditions will be carried forward, with wording and drawing references updated where necessary. These will retain controls over matters including drainage, site levels, flood mitigation, tree protection and construction management. The changes to each condition are explained in the reattachment of conditions section below.

The main considerations are character and appearance, residential amenity, highway safety and parking, trees and landscaping, ecology, and drainage and flood risk.

Character and appearance

Policies 2 and 3 of the South East Lincolnshire Local Plan require appropriate design, scale and layout. NPPF Policies DP3 and DP4 support development that responds to its surroundings and maintains design quality when approved schemes are amended.

The proposed drawings will replace the approved site layout and house-type drawings for Plots 3-6 under Condition 2. The approved house-type drawings for Plots 1 and 2 will remain unchanged. The replacement drawings will control the siting, design and external materials of the amended dwellings.

The layout retains six detached dwellings arranged around an internal access road, with individual gardens and parking areas. The different house types provide variety while maintaining a consistent residential character.

Plot 3 is a two-storey dwelling with projecting gables, brickwork and areas of cladding. Plots 4, 5 and 6 are bungalows with pitched roofs. Their lower height helps limit the visual impact of development across this part of the site.

The drawings specify red facing brick, slate-effect roof tiles and areas of composite cladding for Plots 3, 5 and 6. Plot 4 specifies antique red stock brick and grey roof tiles. These materials would provide a compatible appearance across the different house types. Including the drawings in Condition 2 will secure the specified external finishes.

The site plan shows lower post-and-rail fencing along the access road, with higher fencing and walling around private areas. This would separate the plots without creating continuous high boundaries along the road. The landscaping would soften the buildings and hard surfaces. Conditions 3 and 9 will secure the approved landscaping and boundary treatments.

The amended house types, layout and materials are considered appropriate for the site and its surroundings. The proposal would maintain an acceptable standard of design and accord with Policies 2 and 3 and NPPF Policies DP3 and DP4.

Residential amenity

Policies 2 and 3 of the South East Lincolnshire Local Plan seek to protect residential amenity. NPPF Policy P3 also requires acceptable living conditions, including access to daylight and sunlight and protection from harmful disturbance.

The assessment considers the relationship between the proposed dwellings and existing homes, including building height, window positions, gardens and boundary treatments.

The single-storey design of Plots 4, 5 and 6 would limit opportunities for overlooking and reduce their visual impact when viewed from adjoining properties. Each dwelling would have its own garden, with boundary treatments providing privacy between plots. Condition 9 will require the approved boundaries to be installed before occupation of the dwelling they serve and retained thereafter.

Plot 3 has one first-floor window on its rear elevation, serving a bathroom. A condition will require this window to be obscure-glazed and non-opening below 1.7 metres above the internal floor level, with these measures retained thereafter. This would prevent harmful overlooking while allowing light into the bathroom. A further restriction will prevent additional windows or other openings in the rear elevation or rear roof slope of Plot 3 without express planning permission, protecting the privacy of neighbouring occupiers. Condition 6 will retain the approved site and finished floor levels.

Residents' concerns about construction traffic and disturbance are noted. The site already benefits from permission for six dwellings, and the amendments would not increase that number. Condition 11 will require the remaining works to follow the Construction Management Plan approved under H17-0819-24. Any failure to comply can be considered through the Council's compliance procedures.

Condition 4 will retain the permitted development restrictions on extensions, outbuildings and alterations. This will allow their effects on neighbouring amenity to be assessed through planning applications rather than being carried out under permitted development rights.

With these conditions, the amendments are considered acceptable in terms of residential amenity and would accord with Policies 2 and 3 and NPPF Policy P3.

Highway safety and parking

Policies 2, 3 and 36 of the South East Lincolnshire Local Plan require suitable access and parking arrangements. NPPF Policies TR4 and TR6 also seek to ensure safe access, appropriate parking and acceptable effects on the highway network.

The development will remain six dwellings served from Thary Lane, with driveways and parking provided within the plots. The amendments will not change the residential use or increase the number of dwellings. The parking arrangements are considered suitable for the amended development.

Highways has confirmed that the amendments will not adversely affect the public highway. There is no evidence that the changes would cause an unacceptable highway safety impact.

Condition 12 will retain the approved visibility splays and require them to remain clear of obstructions. The parking areas, boundary treatments and planting must not obstruct the access road, turning areas or visibility splays. Condition 11 will also retain compliance with the Construction Management Plan approved under H17-0819-24.

The refuse and recycling arrangements approved under H17-0819-24 will remain applicable. Condition 15 will require the approved store to be available before the first dwelling is occupied and retained thereafter.

The amendments are therefore considered acceptable in terms of highway safety and parking and comply with Policies 2, 3 and 36 and NPPF Policies TR4 and TR6.

Trees and landscaping

Policies 2, 3 and 28 of the South East Lincolnshire Local Plan seek to protect trees and secure appropriate landscaping. NPPF Policies N2 and N3 also support tree protection, suitable planting and long-term maintenance.

The Arboricultural Implications Assessment dated 20th October 2022, approved under H17-0819-24, identified tree removals and works within root protection areas, subject to protective measures. These previously accepted impacts form the baseline for this assessment. The current application does not seek approval for further tree removal.

Conditions 13 and 14 will be reattached to protect the two retained walnut trees, Norway maple and blue Atlas cedar and secure compliance with the approved Tree Protection Plan. These requirements will apply to the remaining construction works. The Tree Officer's concerns about previous working practices are noted, and any failure to comply can be addressed separately

through the Council's compliance procedures.

The Tree Officer has also raised concerns about the space available for some proposed planting, particularly beneath the Norway maple. These comments have been considered. On balance, the landscaping shown on LDC4937 01E is considered acceptable as a scheme to soften the development and provide additional planting alongside the retained trees. Condition 3 will require its implementation, maintenance and replacement of planting that fails within five years.

With the retained tree protection measures and landscaping condition, the proposal is considered acceptable under Policies 2, 3 and 28 and NPPF Policies N2 and N3.

Ecology

Policy 28 protects ecological interests. NPPF Policy N2 seeks to minimise biodiversity harm and incorporate appropriate features for wildlife.

Residents' concerns about wildlife and birds are noted. The ecologist has reviewed the amendments and raised no objection. The proposal remains a six-dwelling development within the permitted site.

The approved ecology improvements will remain secured. Retention of the identified trees and suitable replacement planting will also help maintain habitat within the development.

Subject to retaining the applicable ecological and tree measures the amendments are considered acceptable under Policy 28 and NPPF Policy N2.

Drainage and flood risk

Policy 4 of the South East Lincolnshire Local Plan addresses flood safety and drainage. NPPF Policies F7 and F8 require development to be safe from flooding and avoid increasing flood risk elsewhere.

The approved drainage infrastructure has been installed, and the drainage consultee has confirmed that the amendments would not adversely affect surface water flood risk. The overall drainage strategy approved under H17-0819-24 remains appropriate for the six-dwelling development. Condition 7 will retain compliance with that strategy. Building Regulations will address the technical design and construction of drainage changes within individual plots, which must remain compatible with the approved system.

Condition 5 will retain the flood mitigation measures in the Flood Risk Assessment approved under H17-0819-24, including finished floor levels no lower than 3.6 metres above Ordnance Datum. Condition 6 will also retain the site and floor levels shown on approved drawing 524-S11-00-SI-DR-C-3000.

The Flood Risk Assessment expresses a preference for two-storey dwellings with sleeping accommodation above ground-floor level. This does not rule out bungalows, but retaining the existing conditions alone does not demonstrate that the revised accommodation would be safe. Confirmation that the flood mitigation remains suitable for the proposed bungalows is therefore needed before the flood-risk assessment can be concluded.

The drainage arrangements are considered acceptable under Policy 4 and NPPF Policy F8.

Reattachment of conditions

As development has already commenced, conditions relating solely to the commencement of development will not be reimposed.

Conditions attached to planning permission H17-0819-24 which require the development to be carried out in accordance with approved details, plans, mitigation measures or management arrangements will be reattached, where still relevant and necessary, to ensure the amended development continues to be implemented in an acceptable manner.

Where this application introduces amended proposals, replacement drawings or additional information not previously approved, the relevant conditions will be updated accordingly to secure compliance with the revised scheme. This will ensure that the development is carried out in accordance with the amended plans and that any additional details required as a consequence of the proposed changes are provided and approved where necessary.

The resulting condition set will largely replicate the controls imposed under planning permission H17-0819-24, with amendments only where required to reflect the revised development now proposed and to ensure the conditions remain precise, enforceable and relevant to the development as amended.

Legal Agreement

The Section 106 agreement dated 7th May 2024, as varied by the deed dated 17th July 2026, applies to the development. Clause 4.3 extends its definition of "planning permission" to include subsequent permissions granted under Section 73 and amendments made under Section 96A.

The permission granted through this application will therefore remain subject to the agreement and its obligations. No further variation is required solely to link the agreement to this permission.

Planning Balance

The proposal retains the approved development of six self-build dwellings. The amended layout, house types, materials and boundary treatments are acceptable in terms of character and appearance. Residential amenity can be protected through conditions, including obscure glazing to the rear bathroom window of Plot 3 and restrictions on additional rear openings.

Highways, drainage and ecology consultees have raised no objections. The Tree Officer's concerns have been considered, and the existing tree protection requirements will be retained alongside a condition securing the accepted landscaping scheme.

The amendments are therefore acceptable in these respects. However, confirmation that the flood mitigation is suitable for the proposed bungalows remains outstanding. A recommendation to grant permission depends on satisfactory resolution of this matter.

Conclusion

Subject to confirmation that the proposed bungalows satisfy the flood-safety requirements, and the conditions identified in this report, the application would accord with Policies 2, 3, 4, 28 and 36 of the South East Lincolnshire Local Plan and NPPF Policies DM6, DP3, DP4, P3, TR4, TR6, N2, N3, F7 and F8.

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.