

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	H05-0326-20	Applicant:	Gem-Mix Holdings Ltd
Proposal:	Erection of 3 pairs of semi detached 3 bed dwellings along with up graded site entrance and road way, car parking and bin storage - re-submission of H05-0572-19		
Location:	37 Fleet Road Fleet Spalding		
Terminal Date:	12th July 2020		

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
17	Providing a Mix of Housing
30	Pollution
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2019

Section 2. Achieving sustainable development
 Section 5. Delivering a sufficient supply of homes
 Section 11. Making effective use of land
 Section 12. Achieving well-designed places
 Section 15. Conserving and enhancing the natural environment

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	1	0	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1

SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	1
OTHER STATUTORY BODIES	0	0	1	0
RESIDENTS	8	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This application seeks full planning permission for erection of 3 pairs of semi detached 3 bed dwellings and associated works on land north of 37 Fleet Road, Fleet, Spalding.

This is a re-submission of application ref. H05-0572-19 which was refused on 23 January 2020. The reasons for refusal, as indicated in the Decision Notice, are set out below.

"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, which are approximately 17 metres from the rear elevations of the proposed dwellings in Plots 3 to 8. This is alongside its usual daytime business activities.

An Environmental Noise Assessment has been submitted in support of the application and despite South Holland District Council's Environmental Health Officer advising that the methodology and noise mitigation measures contained within this assessment seem appropriate, they remain concerned about the potential impact of noise from the neighbouring commercial premises upon the future occupiers of the proposed dwellings.

Furthermore, Paragraph 182 of 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 (SELLP), 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 National Planning Policy Framework (NPPF), 2019."

"2. The separation distance between first floor bedroom windows of the proposed dwellings and existing houses to the east (Grimwood Close) (approx. 18m) is not sufficient to prevent overlooking of habitable rooms. 21m is usually considered to be the minimum acceptable distance between such elevations.

In addition, it is likely that there would be overlooking of the rear gardens of houses in Grimwood Close from the first floor front bedrooms of the proposed dwellings. This would cause further loss of privacy for the existing neighbours when enjoying their outdoor amenity area.

For the reasons outlined above, the proposal is considered to be in conflict with Policies 2 and 3 of the South East Lincolnshire Local Plan (SELLP), 2019 and Section 12 of National Planning Policy Framework (NPPF), 2019."

"3. Appendix 6 of the South East Lincolnshire Local Plan (2019) sets out the minimum standards for car parking provision, including residential developments. This states that 3 vehicle parking spaces should be provided for dwellings with 4 or more bedrooms. Plot 7 is a 4 bedroom property, however only 2 vehicle parking spaces are indicated on the proposed plans. This is therefore contrary to the standards set out in the Local Plan."

Essentially, the aim of this current application is to anew seek permission for the residential scheme with substantial amendments to the refused proposal. A Design and Access Statement dated April 2020 has been submitted in support of the application which seeks to address the previous refusal reasons.

Site Description

The site is at the eastern part of the built-up area of Holbeach as shown on Inset Map 5 of the South East Lincolnshire Local Plan (SELLP), 2019. The site is mostly vacant with scrubs and a few small greenhouses and outbuildings for storage that fell in disrepair.

Two pairs of semi-detached houses and two further detached dwellings form the frontage onto Fleet Road. The access to the site would extend through No's. 35 and 37. The application site is long and narrow. It is currently vacant and untidy. Immediately to the west there is an industrial site managed by JML Henderson Ltd. This forms part of Fleet Road Industrial Estate which is classified as an Established Employment Site by Policy 7 of the SELLP. To the east there is a residential development comprising 19 houses which have been fairly recently built after obtaining permission (H05-0519-16).

History

H05-0572-19 - Erection of 3 pairs of semi detached 3 bed dwellings and 1 detached 3 bed dwelling along with up-graded site entrance and roadway - Refused

H05-1160-16 - Residential development - Proposed house - Allowed at appeal.

Consultation Responses

Members of public

Seven public objections have been received raising the following concerns:

- Existing vehicular traffic in Fleet Road travels at high speed, the development would entail additional cars that would undermine highway safety, inadequate areas for parking, loading and/or turning.
- Loss of privacy due to views from windows overlooking to rear gardens of adjacent houses.
- Overshadowing effect.
- Overdevelopment of the site.
- The refuse and recycling storage will not be sufficient and will create an eyesore and odours to the residents nearby.
- The rights of way to the existing parking space to the rear of the property 39 Fleet Road will not be respected.
- Loss of trees and wildlife.
- Loss of open amenity space.
- Further demand on facilities and amenities in Holbeach.
- Lack of details on drainage strategy.
- Fall in value of adjacent properties.

An objection has also been received from the adjacent business which raises concerns about the impact that their operations could have on future occupiers in terms of noise and light pollution and the potential for complaints from residents. Typical working hours on the premises are 5am - 7pm. From 7am-7pm forklifts, lorries and machinery operate within the site.

Fleet Parish Council

An objection has been raised against the proposals in the following terms:

- No details of the drainage strategy which will exacerbate flood risk from surface water runoff
- The proposed location of bin store is not acceptable and it will be an eyesore.
- Loss of privacy in account of front windows of Plots 1 and 2 to the rear gardens of houses in Grimwood Close
- Concerns about the extent of protection that the proposed acoustic fence will provide to the near residents to the Fleet Industrial Estate.

SHDC Environmental Protection (noise)

"I note the findings of the acoustic assessment carried out by Acoustic Associates but remain concerned that fluctuations in the amount of early morning loading/unloading activities at JML Henderson Ltd have the potential to adversely impact the properties nearest the site boundary"

SHDC Environmental Protection (contaminated land)

No comments.

Lincolnshire County Council

No objection in terms of highway safety and flood risk/drainage.

Requests three notes for highway specification and regulations if permission were to be granted as well as a condition for the submission of surface water drainage scheme.

South Holland IDB

No objection.

Reminds the applicant that the proposal must comply with Board's byelaws.

Planning Considerations

Principle of development

The site is located within the settlement boundary for Holbeach as set out in the South East Lincolnshire Local Plan (SELLP), 2019. Holbeach is classed as a Main Service Centre in Policy 1 of the SELLP, which sets out the spatial strategy for new development across the district. It is therefore considered to be one of the more sustainable settlements in the district and is suitable for new residential development.

Furthermore, the application site is brownfield in nature. Paragraph 118 of the National Planning Policy Framework (NPPF), 2019 states that planning decisions should give "substantial weight to the value of using suitable brownfield land within settlements for homes" and "promote and support the development of under-utilised land and buildings".

Given the above, it is considered that residential development in this location would, in principle, be acceptable.

Layout and design

Paragraph 127 of National Planning Policy Framework (NPPF), 2019 establishes that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area; are visually attractive as a result of good architecture and sympathetic to local character and history, including the surrounding built environment and landscape setting; and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, among other considerations. Likewise, Policy 2 of the SELLP states that design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable.

The existing 4.2 metre wide site access extends between the adjacent semi-detached houses No. 35 and 37 onto Fleet Road. Approximately 10 metres from the rear boundary of No. 37, there would

be a turning point for motor vehicles integrated to the private road. The roadway would run after that point along the eastern boundary straight to the rear of the site.

There is a net decrease of one dwelling between the previous proposal and the current one. A total of six dwellings are provided this time in the form of 3 pairs of semi-detached houses.

The dwellings will remain two-storey houses. The gable pitched roofs will be a prevailing feature which will be in keeping with most of the house in the locality. Further details of external materials will be requested should permission be granted. Albeit insufficient details in this respect, it is inferred that the layout of the buildings will not be at odds with the existing houses in the locality and residential character of the area.

Whilst it was acknowledged that the position and footprint of previous dwellings delivered a form of development nearly mirroring the row of houses in Grimwood Close, the proposed site layout this time provide somewhat variety in relation to the established pattern in the surroundings. The first pair of semi-detached will be near the turning point facing Grimwood Close (east). The other two pairs will be in close proximity to the eastern and western boundaries of the application site, both facing Fleet Road (south).

Although the previous layout shared more similarities with the area, the position and orientation of the houses proposed with this application will not appear at odds with the established pattern of development in the surroundings.

The roadway layout have been also altered in comparison with the previous application. The end of the private roadway is now at the centre of the main bulk of the site. Car parking spaces will be provided between the elevations of the dwellings and the edge of the end of roadway. The adequacy of highway specifications and parking provision is detailed in a separate section below.

Mixed planting will supplement the existing timber fence along the eastern boundary delimiting the rear gardens of houses in Grimwood Close. A 2 metre high acoustic fence will be erected along the western boundary adjoining the industrial site. Further landscaping will be provided in other parts of the site to embellish the visual amenity and create a sense of place. Overall, the boundary treatment and planting is acceptable given the proposed residential use of the site albeit further details will be required.

In summary, it is considered that the proposed development will reuse under-utilised land in a way that promotes sustainable development through the delivery of new housing in a non-greenfield location, among other considerations. On balance, the design and appearance will be acceptable to the local character of the area. However, detailed assessment is made below to ascertain whether the proposed development will ensure a high standard of amenity for existing and future users or still fails to do so as the previous proposal.

Highway safety and car parking provision

The width of at least 4.2 metres has been ensured through the entire roadway which complies with the minimum 4.1 metre width as set out in the policy document "Lincolnshire Development Roads and Sustainable Drainage Design Approach (November 2017 Edition)".

The Highways Authority has raised no objections to the proposal and so there is no justifiable reason to refuse the application of highways grounds. Three notes are requested to be added in case of the grant of permission.

Appendix 6 of the SELLP sets out the minimum standards for car parking. It states that 2 spaces should be provided for dwellings with up to 3 bedrooms and 3 spaces for dwellings with 4 or more bedrooms. The proposed car parking layout indicates that at least 2 spaces are provided for each dwelling. All proposed houses will be 3 bedroom. Therefore proposed scheme will ensure minimum provision for car parking and the application complies with Appendix 6 of the SELLP.

Residential amenity

Noise pollution

Policies 2 and 3 of SELLP (2019) include residential amenity as one of the key factors of sustainable development and good design. Policy 30 of SELLP (2019) states that development

proposals will not be permitted where, taking account of any proposed mitigation measures, they would lead to unacceptable adverse impacts upon the amenities of the area by way of noise including vibration, among other factors.

As mentioned above, Paragraph 127 of National Planning Policy Framework (NPPF), 2019 establishes that planning policies and decisions should ensure that, among other considerations, developments will promote health and well-being, with a high standard of amenity for existing and future users.

Paragraph 182 of NPPF dictates 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".

The proposed residential scheme is adjacent to the premises of JML Henderson Ltd, a business use on the neighbouring Fleet Road Industrial Estate. It has been confirmed anew that regular HGV and forklift movements take place in the early hours of the morning in the storage facilities.

The separation of these facilities is in the region of 7.60 metres with the nearest boundary of the proposed site for the residential scheme. In addition to that, the distances of the nearest dwellings with such boundary range between 7.38 metres and 1.09 metre. Therefore, most of the scheme will be in close proximity to a potential source of noise pollution.

In view of that, the Local Planning Authority requested the submission of an Environmental Noise Assessment while the previous application was being assessed. The document was produced by Acoustic Associates dated October 2019 and has been re-submitted with this application without reflecting the alterations on the position and orientation of the dwellinghouses. Irrespective of that, the content of the assessment might be considered extant after making the necessary changes. For instance, Plot 1 and 2 of the previous proposal will approximately correspond to Plots 1 and 2 of the site layout of this re-submission.

Within the section of mitigation measures, the Environmental Noise Assessment recommends a 2 metre high acoustic barrier (e.g: close boarded fencing) with a minimum mass per unit area of 10 kg/m² will remain on the western boundary of the site. Additionally, habitable rooms will be facing away from the industrial site as much as possible; and also the most affected house (Plot 1) by reason of predicted internal noise levels will have double glazing windows and remain closed. Acoustic trickle vents for the living room and each bedroom will be the alternative ventilation arrangements.

Whilst it is acknowledged the effort to provide the best design to make acceptable the relationship between the intended residential use and the existing industrial site, the resulting arrangements will not be appropriate to create a sense of place and ensure good standards of amenity to the future residents.

In this respect, it is worthy to mention the Appeal Decision APP/F6915/A/20/3246041 dated June 2020. Bridgend County Borough Council refused the grant of permission for erection of 41 affordable residential dwellings at Land south of Wyndham Close, Brackla Industrial Estate, Bridgend, Wales. The appeal was dismissed, among other considerations, on the grounds of the living conditions of the future residents of the properties by virtue of noise from an adjacent industrial site.

Even though the application was accompanied by both external and internal mitigation measures, the inspector agreed with the case officer's point of view as to the "acoustic prisons" that the measures would have created, especially the 2 metre high acoustic fencing and sealed windows.

"Whilst I accept this approach is necessary to mitigate the impact of noise, I nevertheless consider that the height and length of the enclosure would result in a form of development which would appear isolated and would fail to integrate into the surrounding area"

And also: "Although I am content that this approach would be effective, to my mind the need for every window in a dwelling to be sealed to maintain acceptable noise levels would be oppressive and would fail to create an appropriate living environment for future residence".

Following the newly proposed site layout, the levels of noise pollution will clearly impact further the amenity of the residents than in the previous proposal. All plots were set back 9 metres from the boundary adjoining the industrial site. With this application, Plots 1 and 2 will be around 2 metres closer to such boundary up to 7 metres. Plot 4 will be separated 6.60 metres and Plot 3, merely 1.09 metre. As a result of that, the habitable spaces of the houses in Plot 3 and 4 will be also closer than those in Plot 5 and 6 of the previous scheme.

SHDC Environmental Health has been re-consulted and confirmed that there are still concerns regarding the fluctuations in the amount of early morning loading/unloading activities at the industrial site and their implication in the amenity of residents of the nearest houses.

In summary, the existing business adjacent will be an unsuitable neighbour for residential properties contrary to Paragraph 182 of the NPPF (2019) and the proposals will fail to ensure good standards of amenity by reason of noise and disturbance as required by Policy 2, 3 and 30 of SELLP (2019)

Overbearing impact

Another issue of amenity is the overbearing impact of the houses in Plots 5 and 6 upon the residents of the neighbouring properties to the east (Grimwood Close). The footprint of the above-mentioned dwellings will appear merely 1.12 metre set back from the eastern boundary of the site. The nearest properties to the proposed houses is No. 11 and 12 Grimwood Close. On balance, the maximum height of 8.40 metres of the proposed houses will appear excessive given the separation distance of 10.65 metres with the nearest existing properties.

Throughout the application, it has been regularly made reference to the erection of one detached dwelling (application ref. H05-1160-16) which was approved via appeal. That dwelling was proposed to be positioned as close as Plot 6 to the eastern boundary.

In the Appeal Decision APP/A2525/W/17/3176758, the inspector stated that "a large of existing garden at No 37 would be retained as amenity space" and "the future occupants of the dwellings to the east would still experience a relatively open space in views from the rear of the dwelling and gardens".

The appeal was allowed on the basis that the site would not be developed towards the rear of No. 37 Fleet Road. However, the proposed development will clearly entail the population of four further dwellings across the entire site and consequently the open space will cease to exist and significant harm will occur to the residents of houses in Grimwood Close by reason of overbearing impact, especially Plots 5 & 6.

Overlooking impact

As a result of repositioning Plots 1 and 2 two metres closer to the western boundary, the separation distances will be also increased between the first-floor front windows and the rear garden of the property on Grimwood Close as well as first floor windows on opposing elevation.

Yet, the angle from the front bedroom windows to the centre of the back gardens is still such that it is considered that the proposal would cause still further loss of privacy for the existing neighbours when enjoying their outdoor amenity area.

With regards to the remainder of the houses, the dwellings will be facing south and the visual angle from the front bedroom windows will be sufficiently acute to prevent any overlook onto the residential plots in Grimwood Close.

Insufficient internal floorspace

The document "Technical housing standards - nationally described space standard" was produced by the Department for Communities and Local Government on March 2015 (DCLG). The local development framework has not echoed the national minimum floor space standards with the exception of Policy 21: Houses in Multiple Occupation and the Sub-Division of Dwellings of SELLP which clearly does not apply in this case. Therefore, this application cannot be determined on the basis of such national standards although they do provide some useful guidance to assess whether the proposal is or is not appropriate in this respect.

The proposed floor plans of the semi-detached houses show 3 no. bedrooms on the first floor comprising 2 no. double bedrooms and one single bedroom. The latter would amount to 5.96 sq metres in the houses of Plots 1 and 2, and 6.39 sq metres in the houses of Plots 3, 4, 5 and 6. These dimensions would be far distant from the minimum required for single bedrooms, which is 7.5 sq metres. For these reasons, the gross internal floor area would be insufficient to ensure good amenity standards to the future occupiers.

Flood risk and drainage

According to Environment Agency's Flood Map for Planning, the site falls within Flood Zone 3 which means that land has the highest flood probability should there be no flood defences in existence.

Notwithstanding this, there is no residual flood hazard as per South East Lincolnshire Strategic Flood Risk Assessment (March 2017). Maps for flood hazard, flood depths, flood velocity and the presence of water borne debris constitutes the Level 2 SFRA which complement the Environment Agency's map (Level 1 SFRA). Level 2 SFRA provides further accuracy on the impact of the flood risk. Therefore, the site is considered to be out of potential flood hazard and acceptable in terms of flood risk.

In the absence of a drainage strategy for the residential scheme, the County Lead Local Flood Authority has requested a planning condition to secure the submission of details on drainage for subsequent approval prior to the commencement of works.

Conclusion

The principle of residential development in this location, suitability of development with local character of the area, highway safety and parking provision, and flood risk and drainage are deemed acceptable. However, the proposal fails to secure minimum amenity standards for the future dwelling occupiers and existing residents of adjacent houses by virtue of noise and disturbance from the adjacent industrial site, overbearing impact, overlooking impact and insufficient gross internal floorspace.

On balance, taking into account the material considerations above, the adverse impacts of noise pollution and residential amenity are considered to demonstrably and significantly outweigh any benefits. The proposed development is contrary to Policies 2, 3, 30, 36 and Appendix 6 of South East Lincolnshire Local Plan (SELLP), 2019 and Sections 12 and 15 of National Planning Policy Framework (NPPF), 2019.

It is accordingly recommended to refuse this planning application via delegated powers.

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.