

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H04-0268-20 **Applicant:** Minster Property Group
Proposal: Residential Development of 40 dwellings - outline approval H04-0244-16
Location: Land To The West Of Malting Lane Donington Spalding
Terminal Date: 8th November 2021

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
12	Reserve Sites
17	Providing a Mix of Housing
18	Affordable Housing
19	Rural Exception Sites
28	The Natural Environment
29	The Historic Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
32	Community, Health and Well-being
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards
APPENDIX 8	Developer Contributions for Education Facilities
APPENDIX 9	Developer Contributions for Health Care Facilities

National Guidance

National Planning Policy Framework 2021

NPPF 2021.

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0

WARD MEMBER	1	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1
BLACK SLUICE INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	2
OTHER STATUTORY BODIES	0	0	0	2
RESIDENTS	7	1	0	5

CASE OFFICER ASSESSMENT

PROPOSAL

RESERVED MATTERS application. Residential Development of 40 dwellings - outline approval H04-0244-16.

Since submission the scheme has been revised to resolve layout and drainage issues.

The application is supported by a Flood Risk Assessment, drainage strategy and Protected Species Report.

The levels across the proposed development would accord with the expectation at outline, which is controlled via the documents forming the outline submission to between 0.8m and 1.2m above the existing ground levels. At outline stage this was reduced from the 2.0m initially expected by the Environment Agency.

Since submission this application has been revised to take in to account the outline requirement for certain areas of the site to house bungalows, and to show the actual site as it is on the ground, as well as separation distances to adjoining dwellings.

SITE DESCRIPTION

The site is located at the southern side of Donington and is part of a wider area of agricultural land sited between a commercial site and residential properties, including a recently constructed affordable housing development to the south. The site's topography is flat and the site lies on a lower level than the majority of neighbouring development. Existing dwellings on Malting Lane and William Close (to the north east corner of the site) are built on approximately the same level as the site.

Donington is identified as a Main Service Centre and the site is identified as housing site ref DON008 in the South East Lincolnshire Local Plan. An indicative quantum of 72 dwellings is

identified in the SELLP.

The site is located adjacent to the commercial land identified in the SELLP as DO007, an Established Employment Site.

Following a detailed site visit with the agent it has become apparent that adjoining developments have been built out on such a way that land that is outside the garden areas of adjoining occupiers may still be within their ownership, and are not part of this application site.

RELEVANT HISTORY

H04-0244-16.OUTLINE. Outline planning application for a residential development of approximately 73 dwellings (Class C3), all matters are reserved, except for access. APPROVED. 30-11-17.

It is to be noted that the conditions appended to the outline consent dealt with the form that any reserved matters are to be submitted, as well as requiring the submission of external materials, land contamination, surface water drainage, design and positions of all external boxes for gas and electricity supplies, Construction and Traffic Management, cycle storage, a noise and vibration report, precautions to be taken to prevent the deposit of mud on public highways, existing and proposed site levels and proposed floor levels of the buildings and hard surfaced areas, infrastructure to ensure the availability of water supplies to the Fire Service, foul water disposal and proposed boundary treatments.

It is not necessary to repeat these conditions on a reserved matters consent. An informative is suggested.

H04-1029-20. RESERVED MATTERS. Erection of 32 Dwellings - outline approval H04-0244-16. Undetermined,

REPRESENTATIONS

Donington Parish Council

No response received.

SHDC Ward Members

Cllr S C Walsh

With recent nearby developments in the past 3-5 years, there has been a substantial increase in traffic using Malting Lane for which it was not intended to carry. When heavier vehicles now pass my property the house invariably shakes. This used to be the exception and is now the norm.

The area's ability to provide school placements and provision of medical services continues to be a problem but is ignored at every application as is Anglian Water's ability to service the area properly, but again their word is taken as gospel that they can, but we only have to see the constant road works occurring in Spalding in particular to know their infrastructure is nearing its useful end and has not been sufficient in Donington for sometime.

An independent inquiry is needed into utility services, schools, healthcare etc in the area to evaluate the detrimental effect of further development, without the concentration on new services at the same time.

I am not against new developments that can be sustained and properly managed as this brings in new life to the area and hopefully will attract more local investment in businesses etc in the future providing much needed employment.

SHDC Trees & Nature Conservation Officer

Comments regarding the relationship of the proposals to an existing tree and the Root Protection Areas of trees in neighbouring gardens which extend on to the site.

SHDC Housing Strategy

The tenure mix for this and the remainder of the site, application for 40, planning reference H04-1029-20 now proposes a 44/56 split in favour of Affordable Home Ownership. This application proposes 21 for rent comprising of 6 x 1 bed maisonettes, 8 x 2 bed houses, 1 x 2 bed bungalow, 4 x 3 bed houses and 2 x 4 bed houses and 19 shared ownership comprising of 4 x 2 bed bungalows, 7 x 2 bed houses and 8 x 3 bed houses.

The Outline permission benefits from a S106 Agreement which is unlikely to include the Mortgagee Protection Provisions to satisfy the Registered Provider. Therefore, clarity should be sought on this matter with the applicant.

The Registered Provider should be willing to enter into a Nominations Agreement with the Council to secure a minimum of 100% of first lets and 75% of subsequent re-lets.

LCC Highways & SUDS

Observations were made to the originally submitted scheme relating to the drainage strategy that have been addressed. As a result of the amended scheme the following has been received:

The highway authority is sufficiently convinced by the argument that the higher density of this residential development and the resultant narrow frontages of the individual plots makes it inappropriate for source-control features such as roadside swales or filter drains to be incorporated into the drainage strategy for collection and conveyance of surface water run-off from the highway and that a conventional gully and pipe system, together with an attenuation pond and over-sized pipes for the storage of storm water, will be acceptable for the proposed development.

The 'build-up' of the site now proposed for flood protection is much less onerous than that which was approved at Outline stage and would not be expected to increase flood risk to adjacent land and property.

The required highway Conditions are already set out within the Outline Consent Notice so there is no need to repeat them here for this Reserved Matters Application.

Therefore, having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the submitted details are satisfactory in highway and surface water flood risk terms and does not wish to object to this planning application.

Anglian Water

Foul Water

Have reviewed the applicant's submitted foul drainage information (1087-003 Phase 1/2 Drainage Strategy /Development Review) and consider that the impacts on the public foul sewerage network have been adequately addressed at this stage. Request that they are consulted on any forthcoming application to discharge Conditions 3 and 18 of the outline planning application H04-0244-16 to which this Reserved Matters application relates, which requires the submission and approval of detailed foul drainage information.

Surface Water

Have reviewed the applicant's submitted surface water drainage information (1087-003 Phase 1/2 Drainage Strategy/Development Review) and the proposed method of surface water management does not relate to Anglian Waters operated assets. As such, are unable to provide comments on the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, would wish to be re-consulted to ensure that an effective surface water drainage strategy is prepared and implemented.

No objections to the revised layout.

Environment Agency

Have reviewed our comments on the outline application and on the basis of these do not wish to

make any comments on the reserved matters.

Black Sluice Internal Drainage Board

The Board has reviewed the additional information provided by the applicant reference the Board's concerns regarding the probable impact on existing land and property to the north and east of the site by the proposed raising of the land.

The Board has been in contact with the applicant's consultants, and the Board acknowledges the indication of a proposed filter drain along those boundaries. Whilst this is acceptable to the Board in principle, the applicant will still have to prove to the planning authority that their proposals will work, and that should their proposals prove inadequate then they must accept responsibility for any future costs incurred by the adjacent property owners for any damage caused by future flooding.

The applicant is reminded that the Board cannot approve the overall site drainage scheme, and that prior written consent will be required for the proposed attenuated discharge from the developments drainage scheme, and for the new outfall from the proposed filter drain, both of which will discharge into the Board-maintained watercourse on the northern boundary.

No comments made to revised scheme.

Police Crime Prevention Design Advisor

Lincolnshire Police do not have any objections to the principle of this development.

Public

Objections received from 8 properties to original scheme summarised as follows:

Principle of development and quantum of development in Donington;
Impact on Donington, including amenities and services;
Highway and pedestrian safety;
Road noise and pollution increase;
Loss of Sunlight/daylight;
Privacy/overlooking;
Should be bungalows adjacent to Malting Lane and William Close;
Finished Floor Levels of new dwellings (overlooking and water run off);
Privacy/overlooking;
Boundary fences should be replaced;
Request for an easement to William Close;
Finished Floor Levels of new dwellings (overlooking and water run off);
Flooding and water run off;
Lack of water pressure at peak times;
Additional living expenses due to upkeep of waste sewerage system;
Impact on local wildlife;
Potential increase of crime;
Impact on Oak Tree at 49 Malting Lane;
Loss of open views;
Construction traffic.

One comment received regarding highway and pedestrian safety especially walking to school.

One letter of support received.

5 objections received to revised scheme summarised as follows:

Principle of development and impact on Donington, including amenities and services;
Loss of Sunlight/daylight;
Privacy/overlooking;
Should be bungalows adjacent to Malting Lane and William Close;
Finished Floor Levels of new dwellings (overlooking and water run off);
Drainage, flooding and water run off;
Noise;
Additional living expenses due to upkeep of waste sewerage system;

Lack of servicing arrangements for landscaped areas.

2 comments:

Request for timber fencing to be provided to property in Malting Lane;
Requested easement not shown.

PLANNING CONSIDERATIONS

Principle of Development

Impact on services within Donington

Affordable Housing

Flood risk and drainage

Highway safety

The appearance and character of the development and likely impact upon residential amenity of nearby residents;

Noise

Wildlife and biodiversity

Other material considerations

Principle of Development

The principle of the development of this land for residential use is accepted by the outline permission that exists on the site. This is effectively one phase of a two phase affordable housing development that will eventually provide 72 dwellings across the site. The proposal accords with Policies 1, 11, 12 and 17 of the SELLP and the provisions of the NPPF.

Impact on services within Donington

Outline consent ref H04-0244-16 is subject to a S106 that seeks to deliver up to 25% of the whole development site as affordable housing, and an education contribution. The proposal accords with Policies 1, 12 and 32 as well as the appendices of the SELLP and the provisions of the NPPF.

Affordable Housing

The response of the Strategic Housing Team is set out above.

There is an identified need for affordable housing within Donington and the District as a whole, and this is a site already allocated for development. The proposal accords with Policies 1, 11, 12 and 17 of the SELLP and the provisions of the NPPF.

The agent has confirmed that the existing S106 legal agreement is sufficient for their needs, and no deed of variation is sought at this time .

Flood risk and drainage

The drainage scheme has been revised to accord with the requirements of the LCC as lead flood authority, the IDB and Anglian Water. The proposal accords with Policies 2, 3 and 4 of the SELLP and the provisions of the NPPF, in this regard. However this site links to the phase 2 development for which a drainage scheme has not been submitted. In addition, there are complexities regarding land ownership on this and the sister site. For this reason the applicant is reminded by informative of the conditions seeking the drainage details via the outline consent, notwithstanding the submitted details.

Highway safety

The development of this site for the quantum proposed overall has been accepted by the SELLP and by the outline consent granted.

LCC Highway Service raise no objections to the scheme.

The proposal accords with Policies 2, 3 and 36 of the SELLP and the provisions of the NPPF.

Appearance and character of the development

The form and appearance of the scheme is typical of this form of development in the District, and accords with the form of development recently provided to the south, in Arnhem Way. A handful of bungalows have been introduced along the northern boundary with some properties in William Close (Plots 32 to 37 inclusive).

The proposal accords with Policies 1, 2 and 3 of the SELLP and the provisions of the NPPF.

Impact upon residential amenity of nearby residents

As stated above, 6 bungalows are proposed along the northern boundary that would resolve the potential for over looking to dwellings in William Close. The remaining dwellings along the northern boundary are to be separated from the boundaries with established dwellings by the access strip for the drain. In addition the orientation of the dwellings on plots 24 and 26 are such that only oblique overlooking would be caused.

The separation of the development from established neighbouring dwellings is considered to be acceptable. Specifically, the separation distances are shown on drawing ref 001 P03. These arrangements for separation have been considered on site and in the light of the land levels of the development and are considered to be acceptable and that an undue level of overlooking, loss of sunlight or daylight or overbearing impacts would be caused.

The proposal accords with Policies 2 and 3 of the SELLP and the provisions of the NPPF.

Noise

Noise during construction is to be expected, and can be controlled to a degree by condition 15 of the outline consent requiring management plans with hours of working.

LCC have not suggested that the local roads are not of sufficient quality to hold construction traffic.

Following completion and occupation of the development, the normal residential use of the dwellings and gardens would not cause undue disturbance to existing residents, or vice versa.

There are pre-commencement conditions placed on the outline consent requiring the submission and approval of:

- A noise and vibration report prepared by a suitably qualified consultant. This report shall identify any measures or works necessary to ensure that there is no possible nuisance caused to the proposed residential properties from noise or vibration.
- Details of the precautions to be taken to prevent the deposit of mud on public highways by vehicles travelling from the site during construction.

The proposal accords with Policies 2 and 3 of the SELLP and the provisions of the NPPF.

Wildlife and biodiversity

Although no representation has been made on this application, a representation from the Lincolnshire Wildlife Trust has been received on the sister application, H04-1029-20. For this reason it is considered that a condition seeking further details, that runs with the sister application also, is put in place.

With regard to wildlife and swifts in particular, a condition can be appended to ensure compliance with a biodiversity strategy for the wider site as a whole.

Impact on Oak tree. The tree is located within the garden area of 49 Malting Lane. The land within the application site that is within the canopy of the tree is a concrete hardstanding. It is considered that the road could be constructed in such a way that the tree is not impacted and this is to be controlled by condition.

Other considerations

Right to an open view. There is no right to a view per se, however the impact of the development on adjoining residents is addressed above.

Request for private fencing replacement. There are existing privately owned fences to this site. Notwithstanding this a condition is imposed on the outline consent requiring the submission and approval of boundary treatments.

With regard to a request for an easement on this site, this is a private matter as access to adjoining land that was part of a previous development bounds the site, however it is not considered that from a planning perspective there is weight to be put to insisting upon such an easement.

Poor water pressure has been mentioned; this is not a matter for this application, rather it is a matter for homeowners to address directly to the water provider.

Planning Balance

The proposal is for the approval of reserved matters, the principle of residential development having been established with the grant of outline planning permission. The consultation process raised a number of concerns which have been fully considered and it is concluded that there would be no material impact with regard to these issues. There are no objections from statutory consultees. The planning balance is therefore considered to be in favour of the proposal.

Conclusion

Taking into account the above considerations it is considered the proposal accords with relevant planning policies and is of an acceptable design and layout.

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.

RECOMMENDATION

Delegated approval, subject to conditions.

This application was considered at the Chairman's Panel on 28 May 2021, at which it was agreed that a delegated decision would be appropriate.