DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H04-0038-24**	**Applicant:**	**Seagate Homes (UK) Ltd**
Proposal:	Details of estate road & associated footways (Condition 7 of H04-0244-16)		
Location:	Land Off Malting Lane Donington Spalding		
Terminal Date:	13th March 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development
05	Meeting Physical Infrastructure and Service Needs

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
HIGHWAYS & SUDS SUPPORT	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This application seeks to discharge condition 7 of H04-0244-16. The condition state that:

Before any dwelling is commenced, all of that part of the estate road and associated footways that forms the junction with the main road and which will be constructed within the limits of the existing highway, shall be laid out and constructed to finished surface levels in accordance with details to be submitted and approved by the local planning authority.

Site Description

The application site is located at the southern side of Donington and is at present open scrub land. The site is accessed from Malting Lane (set to the west) and located south of William Close which is a private road and north of the estate fronting Arnhem Way, to the front of Malting lane are a row of bungalows that site north of the access.

History

H04-0244-16 - Outline planning application for a residential development of approximately 73 dwellings (Class C3), all matters are reserved, except for access.

H04-0268-20 -Reserved Matters - Residential Development of 40 dwellings - outline approval H04-0244-16

Consultation Responses

Highways

The details submitted to discharge condition 7 attached to H04-0244-16 are acceptable in accordance with the approved drawings detailed in the Section 38 Technical approval letter from Lincolnshire County Council.

Planning Considerations

The applicant has provided the following information in order to discharge condition 7 which relates to state roads and associated footways only:
- 12414 - WMS - ZZ - XX - DR - C - 39501 - A - C2 Section 38 Layout
- 12414 - WMS - ZZ - XX - DR - C - 39502 - A - C1 Section 38 Construction Details
- 12414 - WMS - ZZ - XX - DR - C - 39503 - A - C3 Section 38 Long Sections
- 12414 - WMS - ZZ - XX - DR - C - 39505 - A - C1 - Section 38 Gully Catchment Areas
- 12414 - WMS - ZZ - XX - DR - C - 39507 - A - C1 - Section 38 Kerbing Layout
- 12414 - WMS - ZZ - XX - DR - C - 39521 - A - C1 - Levels Layout
- Section 38 Agreement (S.38A) - Technical Approval of Scheme Details

The Highways Authority have made comments that the details submitted to discharge condition 7 are acceptable. The authority refer to the list of plans contained within the approved drawings detailed in the Section 38 Technical approval letter. Therefore subject to the plans specified in that letter dated 6th December 2023 condition 7 is hereby discharged. One note is that the suite of plans do not contain any reference to the site levels plan submitted; this has been discharged under a separate condition compliance application.

Conclusion

Condition 7 was imposed in accordance with Policies SG14 and SG15 of the South Holland Local Plan, 2006, this has now been replaced by the South East Lincolnshire Local Plan 2019. Notwithstanding this the condition is hereby discharged.

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.