

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H09-0240-20 **Applicant:** Jelson Ltd

Proposal: Erection of 35 dwellings and associated works - approved under H09-0562-17. Amendments to show re-positioning of Plots 9-14 and 33-35 and delete rear bedroom window and relocate to side elevation on Plot 1.

Location: Land Off Northons Lane Holbeach Spalding

Terminal Date: 9th April 2020

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
01	Spatial Strategy
03	Design of New Development
04	Approach to Flood Risk
05	Meeting Physical Infrastructure and Service Needs
06	Developer Contributions
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
17	Providing a Mix of Housing
18	Affordable Housing
28	The Natural Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
32	Community, Health and Well-being
33	Delivering a More Sustainable Transport Network
36	Vehicle and Cycle Parking

National Guidance

National Planning Policy Framework 2019

- 2. Achieving sustainable development
- 4. Decision-making
- 5. Delivering a sufficient supply of homes
- 8. Promoting healthy and safe communities
- 9. Promoting sustainable transport
- 11. Making effective use of land
- 12. Achieving well-designed places
- 14. Meeting the challenge of climate change, flooding and coastal change
- 15. Conserving and enhancing the natural environment

Representations:

	Object	Support	No Obj.	Comments
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CASE OFFICER ASSESSMENT

Proposal

This application proposes a non-material amendment to re-position the siting of the proposed dwellings on Plots 9-14 and 33-35 further away from the site's eastern boundary than approved under the reserved matters approval H09-0562-17 and on Plot 1 to relocate the window to bedroom 4 from the rear elevation to the side.

As such all of the rear to rear distances between the proposed and existing dwellings exceed 21 metres and the rear to side distance in the case of Plot 35 has increased to 11.6 metres.

In addition to the revised site layout, a cross section has been submitted. These plans show the distances between the proposed and existing properties are as follows:

Plot 14 - 21.7m

Plot13 - 22.5m

Plot 12 - 22.6m

Plot 10 - 22.7m

Further the cross section shows the level differences between the finished floor levels of the proposed and existing dwellings as follows (mAOD):

Plot 35 4.050 Existing 3.565

Plot 11 4.050 Existing 3.573

Plot 4 4.050 Existing 3.573

Plot 1 4.050 Existing 3.508.

In order to take account of this level difference in achieving an acceptable level of amenity for existing properties a further condition compliance application H09-0241-20 has been submitted for the inclusion of 2.4m high closed boarded fencing to the boundaries with existing properties in Chestnut Avenue and Oakwood Glade, rather than the standard 1.8m high fencing previously approved under condition compliance application H09-0818-18.

The application is the outcome of discussions between officers and the developer, following concerns raised by a resident of Chestnut Avenue, that the impact of the development, in particular the increase in floor levels, and consequent raised patio areas and window positions, particularly to the rear elevation of Plot 1 had not been properly taken into account in the approval of reserved matters.

Site Description

Construction site with a number of properties at various build stages.

History

H09-0844-14 Outline application residential development (up to 35 dwellings) Approved 10-11-16. Included S106 agreement for education contribution. Application not deemed viable with 33.3% affordable housing so condition that a minimum of 8 units of affordable housing be provided. Conditioned that development be carried out in accordance with Flood Risk Assessment (FFL no lower than 4.05m AOD and all 2 storey), plus details of levels to be submitted. (Existing ground levels varied between 2.8m AOD in southern part of the site to maximum of 3.6m AOD near north west corner. 3 industrial units on the site were at 3.2, 3.2 and 3.6m AOD.

H09-0526-17 Erection of 35 dwellings and associated works. Reserved Matters Approved 25-04-18.

H09-0818-18 Details of boundary treatment/materials, contamination, management plan, existing and proposed levels and surface water drainage (Conditions 5, 6, 8, 10 and 16 of H09-0844-14), and conditions 5 and 7 of the Reserved Matters approval H09-0562-17 (Drainage). Approved 28-01-19.

H09-0890-18 Residential development - Details of landscaping and tree planting. Reserved Matters Approved 06-12-18.

H09-1047-18 Erection of 35 dwellings and associated works - approved under H09-0562-17 - Amendments to house type for Plots 4, 12 and 34. Non-Material Amendment Approved 05-11-18.

H09-0241-20 Details of boundary treatment (Condition 5 of H09-0844-14) current application, which proposes 2.4m high close boarded boundary fencing.

Consultation Responses

N/A as no consultation takes place on NMA.

Planning Considerations

The application seeks to address some concerns that have become apparent, once the development was under construction and also to improve the relationship of a number of plots which have yet to be commenced with existing residential properties by increasing the distance between them.

The separation distances set out above, together with the 2.4m fencing proposed under condition compliance application H09-0241-20 would be an improvement upon the previously approved layout and as such would help to mitigate the impact of the new development upon the amenities of existing properties, particularly given the approx 0.5m difference in floor levels and consequent patio level.

The house type on Plot 1 has an angled form and on the originally approved layout plan, the rear bedroom window appears that it would have limited view over the garden and rear windows of the adjacent property in Chestnut Avenue. However in its constructed form, the owners of that property raised concerns that they would be overlooked from that bedroom window, but also from the ground floor windows and doors and patio due to the difference in levels. As building work had yet to reach roof plate, the developer was amenable to relocating the first floor rear bedroom window to the side elevation, facing the neighbouring plot on the new development. Thus the only first floor window would be an obscure glazed bathroom window. This is considered an improvement over the previously approved house design and layout in that there would be no first floor bedroom windows overlooking the rear of existing properties in Chestnut Avenue.

Conclusion

The above has set out the circumstances behind this application. Given that the view is that the proposed amendments are an improvement over the previously approved development, it is considered that a non-material amendment is an appropriate method to deal with these changes. Further, the proposed amendments to the design of Plot 1 and the siting of Plots 9-14 and 33-35 would not materially harm the amenity of nearby residents. and is therefore considered to be in conformity with Policies 2, 3 of the South East Lincolnshire Local Plan, 2019.

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.