

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	H04-0169-20	Applicant:	Tidy Rentals Ltd.
Proposal:	Residential development of up to 9 dwellings, including demolition of existing dwelling (Access, Layout and Scale to be considered).		
Location:	12 Market Place Donington Spalding		
Terminal Date:	26th June 2020		

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
06	Developer Contributions
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
32	Community, Health and Well-being
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2019

National Planning Policy Framework (NPPF) 2019

Paragraph 2. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

Paragraph 10. The presumption in favour of sustainable development.

Section 2. Achieving sustainable development
Section 4. Decision-making
Section 5. Delivering a sufficient supply of homes
Section 6. Building a strong, competitive economy
Section 7. Ensuring the vitality of town centres
Section 8. Promoting healthy and safe communities
Section 9. Promoting sustainable transport
Section 11. Making effective use of land

Section 12. Achieving well-designed places
 Section 14. Meeting the challenge of climate change, flooding and coastal change
 Section 15. Conserving and enhancing the natural environment
 Section 16. Conserving and enhancing the historic environment

NPPF Annex 2: Glossary

Archaeological interest: There will be archaeological interest in a heritage asset if it holds, or potentially holds, evidence of past human activity worthy of expert investigation at some point.

Heritage asset: A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority (including local listing).

Historic environment: All aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past human activity, whether visible, buried or submerged, and landscaped and planted or managed flora.

Previously developed land: Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.

Setting of a heritage asset: The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

Significance (for heritage policy): The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. For World Heritage Sites, the cultural value described within each site's Statement of Outstanding Universal Value forms part of its significance.

The paragraphs, sections and definitions above are not an exhaustive list.

If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, Section 38 (6) to the Town and Country Planning Act as amended by the 2004 Act states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the requirement to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Planning Practice Guidance (PPG)

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	1

ENVIRONMENT AGENCY	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1
IAN MARSHMAN - HISTORIC ENVIRONMENT OFFICER	0	0	0	1
BLACK SLUICE INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	1	0	0	3
OTHER STATUTORY BODIES	1	0	0	3
RESIDENTS	2	0	0	1

CASE OFFICER ASSESSMENT

Proposal

Outline application for a residential development of up to 9 dwellings, including the demolition of an existing dwelling (Access, Layout and Scale to be considered).

This application is supported by a Design, Access & Heritage Statement. The details of Layout and Scale were provided following a formal request under the provisions of Part 3, para 5. (2), of The Town and Country Planning (Development Management Procedure) (England) Order 2015.

Site Description

The application site consists approximately 0.6 ha of land, located within the settlement and partially within the conservation area of Donington. Access is gained from Market Place.

The dwelling of 12 Market Place is situated in the Conservation Area and is of standard late 60's/early 70's standard design.

Historically the majority of the site was garden and a wider arable area to St Heliers and possibly the Rose and Crown (demolished) on the Market Place, but now it is put to rough grass and has areas of hardstanding. There are a handful of lean to agricultural style buildings and garages on the site. There are a number of mature trees on the boundaries of the site, and further to the north-east are a number of protected trees associated with the churchyard of the Grade I Listed Church, which is mentioned below.

Adjacent to the site are a number of listed buildings, specifically the Grade I listed St Mary and the Holy Rood Church, the Grade II listed St Heliers on the Market Place, the Grade II listed 14 Market Place, the Grade II 18 Market Place and Grade II listed Town Farm House.

Recent Planning History

H04-0395-17. OUTLINE. Residential development of up to 6 detached dwellings. Approved 20-10-17. Access only set at time of approval.

This application was reduced from 7 to 6 dwellings, in order to take in to account the concerns of Historic England.

Condition 4 of the decision restricted this permission to no more than 6 dwellings, and a maximum combined gross floorspace of no more than 1000sqm.

H04-0356-15. OUTLINE. Demolition of existing buildings and erection of dwelling. Approved. 06-07-15.

H04-0912-13. Residential development - erection of 2 dwellings. Approved. 16-12-13.

Consultation Responses

Parish Council

No response received.

Cllr S C Walsh

A further development at a time that Local Education and Health Services are fully stretched.

That area of the village already has issues with suitable drainage and AWA have serious problems with maintaining old infrastructure adequately.

Access is also onto a very busy junction within the village and could be dangerous and needs to be properly reviewed by Highways.

LCC Highway and SUDS

Have requested additional information in order to assess the scheme, specifically, a Flood Risk Statement, Drainage Statement, Ground Investigation (to support the Drainage Statement), details of vehicle turning, access and visibility (provide details showing proposed visibility with consideration to requirements of 2.4x43m for a 30mph road) and a travel statement.

Also comment on the need for a refuse collection point if the road is to remain private, as refuse trucks may not enter the site and to therefore prevent unnecessary obstruction of the public highway.

In addition, due to the close proximity of the existing junction and requirement to construct proposed access to highway authority standards, a request to provide further detail on how these junctions will be arranged to a safe and satisfactory standard with the required visibility was submitted.

LCC Archaeology

The development site, borders the medieval parish church, and the churchyard may have formerly extended into the site as it is not unusual for churchyard boundary's to be changed eroded over time. There will also be development, albeit in an area of previous disturbance, along the street frontage which may have the potential to disturb finds and features relating to medieval settlement and market activity. I recommend that a scheme of monitoring and recording be undertaken during development, the scope of this scheme will be set after the submission and approval of the reserved matters application as it is unlikely that it will be necessary to monitor all of the potential house plots.

Development in the area could disturb previously unknown archaeological finds and features which could further our knowledge of the history and development of Donington.

Therefore given this it is recommended that the developer should be required to commission a Scheme of Archaeological Works (on the lines of 4.8.1 in the Lincolnshire Archaeological Handbook). This should be secured by Conditions, to 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 199.

SHDC Conservation Officer

Having been to the site and examined the setting, in addition to having considered the plans put forth in this application, I wish to submit objections to the proposal from a Conservation perspective. My objection is based upon the grounds that I believe that a modern development of 9 properties on a site of this size and setting constitutes overdevelopment. Overdevelopment of a site to the rear of St Heliers which is a locally prominent listed building would, in fact, harm the setting of not only St Heliers (in addition to the similarly grade II listed Nos 14 and 18 Market Place and No. 2 Church Street), but also the Grade I listed Church of St Mary & Holy Rood which is easily visible from within the proposal site. Damage to the setting in this instance would be caused primarily by 'hemming in' the listed St Heliers and encroaching upon the Grade I listed church with modern development, which would not only alter the overall character of the immediate surroundings, but also impact upon views both into and out of the Conservation Area, specifically of some of its most prominent features.

I would make the suggestion that the already approved outline planning permission for 6 properties on the site strikes an acceptable balance between development of this unused site and preservation of the setting and character of the site, and that development beyond 6 dwellings on this site is hard to justify. Whilst of course, this 2020 application is similarly for Outline planning permission, the applicant should be reminded that whether this application is approved or they instead choose to follow the already approved scheme, this does not alter the importance of the use of the highest standard of design and sympathy in both appearance and materials to their surroundings at the Reserved Matters stage, in order to preserve the value of the historic setting.

SHDC Trees and Nature Conservation Officer

Comments with regard to trees and nature conservation

BOUNDARIES: The majority of the trees affecting the site are situated on the boundaries. At the entrance is a yew tree and a walnut both in the neighbouring garden. The yew currently overhangs the site by approximately 2 metres. (An ivy covered laburnum tree is located in the site entrance immediately adjacent to the boundary and the yew tree. It projects into the site no further than the yew tree.) The walnut has potential for some considerable growth and currently overhangs the entrance to the site by approximately 5 metres.

The southern boundary hedge to the west of the entrance appears to be composed of Leyland cypress trees. (In the south western corner of the site is an elderberry showing considerable dieback). The Leyland cypress trees continue along the western boundary forming a hedge. As one proceeds in a northerly direction along the western boundary this evolves into an ivy smothered boundary with sycamore saplings, elderberry bushes also hawthorn. **A large tussock of pendulous sedge grows adjacent to the boundary just before the hedgerow/boundary changes composition. A nice feature to maintain in a future public amenity area.** An ash is present in the boundary in the vicinity of the north east corner of the grounds of 1 Park Lane. The boundary then continues with ivy covered hawthorn, sycamore saplings and elderberry bushes. Brambles spread from the hedge line, currently in flower, providing a rich nectar source for insects. Some Prunus species likely to be damsons or plums are present as one approaches the north western corner of the site. **A significant yew tree is present at this point and appears to be growing in the neighbouring property close to the boundary. The Root Protection Area (as in British Standard 5837:2012) of this tree requires consideration.** From the inside of the site it was difficult to see exactly where the western boundary changed into the northern boundary due to lack of access to see the perimeter. A willow tree is present in this north western area. Some of it appears to grow from a collapsed specimen laying in the ditch adjacent to the public footpath that skirts the northern boundary off the site. A semi mature ash is present in this area. Some of the younger ash saplings may be suffering from ash dieback disease, as they do not look healthy. A thick belt of bramble grows adjacent to the northern boundary and in the northeastern corner of the site. Cherry trees, and a red leaved Prunus grow on the far side of the ditch adjacent to the public footpath to the north and off the site, and act as a 'borrowed landscape'. Elderberry bushes and hawthorn grow in the vicinity of the north eastern corner of the site. A dense tree canopy overhangs the north eastern boundary of the site. It is composed of ash (coming from a tree with a low divided trunk, of at least three stems in the grounds of the adjacent property), hornbeam and beech. The later were planted as a hedge at some point in the adjacent property and now have completely grown into trees. The boundary then changes into a laurel hedge as one proceeds southwards, with a few ash saplings being present. Fruit trees grow next to the boundary in the adjacent property, an apple may overhang very slightly. The vegetation

on the boundary lowers at this point, and there are ash and sycamore saplings, a wild rose and elderberry bushes. Some tree stumps were noted indicating where a hedge line once stood. Possibly could have been Leyland cypress trees, did not examine them in detail. The site boundary extends out to the east at this juncture and continues as a hedge line of Leyland cypress trees. At one point about mid-way a young sycamore is growing within/ adjacent to them.

There is a short stretch of southern boundary which abuts the northern side of an agricultural building (which is located in the south eastern corner of the site) an early mature sycamore tree is present on site at this point, it still has much growth potential. Although hard to obtain access, the trunk appeared to divide into two main stems at approximately 2 metres from ground level. The canopy spreads to 5-6 metres into the site. If this tree should be retained during development the Root Protection Area should be taken into account. **The proposed development looks rather close to it on Drawing No. J1930 00104 A.** A young yew tree grows at the north western corner of the agricultural building. The remainder of the western boundary of the site is taken up by the agricultural building.

A holly tree is present in the garden of a property close to the southern boundary of the site adjacent to the east of the entrance to the site.

TREES ON SITE: There are very few trees which are on the site and these are adjacent to the boundaries. As mentioned above they include a laburnum at the entrance to the site, a sycamore near the northern side of the agricultural building and a yew at the north western corner of the same. Some of the trees on the boundary may be physically partially or totally on the site side of the fence, in places this was hard to determine due to dense brambles and canopies. A few sycamore, ash and walnut seedlings/small saplings grow on the site. The young walnut seedlings are in the vicinity of the agricultural building.

CONSERVATION AREA STATUS: Trees on the boundary of a Conservation Area are considered to be within the Conservation Area for administrative purposes. Trees on this site affected by this status, with regard to the requirement to give the Local Planning Authority six weeks' notice of any proposed works would include: The laburnum, yew and walnut at the entrance to the site. Trees on the eastern boundary of 1 Park Lane and the eastern boundary of Parkwood to a point roughly in line with the south eastern corner of the dwelling. The sycamore which grows adjacent to the north side of the agricultural building and the yew near the north western corner of that building. (The yew may not have yet attained a trunk of 75mm measured with callipers over the bark at 1.5 metres from ground level, to qualify for the Conservation Area tree works notification requirements. Did not measure it). The holly present in the rear garden of a property in Market Street which is close to the boundary of the site is likely to just be in the Conservation Area.

THE GRASSLAND: Currently the majority of the site has developed into rough grassland, the cocksfoot grass and false oat grass forming tussocks, which are particularly apparent at the southern end of the site. Swathes of flowering buttercups were present on my visit. Brambles flowered on the boundaries.

The site will have developed wildlife interest typical of unimproved rough grassland with a nectar source. In passing whilst viewing the tree cover of the site noted, ringlet and large cabbage white butterflies, yellow shell moths and grass moths, various bumble bees and solitary wasps and blackbirds.

IN CONCLUSION: Ideally the proposed southernmost building to be moved slightly to the west to avoid the Root Protection Area (as described in British Standard 5837:2012) of the sycamore tree which would be covered with Conservation area status.

SHDC Environmental Protection Officer

No objection subject to a full land contamination condition being appended to any approval.

Environment Agency

Does not wish to make any comments on this application.

Anglian Water

The applicant should check for any Anglian Water assets which cross or are within close proximity

to the site. Any encroachment zones should be reflected in site layout.

Historic England

The application site is within the Donington Conservation Area and abuts the boundary of Grade I Listed, St Mary and The Holy Rood Church's churchyard. There is an approved scheme to re-model the existing dwelling and develop up to 6 detached dwellings in the land to the rear of 12 Market Place (your reference; H04-0395-17). The current application seeks permission to build 9 dwellings and demolish the existing dwelling. We commented on the previous application in our letters dated 15 August 2017, 2 August 2017 and 16 May 2017.

Significance

The existing property is located on the Market Place within the heart of Donington and its Conservation Area. The Market Place provides the focal point of the Conservation Area which largely consists of traditional brick buildings. The application site extends north behind the dwelling some distance, this land goes beyond the boundary of the conservation area and is where the 9 detached dwellings are proposed. The proposals have the potential to impact on the character and appearance of the Donington Conservation Area and its setting.

The northern boundary of the associated land adjoins the graveyard of The Church of St Mary and Holy Rood, the proposals, therefore, have the potential to impact on its setting. The church is a multi-phased parish church with major building phases dating from the 13th, 14th and 15th centuries. It was later restored in 1868 and 1896. It is a large limestone church with a magnificent South-western tower and spire which dominates the landscape. The church's architectural and historic merit are reflected in its Grade I Listing which places it in the top 2.5% of listed buildings in the country.

Impact of the proposals

Our concerns with the previous approved scheme included the inter-visibility between the church yard and the application site, particularly in winter views. We also expressed concerns that the proposals would go against the grain of development and cause harm to the character and appearance of the Donington Conservation Area.

While the closest dwellings are some distance from the boundary with the churchyard, the area in-between would be used as the gardens to these dwellings. Gardens in this area would involve the paraphernalia associated with domestic use which would make the land's change of use more prominent and have a negative impact on the setting of The Church of St Mary and Holy Rood. This has not been considered within the supporting information. In our opinion this would have more impact than the currently approved scheme.

Donington has retained its medieval street pattern with the Market Place at the core and Church Street providing a route to the Church which is sited to the North of the town. The town has expanded out in a ribbon pattern along Church Street and High Street. Historic Maps show that the land does not appear to have previously been developed, given its proximity to the church it could have been Glebe. These proposals would be back land development and go against the existing linear grain, this would detract from the character and appearance of the Donington Conservation Area.

National Legislation and Policy

Historic England's advice is provided in line with the statutory requirement placed on local planning authorities by the Planning (Listed Buildings and Conservation Areas) Act, 1990, to have special regard to the desirability of preserving a listed building or its setting and the character and appearance of a conservation area under sections 66(1) and 72(1). The importance attached to significance and setting with respect to heritage assets is also recognised by the Government's National Planning Policy Framework (NPPF) and in guidance, including the Planning Practice Guidance (PPG).

The NPPF paragraph 192 encourages local authorities to sustain and enhance the significance of heritage assets consistent with their conservation and asks that they take into account the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 193 states that when considering the impact of a proposed development

on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). Paragraph 194 builds on; any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraph 196 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Historic England's Position

Historic England acknowledge the current approved permission to re-model the existing dwelling and develop up to 6 detached dwellings in the land to the rear of 12 Market Place. Nevertheless, the current scheme proposes more dwellings and would bring development closer to the churchyard. We consider this would have more impact on both the setting of the Grade I Listed Church of St Mary and Holy Rood and the character and appearance of the Donnington Conservation Area, causing more harm to their significance. The proposals would result in some public benefit; we therefore recommend that your authority should weigh this benefit against resultant harm in accordance with paragraphs 194 and 196 of the NPPF.

Recommendation

Historic England has concerns regarding the application on heritage grounds. We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 192, 193, 194 and 196 of the NPPF.

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Black Sluice Internal Drainage Board

Make comments as follows:

Rainfall Runoff

From the documentation it would appear the applicant is undecided as to how surface water will be disposed of from the site, stating both mains sewer and soakaway. Whilst the Board appreciates that this is an outline application, the applicant should develop a surface water drainage scheme for approval at the earliest opportunity.

If surface water from the development is to be discharged into a watercourse, then the prior written consent of the Board is required. Where possible, all discharges should be limited to the pumped catchment greenfield run-off rate of 1.4ltrs/sec/Ha, as per current guidelines.

Full details of any surface water schemes for the proposed development should be submitted to the local planning authority for consideration, and approval received from that authority, prior to any discharge from the site.

If the applicant intends to discharge surface water via soakaways, then any soakaways or infiltration systems should be designed and proved in accordance with BRE Digest 365 or other approved code.

Discharge outfalls

If any proposed surface water discharge outfall is into a watercourse, consent will be required for any structures placed in the bank, as per Section 23 of the Land Drainage Act 1991.

Filling in or Culverting Watercourses

There is believed to be an open watercourse on the northern boundary of the site. Under Section 23

of the Land Drainage Act 1991, if the applicant intends to pipe or fill any part of this watercourse, then the prior written consent of the Board is required for any proposed permanent or temporary works or structures, including infilling or diversion. This also includes the replacement of any existing structures. Consent would also be required from any adjacent landowners.

The applicant is reminded that within common law, the ownership and maintenance responsibility for any watercourse lies with the adjacent landowners, regardless of whether the watercourse is maintained by the Board. A suitable maintenance strip should therefore be left to allow maintenance for the lifetime of the development.

Site Ground Levels

The existing ground level of the site should not be raised above the level of any surrounding land unless suitable mitigation measures are taken to prevent possible flooding or waterlogging of any neighbouring land or properties.

John Hayes MP

Objection.

- Access to the site and increase in traffic movements
- Proximity and impact on St Mary and the Holy Rood Church's churchyard and impact on the local area including the church
- Impact on other adjacent listed building at St Helier, 1a Park Lane. Concern for impact on the nature and character of this property, and structural impact or disturbance during works.
- Excessive number of dwellings in a conservation area.

Third Parties

Representations have been received from 3 households, raising the following objections and comments:

- Increase from 6 to 9 properties on an already busy and dangerous junction.
- No clear visibility of pedestrians exiting Park Lane especially at busy school times.
- This increase in number of properties has been made at the expense of providing garaging to 6 of the properties- thereby making a car park in full view of the entrance into a Conservation area.
- All properties are more than 30m from road and therefore this then has to be a fully adopted road (No refuse to be carried that far and would also cause an eyesore if allowed).
- Green areas to each side of roadway entrance and the full length of rear boundary to St Helier which may cause problems to this Grade 2 Listed Building and encroachment through boundaries if not properly looked after. These areas are NOT attributable to any properties and therefore may cause an eyesore in the centre of the village as well.
- 4 properties would face the rear of St Helier and can see into the side of the extensive rear garden therefore causing lack of amenity.
- 12 Market Place has to maintain the boundary between No 12 and St Helier both on the driveway side and the rear boundary - Details need providing on this matter and to who is going to maintain the said boundaries as again they are NOT attributable to any one property.
- Details of replacement fencing/boundaries need to be shown and agreed along with any proposed planting schemes in order to protect St Helier from Root Damage etc.
- understand there were brick arched drainage systems from The Market Place to the rear Dyke. This obviously needs thoroughly investigating as we do not want to return to the flooding problems which have taken years to rectify due to construction on Park Lane blocking a similar system.
- This amended plan will impact even more on the centre of the village and conservation area in addition to the increased traffic problems it will bring.
- proposed development would remove two of the boundaries to an adjacent property; what is the proposal for replacement of these regarding security and aesthetics to this property. Secondly the removal of one of these boundaries might/will affect a barn/studio.
- If No 12 is to be demolished. I am concerned that this is done with care, in order to protect St Helier, 1a Park Lane.
- Extreme care should be taken with Asbestos (which I believe is Grade 1 on both Garages and Barn to rear.
- noise and disturbance during construction.
- current unauthorised uses on the site.

Planning Considerations

The key material issues for considerations in this application are:

- The principle of development and matters of sustainability
- Character and impact upon the historic environment
- Demolition works proposed
- Impact upon residential amenity
- Highways and Drainage
- Impact on trees
- Biodiversity
- Developer Contributions

Principle and Sustainability

Policy 1: Spatial Strategy of the SELLP identifies Donington as a Main Service Centre, where development will be permitted that supports its role as a service centre for the settlement itself, helps sustain existing facilities or helps meet the service needs of other local communities.

The application site is within the settlement boundary of Donington and has previously been granted planning permission for up to 6 dwellings via three separate outline planning permissions that are listed above, one of which is extant.

When seen in this context the principle of development within an established settlement is considered acceptable, however, this application is for up to 9 dwellings which is a significant increase in development previously approved. As such, the main material consideration in this case is considered to be whether this increase results in any significant and demonstrable adverse impacts that would warrant a refusal of planning permission. The factors and material considerations informing decision making are discussed below.

Character and impact upon the historic environment

Additional information was sought by the Local Planning Authority under the provisions of Part 3, para 5. (2), of The Town and Country Planning (Development Management Procedure) (England) Order 2015, (the details of Layout and Scale) given the location of the site within and adjacent to the conservation area, the proximity of listed buildings and the number of dwellings now proposed. This information has helpfully informed the consideration of the application scheme.

The NPPF paragraph 192 encourages local authorities to sustain and enhance the significance of heritage assets consistent with their conservation and asks that they take into account the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). Paragraph 194 builds on this, setting out that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraph 196 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Policy 29: The Historic Environment of the SELLP sets out, inter alia, that distinctive elements of the South East Lincolnshire historic environment will be conserved and, where appropriate, enhanced. Opportunities to identify a heritage asset's contribution to the economy, tourism, education and the local community will be utilised including the distinctive character of South East Lincolnshire market towns and villages and the dominance within the landscape of church towers, spires and historic windmills.

Policy 29 is also clear that relating to conservation areas,

Proposals within, affecting the setting of, or affecting views into or out of, a Conservation Area should preserve (and enhance or reinforce, as appropriate) features that contribute positively to the area's character, appearance and setting. Proposals should:

- 1. Retain buildings/groups of buildings, existing street patterns, historic building lines and ground*

surfaces;

- 2. Retain architectural details that contribute to the character and appearance of the area;*
- 3. Where relevant and practical, remove features which are incompatible with the Conservation Area;*
- 4. Retain and reinforce local distinctiveness with reference to height, massing, scale, form, materials and plot widths of the existing built environment;*
- 5. Assess, and mitigate against, any negative impact the proposal might have on the townscape, roofscape, skyline and landscape;*
- 6. Aim to protect trees, or where losses are proposed, demonstrate how such losses are appropriately mitigated against.*

This proposal represents backland development and this is common in the surrounding area, including adjacent plots. These proposals would go against the prevailing linear grain of this localised part of Donington, however there is already an extant outline planning permission for 6 dwellings, which as a fall back position has already accepted a level of development on this site.

Notwithstanding the extant permission on this site, the current application proposes up to 9 dwellings, which is a considerable increase in the scale of development, and associated activity on the site.

It is considered that the development of 9 properties on a site of this size and setting constitutes overdevelopment, which is a site to the rear of St Heliers which is a locally prominent listed building and would harm the setting of not only St Heliers (in addition to the similarly Grade II Listed Nos 14 and 18 Market Place and No. 2 Church Street), but also the Grade I Listed Church of St Mary & Holy Rood which is easily visible from within the proposal site.

Damage to the setting in this instance would be caused primarily by 'hemming in' the listed St Heliers and encroaching upon the setting of the Grade I listed church with modern development and the associated domestic paraphernalia, which would not only alter the overall character of the immediate surroundings, but also impact upon views both into and out of the Conservation Area, specifically of some of its most prominent features.

It is considered that the scheme would fail to preserve or enhance the character and/or setting of the conservation area, including views into and from the conservation area. Further the proposal would impact negatively on the setting of listed buildings, as set out above.

The proposals would result in some public benefit; however weighing this benefit against resultant harm in accordance with paragraphs 194 and 196 of the NPPF, officers conclude that the proposal would not be so beneficial so as to overcome the requirements relating to conservation areas and the setting of listed buildings, set out in the policies above.

Demolition works proposed

No.12 Market Place is a two storey dwelling of unremarkable design and presentation, and the removal of this property and its replacement with a proposal that would preserve or enhance the character and/or appearance of the conservation area would be a benefit.

The single storey buildings to the rear are part of the historic development of the site but are not so beneficial that their retention would be required.

Impact upon residential amenity

Concerns regarding impact upon residential amenity have been raised (e.g. overlooking, loss of privacy, overshadowing). The layout and scale of dwellings are part of this application, and indicate the orientation of the dwellings.

Given the form and layout proposed, it is considered that dwellings proposed on plots 6, 7 and 9 could give rise to overlooking and the perception of overlooking to Parkwood, Park Lane at a distance that would significantly impact on the amenity of that property.

In addition, the orientation of Plot 4 could give rise to overlooking and the perception of overlooking to the rear and garden of St Heliers, albeit at a distance.

It is therefore considered that the proposals would not accord with the provisions of Policies 2 and 3 of the SELLP or the guidance of the NPPF, and refusal is recommended on this basis.

There is considered to be sufficient space within the site to design a scheme that would not significantly impact upon surrounding amenity, if in principle the siting of 9 dwellings were acceptable on this site. This has not been requested though, as officers would not wish to put the applicant to the expense of preparation of amendments to the scheme, given the wider issues of principle.

Highways and Drainage

Objections have been raised regarding the safety of the access in the context of existing highway safety concerns and drainage in the vicinity.

The Highway Authority (LCC) have requested additional information in order to assess the scheme, specifically, a Flood Risk Statement, Drainage Statement, Ground Investigation (to support the Drainage Statement), details of vehicle turning, access and visibility (provide details showing proposed visibility with consideration to requirements of 2.4x43m for a 30mph road) and a travel statement.

Also comment on the need for a refuse collection point if the road is to remain private, as refuse trucks may not enter the site and to therefore prevent unnecessary obstruction of the public highway.

In addition, due to the close proximity of the existing junction and requirement to construct proposed access to highway authority standards, a request to provide further detail on how these junctions will be arranged to a safe and satisfactory standard with the required visibility was submitted.

The site is location in Flood Zone 1 as defined by the Environment Agency and as such is a sequentially preferable site, however the Lead Flood Authority (LCC) have requested that a Flood Risk Statement, Drainage Statement requirement and Ground Investigation (to support the Drainage Statement) are submitted.

These matters have not been requested of the applicant, as officers would not wish to put the applicant to the expense of preparation of amendments to the scheme, given the wider issues of principle. An informative is recommended to cover these matters.

Impact on trees

The assessment by the Council's Trees and Nature Conservation Officer are set out above. It is considered that an acceptable development for fewer dwellings on a lesser footprint could overcome and accommodate the matters set out above.

Biodiversity

Concerns have been raised by the Council's Trees and Nature Conservation Officer and are set out above. The applicant via the agent has been specifically advised of concerns regarding protected species that may be on the site.

Developer Contributions

Objection has been received based upon Local Education and Health Services however this application would fall within the terms of Policy 6 of the SELLP relating to Developer Contributions as the number of dwellings falls beneath the policy threshold for a request for contributions.

Other material considerations

Objection has been received that during demolition and construction listed buildings could be harmed. Very little information is published on the effects of vibration on listed buildings, however the penalties for damaging a listed building are severe, constituting a criminal offense in some

cases.

Whilst the responsibility for carrying out construction without causing harm to adjacent properties is the developers, it would be sensible in this instance if the application were considered to be acceptable that a Construction Management Plan condition could be imposed which included a requirement for special attention where the construction traffic, services and landscaping would be adjacent to the listed building.

Issues relating to foundations and removals of asbestos would be dealt with under separate regulations.

Any current unauthorised uses on the site, which were not evident on the day of the case officer's site visit, are not material to the consideration of this application and can be given very little weight.

Conclusion

For the reasons set out above, it is considered that the proposal would fail to preserve or enhance the character and/or setting of the Donington conservation area, and would have a detrimental impact on views in to and from the conservation area.

It is considered that the development of 9 properties on a site of this size and setting constitutes overdevelopment, which is a site to the rear of St Heliers which is a locally prominent listed building and would harm the setting of St Heliers, Nos 14 and 18 Market Place and No. 2 Church Street and also the Grade I listed Church of St Mary & Holy Rood which is easily visible from within the proposal site.

It is thus considered that the proposals would be contrary to the requirements of Policy 29 of the South East Lincs Local Plan and the guidance set out in the NPPF 2019. Further the proposals would not have special regard to the desirability of preserving listed buildings or their setting or any features, contrary to the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990.

This application due to the number, form, layout and scale of the dwellings proposed, fails to demonstrate that this proposal could be accommodated on this site, as it would have a detrimental impact on the residential amenity of St Heliers, Market Place and Parkwood, Park Lane, by reason of overlooking and the perception of overlooking of the rear elevations and private garden areas, contrary to Policies 2 and 3 of the South East Lincs Local Plan 2019 and the provisions of the NPPF 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.