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TOWN AND COUNTRY PLANNING ACT 1990

FULL

Reference: H05-0572-19 **Date of Decision:** 23rd January 2020

Applicant: Gem-mix Holdings Ltd
Gemmix Ltd
Eldernell Lane
Coates
Peterborough
PE7 2DD

Location: 37 Fleet Road Fleet Spalding

Description: Erection of 3 pairs of semi detached 3 bed dwellings and 1 detached 3 bed dwelling along with up-graded site entrance and roadway

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, 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.

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. Furthermore, matters of concern with the application have been identified and discussed with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory solution and due to the harm, which has been clearly identified within the reason(s) for the refusal, 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:

SA/MA/04/18 - SA PP006 A
SA/MA/04/18 - SA PP003

SA/MA/04/18 - SA PP004
SA/AR/015/19 - A3/BR/01
Topographical Survey;
Design and Access Statement;
Environmental Noise Assessment by Acoustic Associates dated October 2019;
Flood Risk Assessment by Ellingham Consulting Ltd dated May 2019
Biodiversity Conservation Survey and Report



Phil Norman
Planning and Building Control Manager
South Holland District Council

BUILDING REGULATIONS:
This decision refers only to planning permission as granted under the Town and Country Planning Act 1990. The works that you are proposing may also require Building Regulations and this planning permission does not give authority under Building Regulations to commence work. Please contact the Building Control section for further information on 01775 764557 or bcadmin@sholland.gov.uk

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.