DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H17-0843-26**	**Applicant:**	**Mr M Yould**
Proposal:	Erection of 2 dwellings - Approved under H17-0128-24. Modification of Condition 2 to allow amendments to previously approved plans		
Location:	Flaxmill House 12 Reservoir Road Surfleet		
Terminal Date:	30th October 2026		

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
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
28	The Natural Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework August 2026

Section 5 - Meeting the challenge of climate change
Section 6 - Delivering a sufficient supply of homes
Section 14 - Achieving well-designed places
Section 15 - Promoting sustainable transport
Section 16 - Promoting healthy communities
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	1	0	0
WARD MEMBER	0	0	0	0

CASE OFFICER ASSESSMENT

Proposal

This application is a Section 73 seeking to vary Condition 2 of planning approval H17-0128-24 to allow amendments to previously approved plans.

Application H17-0128-24 granted planning permission for the erection of 2 detached dwellings.

The amendments include:

Plot 1

South elevation (front):
-New window designs
-Removal of porch
-A new front door design
-The addition of solar panels to the roof

North elevation (rear):
-New window design
-Reposition of the two roof lights

East elevation (side):
-Chimney to reduce in the size
-Change in window design

Plot 2

South elevation (front):
-New window designs
-Removal of porch
-A new front door design
-The addition of solar panels to the roof

North elevation (rear):
-New window design
-Reposition of the two roof lights

West elevation (side):
-Chimney to reduce in the size
-Change in window design

Site Description

The application site is located between two existing frontage two storey dwellings (known as Flaxmill House and Old Lammas) and is part of a wider agricultural field which extends to the rear of these properties. There are two detached properties opposite. The majority of dwellings in the vicinity are large and set within generous sized plots. There is existing close boarded fencing along the eastern boundary. The northern and southern boundaries are open and the western boundary is mostly open.

History

H17-0346-19 - Outline - Residential development - 2 plots - Approved May 2019.

H17-1283-21 - Cond Comp - Details of scheme to deal with contamination & boundary treatment (Conditions 4 ((i), (ii)) & 5 of H17-0346-19) - Approved February 2022.

H17-1284-21 - RM - Erection of 2 Dwellings - outline approval H17-0346-19 - Approved February 2022.

H17-0641-22 - Cond Comp - Details of written method statement detailing the remediation requirements for land contamination and/or pollution of controlled waters (Condition 4 iii of H17-0346-19) - Approved August 2022.

H17-0685-23 - Cond Comp - Details of colour of render & cladding (Condition 2 of H17-1284-21) - Withdrawn September 2023.

H17-0689-23- S73 - Erection of 2 dwellings - approved under H17-1284-21. Modification of Condition 1 to allow amendments to previously approved plans - Approved 26 September 2023

H17-0128-24 - Full - Erection of 2 dwellings - previously approved under H17-1284-21 - Approved 08 April 2024

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

Surfleet Parish Council

No comment

Public Representation

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

Evaluation - Section 73

The purpose of an application made under Section 73 of the Town and Country Planning Act 1990 is to vary or remove conditions associated with an existing planning permission. These applications are used to allow for amendments to an approved scheme and can be made both retrospectively and prior to a permission being implemented, as long as the permission is extant.

The Act is very clear that: "On such an application the Local Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted." As such, the Local Planning Authority are not able to revisit the principle of development and only matters relevant to the specific conditions can be considered. The effect of granting permission would be to issue a new permission with Condition 2 amended, together with any other relevant conditions from the original permission, or subsequent relevant revisions since this permission.

Planning practice guidance highlights that where less substantial changes are proposed, amending a proposal can occur through 'Amending the conditions attached to the planning permission, including seeking to make minor material amendments'.

The PPG clarifies that "Permission granted under Section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted". There is no statutory definition of a 'minor material amendment'; but this is likely to include any amendments where its scale and/or nature results "in a development which is not substantially different from the one which has been approved".

In this instance, the subsequent amendments, submitted under this Section 73 application, have not varied the description of development.

In the case of R (Vue Entertainment Limited) v City of York Council, it was concluded that the decision gives clear support for use of s.73 in respect of changes to condition which go beyond 'minor' amendments. It places a clear emphasis on preserving the precise terms of the grant. If an amendment to a condition can be made which keeps the description of the development intact it

may well be appropriate to make such an application under a s.73, even if the affect of the change will be significant".

Assessment

The principle of development is already established on this site and the site benefits from an extant permission to erect 2 number dwellings, there is therefore no requirement to discuss matter of planning principle. This application seeks to make the changes listed above.
The following issues are relevant to this assessment:

-Character & Landscape
-Amenity
-Reattachment of conditions

Character, Landscape and Amenity

Section 14 of the NPPF, "Achieving well-designed places", outlines that planning decisions and policies should "promote high quality, healthy, inclusive and sustainable places".

Paragraph 1 of DP3 outlines that "development proposals should respond to their context (the history, character and features of their site and its setting), so that they integrate with and enhance their surroundings; such as through the arrangement of development plots and buildings, the use of materials and architectural features, and the restoration, reuse and integration of heritage assets".

In order to create well-designed places, Paragraph 2 states proposals should reflect seven key principles, as appropriate to the nature of the development and its location. These are: liveability, climate, nature, movement, built form, public space, and identity.

Paragraph 3 of DP3 is explicit that proposals which conflict with paragraph 1, the relevant aspects of paragraph 2 of DP3, or relevant development plan policies and guidance, should be refused. Conversely, substantial weight should be given to compliance with relevant development plan policies when assessing the design quality of proposals.

Likewise, Policy 2 of the South East Lincolnshire Local Plan (2019) outlines sustainable development considerations for development proposals, providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 of the SELLP requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically designated or undesignated townscape or landscape surroundings.

DP(3) of the NPPF outlines that development should create places that are safe, inclusive, and accessible and which promote health and well-being, with a focus on promoting liveability.

Likewise, Policy P3(1) outlines that development proposals should be appropriate for their location, taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, whether these effects are on or off-site. This point is expanded upon in P3(2) which states all development proposals should "provide healthy living conditions for occupiers and users in terms of adequate access to light and avoiding exposure to levels of air, noise, artificial light or other sources of pollution which could have an unacceptable adverse effect on health and the quality of life"

Policies 2 and 3 of South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

This variation seeks amendments to the elevations of both dwellings. The site amendments include:

Plot 1
South elevation (front):
-New window designs
-Removal of porch
-A new front door design
-The addition of solar panels to the roof

North elevation (rear):
-New window design
-Reposition of the two roof lights

East elevation (side):
-Chimney to reduce in the size
-Change in window design

Plot 2
South elevation (front):
-New window designs
-Removal of porch
-A new front door design
-The addition of solar panels to the roof

North elevation (rear):
-New window design
-Reposition of the two roof lights

West elevation (side):
-Chimney to reduce in the size
-Change in window design

The alterations listed above are considered to be modest in nature and the context of the overall scheme. It is considered that the amenity of neighbouring residents would not be materially harmed in terms of overlooking, lack of privacy, overshadowing, overbearing effect, noise and disturbance, etc.

On this basis, taking account of the design, scale and nature of the development, as detailed above, the proposal is considered to be acceptable. The proposal would not cause an adverse impact to the character or appearance of the area and would therefore be in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) and Section 14 of the National Planning Policy Framework (2026). As detailed above, the scale and design of the proposal is considered to be such that there would be no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users. As such, the proposal is considered to accord with the provisions of the Section 14 of the National Planning Policy Framework (2026), and Policies 2 and 3 of the South East Lincolnshire Local Plan (2019).

Reattachment of Conditions

Condition 2, of H17-0128-24 should be updated to reflect the amendments to the approved plans.

All other conditions will remain unchanged and undischarged where relevant.

Planning Balance

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

The proposed modification does not materially harm the character or appearance of the locality, or amenity of nearby residents, whilst conforming with the South East Lincolnshire Local Plan and the provisions of the National Planning Policy Framework (2026) when viewed as a whole.

Taking into consideration these factors, the proposal is considered to comply with Policies 2 and 3 of the South East Lincolnshire Local Plan (SELLP), 2019, plus advice within the National Planning Policy Framework (2026). There are no significant issues in this case that would outweigh factors in favour of the proposal; therefore, in considering all the matters raised above the planning balance is in favour of the proposal and the policies referred to above.

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

Taking these factors into consideration, the proposal is considered to comply with Policies 2, 3, 4, 33 and 36 of the South East Lincolnshire Local Plan, as well as Sections 14, 15, 17, and 18 of the National Planning Policy Framework (2026). There are no significant factors in this case that would outweigh the benefits of the proposal; therefore, the planning balance is in favour of the proposal.

Recommendation

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