DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H04-0035-22**	**Applicant:**	**The Magnum Group**
Proposal:	Erection of 9 dwellings comprising 5 detached dwellings and 4 town houses		
Location:	18 High Street Donington Spalding		
Terminal Date:	1st April 2022		

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
07	Improving South East Lincolnshire's Employment Land Portfolio
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
17	Providing a Mix of Housing
28	The Natural Environment
29	The Historic 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

NPPF 2021.

Planning Practice Guidance (PPG)

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	1	0	0	0
WARD MEMBER	2	0	0	0
HIGHWAYS & SUDS	0	0	0	1

SUPPORT				
IAN MARSHMAN - HISTORIC ENVIRONMENT OFFICER	0	0	0	1
BLACK SLUICE INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	2
OTHER STATUTORY BODIES	0	0	0	1
RESIDENTS	1	0	0	1

CASE OFFICER ASSESSMENT

Proposal

A full application for the erection of 9 dwellings comprising 5 detached dwellings and 4 town houses, following the demolition of existing existing boundary walls, rear workshops and associated gates, fences, paths and hard standing areas.

The application is supported by a Design & Access Statement incorporating Heritage Statement, Environmental Noise Assessment and Environmental Statement.

As a result of the objection from the adjacent commercial land user the applicant was given the opportunity to consider the objection and as a result submitted additional information.

Site Description

The site is located on the northern side of the High Street, in an area of industrial, commercial, residential, and retail uses as well as the library, within the Donington Conservation Area, and there are listed buildings within the vicinity.

Currently the site is used in connection with the applicant company, Magnum Fabrications and the wider site accommodates a mixture of light industrial units, workshops, offices and hard standing external areas. To the east is a brick faced factory building and associated structures, to the north are bowling greens/grassland and the west are a mixture of commercial properties and rear gardens to nearby houses on Barnsdale Mews.

The site is not located within a flood risk zone.

History

H04-0809-17. Proposed change of use from industrial to residential. The proposal is for 19 new residential dwellings consisting of two 4-bed detached houses, five 3-bed terrace houses and twelve 3-bed semi-detached houses. APPLICATION WITHDRAWN.

H04-0835-11. Alterations to office area, extension to workshop, demolition of 2 redundant outbuildings and construction of wall (part retrospective). APPROVED 10-01-12.

H04-0836-11. Demolition of 2 redundant outbuildings (retrospective). APPROVED 10-01-12.

Consultation Responses

Donington Parish Council

Objections. The Parish Council feel this is an overdevelopment of the site and once again are concerned regarding the entrance/exit directly over a footpath onto the A152.

SHDC Ward Members

Cllr J L King - Objections -

Think its an over development in this area. I am concerned about private drives and the rubbish collection area. I am also concerned that it will cause more parking on a very busy high street.

I need to add to my previous comment as I do remember lots of complaints regarding noise from Barnsdales from neighbours in new builds at the rear. Barnsdales employs many local people and a few of those are retained fireman for the Donington fire station. It would a real loss if Barnsdales feel they would have to relocate as the improvements they have made to mitigate the noise for the neighbours at the rear are now over the area of Magnums industrial area.

Cllr H J W Bingham - Objections -

I have concerns on the design and density, although the high street is mixed use buildings, I feel the rear of this development to be out of place with the surrounding land uses. Also the houses at the rear will be surrounded by long established businesses which WILL create noise and disturbance to these property's due to the nature of the businesses. I do not believe this design to be an effective sustainable use of the site. Although I have little objection to the town houses at the front of the site, the parking provision for these properties is not adequate 1 space per property is only going to add to already strained parking provision on the high street.

SHDC Conservation Officer - Comments -

This proposal is within a central and prominent portion of the conservation area for Donington and thus carries with it the potential to significantly alter the character and appreciation of this portion of the designated heritage asset as well as the nearby Grade II listed Mansfield House, and Red Cow Hotel.

The proposed designs appear to be fairly appropriate to the setting, and in particular, the street frontage properties appear to be quite close to the vernacular, with their 2-bay, terraced, slate-roofed style, similar to the bulk of the C19th development in the immediate setting. Furthermore, I have no objections on conservation grounds to the principle of a development of this type in this setting, and this is especially the case given that the structures proposed to be removed are of no value to the character of the area.

However, given the conservation area setting, I recommend that the applicant should be required to amend the proposed materials, to ensure that all are appropriate to the Historic Environment setting. UPVC windows and doors are not an acceptable material in this setting, especially given the prominence of the site, and the weight of impact that such a proposal would have on Donington and its conservation area at large. Policy 29 of the SELLP sets out that wherever possible, proposals should retain and reinforce the local distinctiveness of Conservation Areas through the use of setting-appropriate materials, and therefore, all materials should be of high quality and sympathetic to the historic environment.

I, therefore, suggest that the applicant should be required to provide timber windows and doors, as well as black metal rainwater goods. Additionally, all roof lights should ideally be conservation-style and flush fitting.

SHDC Environmental Protection

Contamination

Reviewed the Your Environment report 'Desktop Study Report YEX2722 - High Street, Donington October 21' and are in general agreement with the findings, although note that in the receptor table, under 'humans' it notes that exposure to the site surface will be limited due to asphalt, however the submitted drawing 202494-03A shows traditional garden areas.

Therefore recommend that the conditions be applied at this location regarding contamination of land or pollution of controlled waters.

Noise pollution

Have read the acoustic assessment from Acoustic Associates dated December 2021 , the overview from Blue Tree Acoustics dated February 2022, the response from Acoustic Associates dated February 2022 and note the points raised by both parties.

Despite the conclusions reached by Acoustic Associates and the measures they have recommended, remain concerned about the potential impact from operations at George Barnsdale on the proposed properties, particularly in the early morning and late evening.

George Barnsdale has a number of planning conditions that apply to parts of the site but not the site as a whole. This means that parts of the site are able to operate outside of normally accepted working hours.

SHDC has previously received complaints of excessive noise from operations on the Barnsdale site. These complaints were from properties that were built close to the eastern boundary of the site . The complaints related to tonal noise from machinery in the workshops (particularly in the evening/late at night) and from vehicle movements in the yard.

SHDC Environmental Services

No response received.

SHDC Inward Investment

No response received.

LCC Highways & SUDS Support

In principle, the proposal would seem acceptable, however the Highway and Lead Local Flood Authority have concern with the proposed amount of parking spaces which do not meet the Local Planning Authorities adopted parking policy in the Local Plan and insufficient turning facility within the site.

Therefore, we would ask the applicant to give further consideration to the parking provision where 2 parking spaces for a dwelling with three bedrooms or less and 3 parking spaces for a dwelling with four or more bedrooms are proposed, including 1 parking space per 30m2 GFA for the offices. Consideration should also be given to the safe and convenient provision of cycle parking, especially for the retained offices.

Additionally, we would ask the applicant to clearly demonstrate how a suitable turning facility within the limits of the site can be accommodated to allow a fire tender/delivery vehicle to enter and leave in a forward gear in the interests of highway safety.

LCC Historic Environment Officer

The proposed development is within the historic core of the settlement of Donington adjacent to its principal street. It is therefore in an area where buried remains from the early medieval period may be anticipated. Medieval pottery has previously been identified to the rear of properties on the southern side of the High Street, and a cist burial on the north side a little further east on the site of the Grammar School. Historic maps from the 19th century also show that the frontage has been developed since at least that period, with a historic chapel and Sunday school standing on part of the site until demolition in the later 20th century.

It would therefore be beneficial to ensure that groundworks of the proposed development are monitored by an archaeologist to ensure that any heritage assets of archaeological interest

disturbed can be recorded prior to their destruction.

Therefore it is recommended that the developer should be required to commission an Archaeological Scheme of Works (on the lines of 4.8.1 in the Lincolnshire Archaeological Handbook). This should be secured by South Holland District Council's standard conditions.

"They should... require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part), in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publically accessible", National Planning Policy Framework Section 16, paragraph 205.

Initially envisage that this would involve monitoring of all groundworks (including the grubbing out of foundations following demolition to ground level), with the ability to stop and fully record archaeological features.

Anglian Water

No comments.

Black Sluice Internal Drainage Board

Comments.

As the site is currently entirely impermeable, the proposed development will be an improvement due to the reduction in the area of hardstanding, which is welcomed by the Board. The Board is aware of an existing historical surface water pipe under the site which runs from west to east, but the condition of this is unknown.

The Board notes that the applicant has declared that SuDs will be used without actually describing what form this will take. If soakaways are to the used, then any soakaways or infiltration systems should be designed and proved in accordance with BRE Digest 365 or other approved code. Evidence that soakaways are suitable for the site should be submitted to the local planning authority for approval.

If soakaways prove unsuitable, then the applicant should submit details of an alternative scheme to the local planning authority for consideration, and must have received approval for any such scheme, prior to works commencing on site. Consideration must be given to the route of flow downstream of the site from the discharge point to an appropriately maintained watercourse. Any off site works required to safeguard the site discharge for the life of the development will be the applicant's responsibility. Discharge to any watercourse, whether open or piped, will require prior written consent from the Board.

The existing ground level of the site must not be raised above the level of any surrounding land unless measures are taken, to the satisfaction of the local planning authority, to prevent possible flooding or waterlogging of any neighbouring land or property.

Third Parties

One resident objection (Precised):

Not a need for this development in the centre of the village
Insufficient parking in High Street
Traffic from this site would have to go directly onto an already busy main road through the village
More facilities are needed in Donington to sustain extra housing

One commercial objection (Precised):

- George Barnsdale & Sons Limited has operated from their current site since 1884; noisy machinery has run on this site since at least 1919, operating through the day and into the night
- application development would effectively make site impossible to use for manufacturing
- Acoustic works costing
- George Barnsdale & Sons Ltd has already had to spend thousands of pounds and install acoustic works to reduce the noise impact on a new dwelling, following complaints
- the business has had to spend considerable amounts of money ensuring the machinery on site,

which is some of the most high-tech painting and joinery machinery available, is able to operate without detrimental impact on new neighbours as a result of additional development
- proposal is for 9no dwellings to be created on land historically known to receive higher than desirable levels of noise. I am informed that Magnum Fabrications have historically complained about noise from the Barnsdale site during the daytime, which is in the context of disturbance to an office situated 30m from the site; this residential proposal will bring more sensitive receptors
- George Barnsdale & Sons Ltd employ around 60no people, and the impact on this well-established business
and employment use are important factors in considering this planning application
- provide a critique of the submitted noise assessment report
- there are no proposed mitigation measures that will reduce impact of the Barnsdale site
- commissioned a review of the applicant's noise assessment and conclude that that the operation of fixed plant at George Barnsdale will cause a "significant adverse impact" and that the proposed noise mitigation measures will have no effect on the worst-affected dwellings
- Policy 30 Pollution of the SELLP and Para.187 of the NPPF to be considered

Objections to additional information - Reiterate objections.

Planning Considerations

The main issues in this case are:

Principle of Development and Sustainability
Impact of neighbouring Residents/land users
Layout and Design
Refuse collection
Highway safety and parking
Flooding considerations
Foul and Surface Water Drainage
Contaminated Land
Heritage considerations and Archaeology
Biodiversity

Principle of Development and Sustainability

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.

The site is within Donington Settlement Limit as defined in the South East Lincolnshire Local Plan (SELLP), 2019. Policy 1 (Spatial Strategy) indicates that within Main Service Centres, including Donington, development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps to meet the service needs of other local communities. No objections are therefore raised to the principle of residential development within Donington, however there are other policies and matters to consider when looking at this site and proposal that are set out below.

Layout and Design

Policies 2 and 3 of the SELLP 2019 amongst other matters seek to ensure that development respects the character and appearance of the area and the relationship to existing development and land uses. They are consistent with advice within the National Planning Policy Framework (NPPF), 2021. Paragraph 130 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.

The development proposed by this application would provide 9 dwellings, accessed from the existing highway point on to the High Street, with some properties forming a short terrace on to the High Street, with the rest to the rear, as a back land development.

The dwellings facing on to the High Street, would provide a front facing development, that would be of benefit to this part of the Donington Conservation Area, provided the details and materials are revised in order to better sit a conservation area location, as expressed by teh SHDC Conservation

Officer, above.

To the rear however, the proposed dwellings would be accessed via an private road with an insufficient turning facility within the site. LCC Highway Service requests that further consideration is made of how a suitable turning facility within the limits of the site could be accommodated to allow a fire tender/delivery vehicle to enter and leave in a forward gear in the interests of highway safety.

The development would also not provide parking in accordance with the SELLP parking standards for the proposed dwellings and for the retained office building. As a result it is likely that vehicles would not be able to traverse the development, nor would there be sufficient parking for each dwelling and teh office building to be retained.

As the application does not demonstrate that the quantum of development could be achieved on site in accordance with highway and parking requirements, the proposal would represent an over development of this site.

The proposal is not therefore in compliance with Policies 2, 3, 29 and 36 of the South East Lincolnshire Local Plan in this respect.

As there are wider matters of concern that go to the heart of this development with regard to noise impacts, the applicant has not been requested to provide a revised layout or materials to accommodate these concerns.

Impact of neighbouring Residents/land users

Policies 2, 3 and 30 of the SELLP, as well as guidance within the NPPF clarify consideration of the impacts of development on adjoining land users.

Policy 7 of the SELLP seeks to support employment uses in the District.

In support of the SELLP Policy 2, paragraph 3.3.8 of the SELLP states:

In determining applications, the Local Planning Authorities must ensure that new development takes into account and protects the amenities and operations of neighbouring properties and other lawful uses. When formulating proposals, consideration should be given to the potential for pollution from a proposed use. Guidance should be sought from the relevant council's Environmental Health Department on acceptable noise levels, standards of air quality, and other measures to avoid adverse environmental impacts as well as features that need to be incorporated in the design process. Where possible, proposals should strive to exceed statutory standards and show how they contribute to sustainable development. The Environment Agency should be consulted in relation to water quality, waste disposal and contaminated land issues (see Policy 30: Pollution).

Para. 187 of the NPPF sets the expectation:

Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. 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 uses mentioned within this paragraph are examples and not an exhaustive list.

It is the intention of Para.187 to protect existing interests from the impacts of incoming development.

Para. 188 of the NPPF goes on to state:

The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be

revisited through the permitting regimes operated by pollution control authorities.

To support the application a noise assessment was provided to illustrate impacts. Following a detailed objection the applicant's adviser submitted further noise information. The details supporting the application have been carefully considered.

Notwithstanding the submissions, Planning and Environmental Protection officers remain concerned about the potential impact from operations at George Barnsdale on the proposed properties, particularly in the early morning and late evening.

It is considered that due to the proximity of the development, the adjoining industrial land use would have a detrimental impact upon the future residents of the development by reason of noise disturbance. The adjoining land user is an established employer and measures to reduce impacts cannot be applied retrospectively in this case.

Further, it is considered that the proposed development would introduce a sensitive use, in the form of residential development, in close proximity to an existing established industrial site, that employs a number of workers. Given the nature of the proposed development and the nature of the existing industrial uses adjacent, the proposed development would not integrate effectively with existing businesses, and no reasonable conditions could be imposed that would mitigate against this impact.

The proposal is not therefore in compliance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan as well as the provisions of the NPPF in this respect.

As a result of the placing of dwellings, it is considered that the retained office building would have an overbearing impact on Plot 9, with the rear windows and garden of this dwelling being overlooked and overshadowed by the retained office building. In addition, the garden and front and rear windows of Plot 5 would be dominated by the Barnsdale's industrial building to the east, that would run the length of the plot. The proposal is similarly not in compliance with Policies 2 and 3 of the South East Lincolnshire Local Plan in this respect.

Refuse collection

The Council is not under any statutory duty to collect waste from private drives. The Council's statutory duty extends only to collecting waste, and the Council, as waste collection authority, can determine the collection point of that waste. The collection point is usually at the curtilage of each residential property where it can be collected from the adopted public highway.

The Council, as local planning authority, is obliged to take into account the Council's adopted waste collection policy when determining planning/condition compliance applications for waste collection details as it should avoid approving waste collection schemes which are not capable of being provided.

The application proposal would provide a private driveway that would exceed the expected carrying distances for refuse collection for plots 5, 6, 7, 8 and 9, that is set out within the SHDC "Private Drives - Waste Vehicle Collection Service - Guidance Note", published by the SHDC Environmental Service. Although this document is not a planning guidance document, it is a material consideration, and illustrates that refuse collection has not been adequately considered at this time. For this reason the proposal represents poor design under Policy 3 of the SELLP. These are matters to be resolved had the proposal been acceptable in all other respects.

Highway safety and parking

The implications of the layout and and proposed parking are discussed above.

The development does not demonstrate how a suitable turning facility within the limits of the site could be accommodated to allow a fire tender/delivery vehicle to enter and leave in a forward gear in the interests of highway safety.

Further, the proposal would not provide sufficient on site parking in accordance with Policies 2, 3 and 36 of the SELLP. An inadequate parking regime would represent poor design that could lead to on street parking, contrary to the expectations of the SELLP.

Flooding considerations

The site is not within a flood zone and no issues have been raised by statutory consultees.

Foul and Surface Water Drainage

The application states that foul drainage in unknown at this time, and that surface water drainage would be via a sustainable drainage system.

These are matters to be resolved had the proposal been acceptable in all other respects.

Contaminated Land

The SHDC Environmental Protection Service recommends conditions to see, details of land contamination findings and remediation to prevent contamination of land or pollution of controlled waters.

Heritage considerations and Archaeology

The response of the SHDC Conservation Officer and LCC Historic Environment Officer are set out above.

This proposal is within a central and prominent portion of the conservation area for Donington and thus carries with it the potential to significantly alter the character and appreciation of this portion of the designated heritage asset as well as the nearby Grade II listed Mansfield House, and Red Cow Hotel.

The proposed designs appear to be fairly appropriate to the setting, and in particular, the street frontage properties appear to be quite close to the vernacular, with their 2-bay, terraced, slate-roofed style, similar to the bulk of the C19th development in the immediate setting. Furthermore, no objections are raised by the relevant officers on conservation grounds to the principle of a development of this type in this setting, and this is especially the case given that the structures proposed to be removed are of no value to the character of the area.

However, given the conservation area setting, the Conservation Officer recommends amendment to the proposed materials, to ensure that all are appropriate to the Historic Environment setting. UPVC windows and doors are not an acceptable material in this setting, especially given the prominence of the site, and the weight of impact that such a proposal would have on Donington and its conservation area at large. Policy 29 of the SELLP sets out that wherever possible, proposals should retain and reinforce the local distinctiveness of Conservation Areas through the use of setting-appropriate materials, and therefore, all materials should be of high quality and sympathetic to the historic environment.

These are matters to be resolved had the proposal been acceptable in all other respects.

With regard to archaeology, the LCC Historic Environment Officer suggests conditions to cover the matters set out above.

Biodiversity

Policy 3 of the SELLP indicates that development proposals should include the provision of appropriate new landscaping to enhance biodiversity.

Policy 28 indicates that all development should provide an overall gain in biodiversity. The explanatory text sets out that development can incorporate a number of simple, low-cost measures to deliver biodiversity benefits and enhance priority habitats and species, such as, the use of bat roost boxes, green roofs or walls, and integrating nesting opportunities into buildings and green infrastructure.

Had the application been acceptable in all other respects, conditions would be suggested to provide for a landscaping scheme for the site and for teh installation of Swift boxes within the development.

Planning Balance

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.

The proposed development would represent an over-development of this site, illustrated by poor design that would lead to a cramped form of development, that would not be of visual or functional benefit to this part of the Donington Conservation Area, contrary to Policies 2, 3, 29 and 36 of the South East Lincolnshire Local Plan and the expectations of the National Planning Policy Framework 2021.

Notwithstanding the application submission, the Local Planning Authority remains concerned about the potential impact from operations at George Barnsdale on the proposed properties, particularly but not exclusively in the early morning and late evening. It is considered that due to the proximity of the development, the adjoining existing industrial land use would have a detrimental impact upon the future residents of the development by reason of noise disturbance.

Further, it is considered that the proposed development would introduce a sensitive use, in the form of residential development, in close proximity to an existing established industrial site. Given the nature of the proposed development and the nature of the existing industrial uses adjacent, the proposed development would not integrate effectively with existing businesses, and no reasonable conditions could be imposed that would mitigate against this impact.

The proposal is not therefore in compliance with Policies 2, 3, 7 and 30 of the South East Lincolnshire Local Plan as well as the provisions of the NPPF in this respect.

The are no significant factors in this case that indicate against the proposal and outweigh factors in favour of the proposal and the policies referred to above.

Conclusion

For the reasons set out above it is recommended that planning permission is refused.

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.