DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H23-0676-24**	**Applicant:**	**Mr & Mrs A Gratton**
Proposal:	Residential development - Single Dwelling - Approved under H23-0070-23. Amendment to facing brick type		
Location:	Adjacent To 51 Cobgate Whaplode Spalding		
Terminal Date:	6th September 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2023

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

Proposal

This is a non-material amendment application seeking to alter the scheme approved under H23-0070-23. It is proposed that the brickwork would be changed from Wienerberger Blechingley Blend to Bespoke Brick Co. Valeriaan Multi.

Site Description

The site is located off Cobgate and is sited towards the end of Whaplode settlement boundary. It comprises a parcel of land enclosed by a mixture of hedging, fencing and a brick wall. To the east of the site is a two storey dwelling and to the west is a newly constructed single storey bungalow.

Relevant History

H23-0519-17 - Residential development - Approved 04/07/17

H23-0070-23 - Full. Residential development - Single Dwelling - Approved 16/03/23

Planning 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.

South Holland District Council 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.

South Holland District Council'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

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.

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 H23-0070-23. Condition 2 required that the development is carried out in accordance with the submitted plans, which stated that Wienerberger Blechingley Blend be used. That being said, it is not considered that the change of the materials would fundamentally conflict with this condition.

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 brickwork.

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/volume of the building or extension would not be increased or significantly reduced

8. The alteration would see the change from a red brick to a mud yellow colour. It is considered that this proposed alteration would result in a fundamental change to the design of the proposal, significantly altering the character of the property.

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

The proposal is considered to fail to fully accord to the above provisions. The assessment required under a Non-Material Amendment is not to assess the acceptability of such amendment, but to assess if the amendment is 'non-material'. The change in facing brick work would result in a material change to the design of the proposal and its impact upon the character of the area. Therefore, the proposal in this instance would be considered a material change.

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 proposed is unacceptable and cannot be considered a non-

material amendment. The recommendation is for delegated refusal.