

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H17-1026-23 **Applicant:** Mr G Giessler

Proposal: Proposed open front store

Location: 5 Low Gate Surfleet Spalding

Terminal Date: 18th January 2024

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01 Spatial Strategy
02 Development Management
03 Design of New Development

National Guidance

National Planning Policy Framework 2023

Section 9 - Promoting Sustainable Transport
Section 12 - Achieving well-designed and beautiful places

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	1	0	0
WARD MEMBER	0	0	0	0
SHDC INTERNAL	1	0	0	0
RESIDENTS	3	0	0	0

CASE OFFICER ASSESSMENT

Description of Proposal

The proposal seeks full planning permission for the erection of an open front store and fencing at 5 Low Gate, Surfleet. The proposed store would be located to the rear of 5 Low Gate, abutting the rear access road to the property, with the fence cutting across said access.

The store would measure 7700mm (width) by 6700mm (depth). The proposal would feature a dual pitched roof, with a maximum height of approximately 5500mm. A distance of 500mm to either boundary is proposed. The store would be constructed of concrete block, with timber cladding to the front. Concrete roof tiles are proposed.

Site Description

The site is located outside of any of the defined settlement boundaries outlined within the South-East Lincolnshire Local Plan, 2019, and as such is considered to be in the countryside from a planning perspective. The property is located approximately 850 metres east of the settlement of Surfleet. 5 Low Gate is one of six semi-detached dwellings located along Low Gate. Access and parking for all of these properties is primarily obtained via the rear, where an access road runs west to east.

5 Low Gate is considerably larger than its counterparts in the immediate area, benefiting from a wraparound extension approved under H17-0810-15. This extension has made 5 Low Gate unique in its immediate setting. The dwelling, consistent with its neighbours, benefits from a large rear garden. At the far south of this garden is a substantial timber store building. The immediate neighbour to the east (4 Low Gate) also has a large store building.

Relevant History

H17-0810-15 - Full. Extension and alterations. Refused 21/10/15.

H17-1072-15 - Full. Proposed extension and alterations (re-submission of H17-0810-15 previously refused). Approved 18/12/15.

H17-0575-20 - Section 73A. Proposed extension and alterations - approved under H17-1072-15. Modification to Condition 2 to allow amendments to previously approved plans. Approved 11/09/20.

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

Surfleet Parish Council

Support. No comment.

South Holland District Council Property Services

"Objection. Major concerns with the size of the intended structure which is not in keeping with neighbouring properties. Location of the structure would be 500mm from Council owned property boundaries. The materials stated to construct would not meet current building regulations. The additional proposed fencing would encroach onto shared roadway. The plan incorrectly states that this is a pedestrian footpath but is actually vehicular access shared with neighbouring properties."

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, three letters of representation have been received, all of which object to the proposal.

These can be summarised as:

- The access shown as a footpath is actually a vehicular access
- The proposed fencing would prevent access for the neighbouring dwellings
- Impact upon parking due to restricted access
- Materials out of keeping with the area
- Overshadowing
- Inaccuracies of plans and application form regarding trees on site
- Proposal would breach a covenant
- Proposal too close to boundaries

Key Planning Considerations

Evaluation

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 adopted South-East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is 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, December 2023 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Principle of Development

Policy 1 of the SELLP sets out the settlement hierarchy in respect of delivering sustainable development, which meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local need, whilst making more sustainable use of land, and to minimise the loss of high-quality agricultural plots by developing in sustainable locations and at appropriate densities.

Policy 1 expresses this sustainable hierarchy of settlements, ranking the settlements deemed to be most sustainable in descending order. The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy are areas of limited development opportunity including Minor Service Centres, with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location.

The site is outside of any settlement boundary outlined within the SELLP, and as such, is considered to be in the open countryside. Nevertheless, the proposed store would be located within the residential curtilage of 5 Low Gate, and therefore, the proposal would not represent encroachment into the countryside.

Therefore, the proposal is considered to be in accordance with Policy 1 of the SELLP. The principle of development on this site is considered acceptable subject to other material considerations being met.

Layout, Design, Scale and Consideration of the Character of the Area

Section 12 of the NPPF, "Achieving well-designed and beautiful places", states that "creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Paragraph 135, contained within Section 12 of the NPPF, states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality, to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing. Developments 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 outlines sustainable development considerations for proposals; providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 of the SELLP requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically

designated or undesignated townscape or landscape surroundings.

These policies accord with the provisions of the NPPF and require 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. Proposals for new development would therefore require the aforementioned considerations to be adequately assessed and designed, including the siting, design, and scale to be respectful of surrounding development and ensure that the character of the area is not compromised.

The scale of the proposed outbuilding (detailed above) is substantial, and as such, the visual impacts arising from the proposal are considered to be substantial. This scale, coupled with the proximity to both the neighbouring boundaries and to the rear access path, would create an unduly dominant and harmful feature. When this visual impact is combined with the existing storage buildings, both on and adjacent to the site, the cumulative impact would become significant and harmful. This cumulative impact would result in the rear of Low Gate appearing almost industrial in nature, and severely at odds with the rural character of the area. As such, it is considered that the proposal fails to respond to the character of the area, and therefore, fails to embody the principles of good design outlined within Paragraphs 41, 42 and 53 of the National Design Guide.

The proposed use of exposed concrete block walls would be out of keeping with the character of the area. There is no precedent in the immediate area for this material, resulting in the proposal appearing incongruous. Due to the substantial scale of the development, the impacts of this unsuitable material would be exacerbated. Paragraph 57 of the National Design Guide states "Materials, construction details and planting are selected with care for their context. They are attractive but also practical, durable and affordable. They contribute to visual appeal and local distinctiveness". It is considered that the proposal fails to adhere to this point as the materials do not reflect local distinctiveness.

Taking account of the design, scale, and nature of the development, as detailed above, the proposal is considered to be unacceptable. The proposal would cause an adverse impact to the character and appearance of the area and would therefore be in contrary to Policies 2 and 3 of the SELLP and Section 12 of the NPPF.

Impacts Upon Resident Amenity

Paragraph 135 of the NPPF 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.

Policies 2 and 3 of SELLP sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

The proposal would not increase levels of overlooking as no windows are proposed.

The proposal would not result in additional overshadowing to the east, with any potential overshadowing falling upon the large, windowless walls of 4 Low Gate's outbuilding. The proposal would result in a significant loss of light to the garden and driveway of 6 Low Gate, due to the minor distance to the boundary and the significant height of the proposed outbuilding. This may lead to a potential reduction in the quality of life of the occupants.

As detailed above, the scale and design of the proposal is considered to have a significant and unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users. As such, the proposal is considered to conflict with the Section 12 of the NPPF and Policies 2 and 3 of the Local Plan in terms of impact upon residential amenity.

Highway Safety and Parking

Section 9 of the NPPF is titled 'Promoting sustainable transport'. Within this, Paragraph 115 advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

In respect of highway matters, Policy 2 details that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met,

specifically in relation to access and vehicle generation. Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal. Policy 33 further reinforces the need for developments to be accessible via sustainable modes of transport.

Policy 36 of the SELLP, in conjunction with Appendix 6, sets out minimum vehicle parking standards and requires at least two spaces for dwellings of up to three bedrooms and three spaces for dwellings with four or more bedrooms.

Several objections have been received stating that the proposal would restrict access and parking to neighbouring dwellings. The proposed fence would cut across the existing rear vehicle access, preventing access to 1-4 Low Gate, except for via foot. Objections have stated that this is in violation of an existing covenant which prevents tampering with this access. This is considered to be a civil matter, and as such, carries limited planning weight.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Policies 2, 3, 33 and 36 of the SELLP, as well as Section 9 of the NPPF.

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 proposal is considered to be an incongruous and unduly dominant form of development, which fails to reflect the principles of good design outlined within the NPPF and the National Design Guide. The significant scale would have a harmful character impact which is exacerbated by the relationship to the existing buildings. The use of concrete block is considered to be out of character with the area, and a direct contradiction of Paragraph 57 of the National Design Guide.

Paragraph 139 of the NPPF states "development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design". Footnote 55 clarifies that the government guidance is contained within the National Design Guide and National Model Design Code. It is considered that the proposal, by virtue of the use of incongruous materials and a built form out of keeping with the area, fails to display the principles of good design outlined with the National Design Guide; and therefore, in line with Paragraph 139, should be refused.

The proposal would overshadow the garden and driveway of the adjacent 6 Low Gate, reducing the quality of life the occupants enjoy. As such, the proposal is considered to be contrary to Policies 2 and 3 of the SELLP.

Conclusion

Taking these factors into consideration, the proposal is considered to contradict Policies 2 and 3 of the SELLP, as well as Section 12 of the NPPF. Therefore, the planning balance is against the proposal.

Based on the assessment detailed above, it is recommended that the proposal should be refused under Delegated Authority.

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.