

DECISION DELEGATED TO HEAD OF PLANNING

Application No:	H04-0728-22	Applicant:	Mr L Russell
Proposal:	Details of remediation method statement, surface water drainage scheme, construction and traffic management scheme, noise and vibration report, deposit of mud precautions, existing and proposed site levels/floor levels and foul water disposal (Conditions 8 (Part i), 9, 12, 14, 15, 16 and 18 of H04-0244-16)		
Location:	Land Off Malting Lane Donington		
Terminal Date:	18th August 2023		

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
07	Improving South East Lincolnshire's Employment Land Portfolio
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 2023

NPPF 2021.

Sections -

2 Achieving sustainable development

4 Decision-making
 5 Delivering a sufficient supply of homes
 8 Promoting healthy and safe communities
 9 Promoting sustainable transport
 11 Making effective use of land
 12 Achieving well-designed places
 14 Meeting the challenge of climate change, flooding and coastal change
 15 Conserving and enhancing the natural environment
 16 Conserving and enhancing the historic environment

Planning Practice Guidance (PPG)

Representations:

	Object	Support	No Obj.	Comments
HIGHWAYS & SUDS SUPPORT	0	0	0	1
BLACK SLUICE INTERNAL DRAINAGE BOARD	0	0	0	2
BLACK SLUICE INTERNAL DRAINAGE BOARD	0	0	0	2
SHDC INTERNAL	0	0	0	3
OTHER STATUTORY BODIES	0	0	0	1
RESIDENTS	5	0	0	0

CASE OFFICER ASSESSMENT

Proposal

This application is for condition compliance relating to the details of remediation method statement, surface water drainage scheme, construction and traffic management scheme, noise and vibration report, deposit of mud precautions, existing and proposed site levels/floor levels and foul water disposal. (Conditions 8 (Part i), 9, 12, 14, 15, 16 and 18 of H04-0244-16)

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.

Outline Planning permission was achieved for a development of 'approximately' 72 dwellings under H04-244-16 and reserved matters for 40 dwellings were approved under phase 1 which these conditions relate to. A permission for phase 2 has also been approved at reserved matters, however the applicant is not seeking to discharge the conditions in relation to that phase. A phasing plan has been provided which identifies which site this condition discharge application relates to.

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.

H04-0268-20. RESERVED MATTERS. Erection of 40 Dwellings - outline approval H04-0244-16. APPROVED. 02-11-21.

H04-1029-20. RESERVED MATTERS. Erection of 32 Dwellings - outline approval H04-0244-16. APPROVED. 02-11-21.

Consultation Responses

SHDC Environmental Protection

No objection to construction management plan subject to an amendment to construction working hours. Following the receipt of a technical update Environmental Protection have no objections to the discharge of noise related conditions.

LCC Highways & SUDS Support

Does not wish to restrict the grant of permission.

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, in so far as their having the potential to affect highways and surface water drainage, are satisfactory and does not wish to object to this planning application.

Black Sluice Internal Drainage Board

Rainfall Runoff

The applicant has submitted an application to discharge surface water into the Board-maintained watercourse on the northern boundary, and consent has been issued by the Board subject to the payment of the relevant fees.

As the applicant is not the original developer of the site, the applicant may not be aware that the open and piped watercourse on the western boundary of the land concerned is not maintained by the Board. However, future flows from the development will pass through this watercourse before re-entering the Board's drainage system on the west side of the railway line.

The applicant and/or their successors will be expected, together with the landowner on the opposite side, to ensure that this watercourse is adequately maintained to facilitate the security of future flows from the development, as per common law riparian responsibilities.

Access to Watercourses / Byelaws

The open watercourse on the northern boundary of the site is a Board-maintained Watercourse. The Board does not own the land within which this watercourse lies. The Board is only responsible for the conveyance of water.

The Board has a byelaw (No.10) which prohibits the siting of any obstructions, whether temporary or permanent, including planting, within 9 metres of the top of the bank of an open watercourse without the prior written consent of the Board. This byelaw allows the Board to be able to carry out its statutory duties at all times.

THE USE OF THE 9 METRE STRIP FOR THE STORAGE OF MATERIALS DURING CONSTRUCTION OF THE DEVELOPMENT IS STRICTLY PROHIBITED.

As agreed with the previous developer, the applicant has indicated that, post-development, the 9 metre strip will be kept clear of obstructions. However, the applicant is reminded that they will be responsible for maintaining any trees or bushes placed close to the 9 metre distance so as not to cause an obstruction to the Board's machinery during routine maintenance operations.

The applicant is reminded that within common law the ownership and maintenance responsibility for any watercourse, and any structures within such as piped access culverts, lies with the adjacent landowners, regardless of whether the watercourse is maintained by the Board.

Anglian Water

Foul Water Comments: The consultee has approved the proposed sewerage scheme

Surface Water Comments: The consultee has no objections.

Representations

Representation 1

I have concerns that the storage of materials is next to my boundary fence, and that the temporary office space is in the same area. Both could have noise and vibration. I too have concerns about surface drainage that may affect my garden if not addressed correctly.

Representation 2

As I am unable to locate detail or levels etc of proposed finishes, can confirmation be made on how the perimeter of the site will be finished between plots 24 to 33 and our land plus the main drain as concerned regarding Flooding and Fly tipping

Representation 3

A resident objects to the proposed siting of Storage and Facilities cabins being positioned behind and near to our boundary fence. It will overlook our living, dining and sleeping areas. It will create disturbance all over the back of our property. The reduction in light will create an increase in utilities bill as the property is all electric and relies on solar power to light and heat the property. Whichever window we look out of at the rear we will see the cabins and that the attendees we be able to see into our property. Please re-site them

Representation 4

We are still concerned about flooding of our property from possibly too high floor levels and possible questions over the proposed western boundary of our property.

Representation 5

Another representation has been received that expresses concerns in relation to house types proposed, levels, flood risk noise, anti-social behavior including fly tipping.

Response

Planning issues relating to the information provided by the applicant area assessed by officers and only approve where impacts are considered not unacceptable.

Planning Considerations

This application is a discharge of conditions application that seeks to discharge the following conditions associated with planning application H04-0244-16

- Condition 8 (i) - Land Contamination
- Condition 9 - Surface Water Drainage Scheme
- Condition 12 - Construction and Traffic Management Plan
- Condition 14 - Noise & Vibration
- Condition 15 - Mud on Highway
- Condition 16 - Existing & Proposed Site Levels
- Condition 18 - foul water disposal

Condition 8 i Land Contamination

Condition 8 i relates to the submission of a remedial method statement. The applicant has submitted the following plans to support the discharge of condition 8(i). The plans are:

- GML19177/4/1 Rev 1- Remedial Method Statement (October 2023)
- 2022-11-16 - GML9177 Hotspot Extent Plan

Environmental Protection have been consulted and have stated that they have no objections to the discharge of condition 8 part i. The information sets out the approach to land contamination mitigation. Therefore part 'i' of the condition is discharged in relation to phase 1 of the development as shown on drawing number MLD-SH-SP-LPA-1010 'Land permission Areas'. The condition remains extant outside of this phase and details will need to be submitted to and agreed in writing with the LPA.

Condition 9 - Surface Water Drainage Scheme

Condition 9 set out the requirement for a surface water drainage strategy. The applicant has submitted the following plans to support the discharge of condition 9 'Surface Water Drainage Strategy'. The plans are:

- DR-C-39201-S8-P10 - S104 LAYOUT
- DR-C-39202-S8-P6 - S104 LONG SECTIONS
- DR-C-39203-S8-P6 - S104 IMPERMEABLE AREA PLAN
- DR-C-39204-S8-P7 - S104 FLOOD ROUTE
- DR-C-39205-S8-P4 - S104 CONSTRUCTION DETAILS 1 OF 3
- DR-C-39206-S8-P3 - S104 CONSTRUCTION DETAILS 2 OF 3
- DR-C-39207-S8-P2 - S104 CONSTRUCTION DETAILS 3 OF 3
- DR-C-39208-S8-P4 - S104 PUMPING MAIN - LONG SECTION
- DR-C-39209-S8-P2 - S104 PSTN LAYOUT
- DR-C-39220-S3-P6 - DOMESTIC DRAINAGE LAYOUT
- DR-C-39221-S3-P2 - DOMESTIC DRAINAGE DETAILS
- DR-C-39222-S3-P4 - DOMESTIC DRAINAGE SCHEDULES
- DR-C-39520-S3-P5 - KERBS SURFACING LAYOUT
- DR-C-39521-S3-P5 - LEVELS - LAYOUT
- Ph 1 + 6% FEH
- Ph 1 + 6% FSR

The LLFA, IDB and Anglian Water have all made comment and have no objections to the discharge of conditions. The proposed strategy would protect both existing and future users of the area/site from potential flooding. Therefore condition 9 is discharged in relation to phase 1 of the development as shown on drawing number MLD-SH-SP-LPA-1010 'Land permission Areas'. The condition remains extant outside of this phase and details will need to be submitted to and agreed in writing with the LPA.

Condition 12 Construction Management Plan

Condition 12 sets out the requirement for a construction management plan. The applicant has submitted the following plans to support the discharge of condition 12 'Construction and Traffic Management Plan'. The plans are:

- MLD-SH-CMP-AR-1001-B - Construction Management Plan
- Construction Method Statement (with the exception of working hours)
- Email dated 25th October stating construction working hours

Environmental Protection have no objections to the proposal construction method statement other than the working hours proposed. These have been amended by an email addendum to reduce Saturday working hours to 1pm. The CMP is approved with the exception that there are to be no openings or first floor access points on the northern elevation of the staff canteen shown on drawing MLD-SH-CMP-AR-1001-B. Subject to this it is considered that unacceptable harm upon neighboring amenity is mitigated through the submission of the above information. Therefore condition 12 is discharged in relation to phase 1 of the development as shown on drawing number MLD-SH-SP-LPA-1010 'Land permission Areas'. The condition remains extant outside of this phase and details will need to be submitted to and agreed in writing with the LPA.

Condition 14 Noise and Vibration

The applicant has submitted the following plans to support the discharge of condition 14 'noise or vibration' The plans are:

- 20160208 7526 Donington BS8233 Noise Assessment;
- 20221121 7526 TN - Technical Note (dated 21st November)

Environmental Protection have no objections to the above information. The scheme also includes the erection of an acoustic fence which is controlled by the boundary treatment conditions. Therefore condition 14 is discharged in relation to phase 1 of the development as shown on drawing number MLD-SH-SP-LPA-1010 'Land permission Areas'. The condition remains extant outside of this phase and details will need to be submitted to and agreed in writing with the LPA.

Condition 15 - Mud on Highway

The applicant has submitted the following plans to support the discharge of condition 15 'Mud on Highways' . The plans are:

- The plans are: MLD-SH-CMP-AR-1000 - B - Construction Management Plan

Environmental Protection have no objections to the above information. Highways have not raised any objections either. It is considered that the method for preventing mud on the highway is acceptable and would not result in the detriment to existing users of the highway. Therefore condition 14 is discharged in relation to phase 1 of the development as shown on drawing number MLD-SH-SP-LPA-1010 'Land permission Areas'. The condition remains extant outside of this phase and details will need to be submitted to and agreed in writing with the LPA.

Condition 16 - Site Levels

Condition 14 required that site levels were agreed in writing prior to the commencement of works. The applicant has submitted the following plans to support the discharge of condition 14 'Site Levels. The plans are:

- DR-C-39521-S3-P5 - LEVELS LAYOUT

The levels plan provided shows that the finished floor levels of the dwellings across site. An existing retaining wall bounds the south of the site between plots 1-17 and the residential development fronting Arnhem Way. This plans shows that the height at the retaining wall is at 2.5m AOD at the eastern side of the site (close to plot 1) and slopes to 2.3m AOD towards the rear of plots 12-17.

- Plots 1- 4 (inclusive) are shown to have a finished floor level of approximately 2.6, AOD.
- Plots 5-8 are shown to have a finished floor level of 2.55m AOD
- Plots 9-11 and 12-17 are shown to have a finished floor level of 2.4m AOD

To the north of the application site the closest properties are plots 34 - 40. At the boundary the site levels are shown to be between 2.5 and 2.8m AOD.

- Plots 34- 40 are shown to have a finished floor level of 2.5m AOD

The North West of the site includes plots 18 - 33. In this area (to the north of plots 24, the turning head and plot 25) a 9m strip is shown to be kept free in line with IDB byelaws.

- Plots 18-19 are shown to be 2.4m AOD
- Plots 20-24 are shown to be 2.6m AOD
- Plots 25-29 are shown to be 2.5m AOD
- Plots 30 - 33 are shown to be 2.6m AOD.

The levels are considered acceptable and would not give rise to unacceptable character or amenity impacts and this relates to the proposed heights in conjunction with the separation distances from all exiting dwellings. The scheme would also provide an acceptable relationship within the scheme for all future residents to have an acceptable level of amenity standard. Therefore condition 16 is discharged in relation to phase 1 of the development as shown on drawing number MLD-SH-SP-LPA-1010 'Land permission Areas'. The condition remains extant outside of this phase and details will need to be submitted to and agreed in writing with the LPA.

Condition 18 - Foul Water Disposal

Condition 18 requires that the developer provides a solution for the disposal of foul water. The applicant has submitted the following plans to support the discharge of condition 14 'Foul Water Disposal'. The plans are:

- DR-C-39201-S8-P10 - S104 LAYOUT
- DR-C-39202-S8-P6 - S104 LONG SECTIONS
- DR-C-39206-S8-P3 - S104 CONSTRUCTION DETAILS 2 OF 3
- DR-C-39208-S8-P4 - S104 PUMPING MAIN - LONG SECTION
- DR-C-39209-S8-P2 - S104 PSTN LAYOUT
- DR-C-39220-S3-P6 - DOMESTIC DRAINAGE LAYOUT
- DR-C-39221-S3-P2 - DOMESTIC DRAINAGE DETAILS
- DR-C-39222-S3-P4 - DOMESTIC DRAINAGE SCHEDULES

The applicant has evidenced Anglian Waters confirmation that the scheme is approved. This is on a letter dated 17th Jan 2023. The scheme would therefore provide an appropriate solution for foul waste for future residents. Therefore condition 16 is discharged in relation to phase 1 of the development as shown on drawing number MLD-SH-SP-LPA-1010 'Land permission Areas'. The condition remains extant outside of this phase and details will need to be submitted to and agreed in writing with the LPA.

Conclusion

The above conditions are discharged as far as Phase 1 which is shown on drawing number MLD-SH-SP-LPA-1010 'Land permission Areas'. They still remain applicable to the wider outline permission.

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.