DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H05-0526-23**	**Applicant:**	**GEDA Construction**
Proposal:	Residential Development - 55 dwellings including demolition of existing house - approved under H05-0770-22. Modification of Condition 4 relating to boundary treatment in north-west corner of the site.		
Location:	Fleet Road Holbeach Spalding		
Terminal Date:	4th September 2023		

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
18	Affordable Housing
19	Rural Exception Sites
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 2021

Section 2 - Achieving Sustainable Development
Section 12 - Achieving Well-Designed Places

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
RESIDENTS	2	0	0	0

CASE OFFICER ASSESSMENT

Proposal

The site has outline planning permission and reserved matters approval for 55 dwellings, including demolition of the existing dwelling (Phase 1 - ref. H05-1183-16 and H05-0670-20). Applications have subsequently been approved to modify the scheme under S73, the most recent being ref. H05-0770-22 approved 2 November 2022. Development is well under way on site and some properties are now occupied, including plot 31.

The boundary fencing originally approved along part of the western and the north-western boundaries of the site (ie, the sections adjoining plots 31-38) consisted of 2m high close boarded fencing with 300mm trellis (ref. H05-0670-20). This was increased to 2 metres with 500mm trellis (total height 2.5m) when finished floor levels (FFLs) on plots 35-38 were increased (ref. H05-0770-22). FFLs on plots 31-34 remained unaltered. The fencing has now been constructed, but consists of 1.8 metre close boarded fencing on a 300mm gravel board with 300mm trellis above (total height 2.4m). This application is to regularise the situation.

It should be noted that the remainder of the boundary fencing has been approved at a height of 2 metres and that this remains unaltered.

Site Description

The application site (approximately 3.6ha) was formerly grassland located to the rear of residential properties on the southern side of Fleet Road. Dwellings are situated to the north and north-west fronting Fleet Road, plus semi-detached houses off Chapman Mews. Residential properties are located to the west off Branches Lane, plus a children's day nursery. Land to the east has consent for 25 dwellings (Phase 2).

Relevant Planning History

H05-1183-16 - Outline Application - Residential development - 55 dwellings including demolition of existing house - Approved 25 January 2018 subject to S106 planning agreement dated 12 January 2018.

H05-0468-18 - Outline Application - Residential development (Phase 2) - 25 dwellings (access via Phase 1 approved by virtue of planning permission ref. H05-1183-16) - Approved 1 April 2019 subject to a S106 planning agreement dated 28 March 2019.

H05-0670-20 - Reserved Matters - Residential Development - 55 dwellings including demolition of existing house - outline approval H05-1183-16 - Approved 11 October 2021. Approved plans include 2m high close boarded fencing with 300mm trellis along western and north-western boundaries to rear/side of plots 31-38.

H05-1168-21 - Condition Comp - Details of boundary screening, roads & footways, surface water drainage, foul water disposal, construction management plan, plan illustrating areas of publicly accessible open space, landscape management & maintenance schedule, means & storage of refuse & recycling and scheme to deal with contamination & pollution (Conditions 5, 6, 9, 10, 11, 12, 15, 16 & 18 of H05-1183-16) - Approved 1 March 2022.

H05-1209-21 - Condition Comp - Details relating to estate road & associated footways & finished surface levels, management plan for open spaces & outdoor play areas and protected species survey (Conditions 8, 14 & 19 of H05-1183-16) - Approved 28 February 2022.

H05-0066-22 - Modified Agreement - Modification of 106 Agreement to update clause 8.10 (mortgagee in possession to bring into line with current policy) - relating to planning approval H05-1183-16 - Approved 27 June 2022.

H05-0204-22 - S73 - Residential Development - 55 dwellings including demolition of existing house - approved under H05-1183-16. Modification of Conditions 7 & 8 relating to highway & footpath details - Approved 30 June 2022.

H05-0303-22 - Reserved Matters - Residential Development of 25 Dwellings (Phase 2) outline approval H05-0468-18 (with access via Phase 1 approved by virtue of planning permission H05-1183-16) - Approved 20 February 2023.

H05-0439-22 - NMA - Residential Development - 55 dwellings including demolition of existing house - approved under H05-0670-20. Amendments to swale design and landscaping - Approved 12 May 2022.

H05-0446-22 - S73 - Residential development - 55 dwellings including demolition of existing house - approved under H05-0670-20. Modification of Condition 1 to allow amendments to previously approved plans - Approved 25 July 2022.
Approved plans include 2m high close boarded fencing with 300mm trellis along western and north-western boundaries to rear/side of plots 31-38.

H05-0770-22 - S73 - Residential Development - 55 dwellings including demolition of existing house - approved under H05-0670-20. Modification of Condition 1 to allow amendments to previously approved plans, including the following:
- The finished floor levels (FFLs) on plots 35 and 36 raised by 70mm from 3.95m to 4.02m aOD.
- FFLs on plots 37 and 38 raised by 120mm from 3.90m to 4.02m aOD.
Approved 2 November 2022 subject to condition requiring 2m high close boarded fencing with 500mm trellis along sections of western and north-western boundary to rear/side of plots 31-38.

H05-0147-23 - Condition Comp - Details of children's play area - (Condition 11 of H05-0770-22) - Approved 5 April 2023.

H05-0497-23 - Condition Comp - Details of proposed boundary treatment/screening, finished surface levels, estate road phasing & completion plan, surface water drainage scheme, foul water drainage strategy, construction management, publicly accessible open space, children's play areas, open space/outdoor play area management plan, landscape management and maintenance, storage and disposal of refuse and recycling, contamination of land or pollution of controlled waters and ecological survey. (Conditions 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17 and 18 of H05-0468-18) - Under consideration.

Consultation Responses

Fleet Parish Council

No response received.

Public

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, two letters of objection have been received.

These can be summarised as:
- Fence heights were set due to the raised floor levels and protect the privacy of adjacent houses.
- Object to lower fence than that approved to protect privacy.
- Core issue is the excessive height of the properties which seems to have no consideration to the impact of the surrounding properties.
- Fence should be raised to the correct level or impacted properties should be offered suitable compensation.

Key Planning Considerations

The principle of residential development (phase 1 - 55 dwellings) has been established. This application is for revisions to boundary screening as detailed earlier within the report. The main issue is whether the proposed revisions would materially harm the character/appearance of the locality or amenity of neighbouring residents.

Evaluation

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

In this case, the South East Lincolnshire Local Plan 2011-2036 (SELLP), adopted March 2019, forms the development plan for the District, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework (updated 2021) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Policies 2 and 3 of the SELLP, amongst other matters, seek to ensure that sustainable development considerations are met. They also seek to ensure that development respects the character and appearance of the area and the relationship to existing development and land uses. They also set out residential amenity and the relationship to existing development and land uses as main considerations when making planning decisions.

They are consistent with advice within the National Planning Policy Framework (NPPF), 2021. Paragraph 130 states that development should 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; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

The boundary fencing originally approved along the western and north-western boundaries of the site adjoining plots 31-38 consisted of 2m high close boarded fencing with 300mm trellis (ref. H05-0670-20). This was increased to 2 metres with 500mm trellis (total height 2.5m) when finished floor levels (FFLs) on plots 35-38 were increased (ref. H05-0770-22). FFLs on plots 31-34 remained unaltered. The fencing has now been constructed, but consists of 1.8 metre close boarded fencing on a 300mm gravel board with 300mm trellis above (total height 2.4m). This application is to regularise the situation.

In respect of the western boundary, plots 31-32 are bungalows. The north-western (side) boundary of Plot 31 adjoins nos. 44 and 46 Fleet Road and Plots 31/32 back onto rear gardens associated with nos. 38, 40 and 42 Fleet Road, plus a childrens' nursery (Little Treasures). Plots 33-38 are houses that are set some 17-20 metres from the western boundary adjoining residential dwellings off Branches Lane. Existing ground levels along the western boundary generally vary between 3.13m aOD (plot 31) and 3.22m aOD (plot 37) approximately. Existing ground levels along the north-western boundary vary between 3.13m and 3.28m aOD approximately. The gardens of plots 31-38 slope down from the rear/side elevations of the properties to existing boundary ground levels.

More specifically, the existing ground and FFLs of the plots along the western boundary are as follows:

Plot 31
FFL 4.45m aOD
Existing north-western boundary ground level between 3.13m and 3.28m aOD approximately.
Height between FFL and north-western boundary = average 1.25m approximately.
Distance between kitchen window and north-western boundary = 14m approximately.
Existing western boundary ground level 3.13m aOD.
Height between FFL and western boundary = 1.32m approximately.
Distance between rear door/living room window and western boundary = 15m approximately.
Fence height 2.4m

Plot 32
FFL 4.45m aOD
Existing western boundary ground level 3.17m aOD.
Height between FFL and western boundary = 1.28m approximately.
Distance between rear door/living room window and western boundary = 15m approximately.
Fence height 2.4m

Plots 33/34

FFL 4.20m aOD
Existing western boundary ground level 3.22m aOD.
Height between FFL and western boundary = 0.98m approximately.
Distance between rear door/kitchen window and western boundary = 17m approximately.
Fence height 2.4m

Plots 35/36
FFL 4.02m aOD
Existing western boundary ground level 3.10m aOD.
Height between FFL and western boundary = 0.92m approximately.
Distance between rear door/kitchen window and western boundary = 20m approximately.
Fence height 2.4m

Plots 37/38
FFL 4.02m aOD
Existing western boundary ground level 3.22m aOD.
Height between FFL and western boundary = 0.8m approximately.
Distance between rear door/kitchen window and western boundary = 20m approximately.
Fence height 2.4m

1.8 metre close boarded fencing on a 300mm gravel board with 300mm trellis above (total height 2.4m) has been erected along the north-western and western boundaries adjoining plots 31-38. It is slightly lower than that previously permitted (height 2.5m) so has no significant greater visual impact. It consists of vertical timber boarding with concrete posts and gravel boards and is considered acceptable in terms of construction and appearance.

A door and windows (including kitchen) on the side (northern) elevation of plot 31 are approximately 14 metres from the rear gardens of nos. 44 and 46 Fleet Road. A rear door, dining room window and rear patio area face the bottom of gardens associated with nos. 42, 40 and 38 Fleet Road and the depth of the rear garden of plot 31 is approximately 15 metres. The remaining garden and rear elevations of nos. 42, 40 and 38 Fleet Road are some distance and are partially obscured by the proposed fencing as well as existing planting and outbuildings. The rear elevations of Nos. 40 and 42 Fleet Road are some 45 and 40 metres respectively from the rear elevation of plot 31 and further in respect of No. 38. The rear of plot 32 faces a children's day nursery which again is partially obscured by the new fencing and planting. The same applies in respect of the remining plots (plots 33-38). It should also be noted that the height of solid fencing has increased by 100mm over that previously approved (2.1 metres as opposed to 2 metres).

Taking into account the general relationship and separation distances between the development and neighbouring properties, plus existing planting and the new boundary fencing, it is considered that the proposed revisions would not materially harm the character or appearance of the locality or amenity of neighbouring residents in terms of overlooking, lack of privacy, visual impact, etc.

The proposal therefore accords with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

Planning Balance

As detailed above, Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, 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 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 (NPPF), 2021. 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.

Conclusion

Taking the above considerations into account, the proposal is considered to be in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan (SELLP) (2019), along with the identified sections contained within the National Planning Policy Framework (2021). There are no significant issues in this case that indicate against the proposal and outweigh factors 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.

Recommendation

That the application be approved under delegated powers, subject to conditions.