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TOWN AND COUNTRY PLANNING ACT 1990

FULL

Reference:	H05-0318-22	**Date of Decision:**	17th November 2022
Applicant:	Oakwood Homes Ltd. Fengate Peterborough PE1 5BH		
Location:	37 Fleet Road Fleet Spalding		
Description:	Erection of 8 dwellings including upgraded site entrance and roadway, car parking, bin storage and fencing & landscaping		

South Holland District Council hereby give notice that this application has been REFUSED for the above proposal for the following reason(s):

1 The application site is adjacent to the premises of JML Henderson Ltd, a business use on the neighbouring Fleet Road Industrial Estate. It is understood that regular HGV and forklift movements take place in the early hours of the morning in the storage facilities on the site. This is alongside its usual daytime business activities.

These facilities are approximately 7.60 metres from the site boundary. In addition, the nearest proposed dwellings to this boundary range between 8.6 metres away from Plot 3 and 6.5 metres from Plot 8.

The Environmental Noise Assessment which was submitted in support of the previous application has been re-submitted in support of this application. No alteration has been made to the document to reflect the alterations to the position and orientation of the dwellinghouses.

South Holland District Council's Environmental Health Officer has confirmed that they still have concerns regarding the fluctuations in the amount of early morning loading/unloading activities at the industrial site and their implication on the amenity of residents of the nearest houses.

Furthermore, Paragraph 187 of the NPPF states that "existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established". It also states that "where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed". It is considered that the proximity of the commercial premises to the application site could result in complaints being made regarding the business' activities from future occupiers, which could result in restrictions being placed on that business.

On this basis, the proposal is considered to be in conflict with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019. These seek, amongst other things, to ensure an acceptable standard of residential amenity. It would also be contrary to Sections 12 and 15 of the National Planning Policy Framework, 2021.

2 The proposed design and layout is considered to be cramped and incongruous. Six of the eight proposed dwellings have bedrooms that do not meet minimum space standards. The proposed road layout is considered to generate material manoeuvrability and parking concerns. There are no areas on site that can provide on road parking without impacting the manoeuvrability and safety of other site users in vehicles.

This proposal is considered to provide a substandard level of occupant and highway safety by virtue of the cramped and incongruous layout. The application is therefore considered to be in conflict with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and Section 12 of the National Planning Policy Framework, 2021. These seek, amongst other things, to ensure an acceptable standard of residential amenity and promote good design.

3 The proposed refuse collection point location is considered to generate an unacceptable level of amenity for the occupants of 37 Fleet Road and the surrounding area. The refuse collection point is placed upon the residential garden of 37 Fleet Road in front of a frontage ground floor window and by virtue of eight properties proposed the collection point would generate a large amount of refuse on and around collection days. This is considered to generate an unacceptable impact on the character and amenity of the surrounding area and occupants. The application is therefore considered to be in conflict with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and Section 12 of the National Planning Policy Framework, 2021. These seek, amongst other things, to ensure an acceptable standard of residential amenity and promote good design.

Notes:

The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise. However, the issues are so fundamental to the proposal, due to the harm which has been clearly identified within the reason(s) for the refusal, that approval has not been possible.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at http://planning.sholland.gov.uk/OcellaWeb/planningSearch

The determined plans are:
Application Form
Flood Risk Assessment (Prepared by Ellingham Consulting Ltd - May 2019) ECL0036/SHAYNE ANDREWS DESIGN AND ARCHITECTURE LTD
Design and Access Statement (Prepared by Shayne Andrews Design & Architecture Ltd - 23 March 2022)
Environmental Noise Assessment SEM/J3457/17454 (Prepared by Acoustic Associates Peterborough - October 2019)
SA-PP-06 Rev A
Floor Plans & Elevations - Plot 7 (1:100)
Floor Plans & Elevations - Plot 8 (1:100)
Floor Plans & Elevations Garage - Plots 7 & 8 (1:100)
Site Lines Plan (1:1250)
Floor Plans - Plots 3, 4 & 5 (1:100)
Elevations - Plots 3, 4 & 5 (1:100)
Site Location Plan (1:1250)
Floor Plans & Elevations - Plots 1 & 2 (1:100)
SA-PP-01 Rev B



Phil Norman
Head of Planning
South Holland District Council

RIGHTS OF APPEAL

Appeals to the Secretary of State

If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or grant consent subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990 or Section 20 of the Planning (Listed Building and Conservation Areas) Act 1990.

Timescales for appealing

The deadlines for appeals are calculated from the **date of decision** and are as follows for the types of applications below:

12 Weeks	6 Months	8 Weeks
Householder Applications	Planning Permission	Consent to Display Adverts
Minor Commercial Development	Listed Building Consent	
Agricultural Determinations	Other Prior Approval Applications	
Householder Prior Approval Applications		

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planning inspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

Enforcement Notices

If an enforcement notice was served prior to the planning application being determined then the deadline for appealing is 28 days from the date of the **planning refusal**.

If an enforcement notice is served after the planning application is determined then the deadline for appealing is 28 days from the date of the **enforcement notice** OR **the timescales stated above for each application type** from the date of the planning refusal - whichever is sooner.

Appeals can be made online at: https://www.gov.uk/planning-inspectorate. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the

Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under the order.

Purchase Notices

If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grant it subject to conditions the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of the Part VI of the Town and Country Planning Act 1990 or Section 32 of the Planning (Listed Building and Conservation Areas) Act 1990.

Compensation

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.

These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Building and Conservation Areas) Act 1990.