

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H04-0973-22 **Applicant:** Magnum Group

Proposal: Erection of 11 dwellings comprising 7 town houses & 4 detached dwellings and demolition of existing buildings - re-submission of H04-0035-22

Location: 18 High Street Donington Spalding

Terminal Date: 8th November 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
05	Meeting Physical Infrastructure and Service Needs
06	Developer Contributions
07	Improving South East Lincolnshire's Employment Land Portfolio
18	Affordable Housing
28	The Natural Environment
29	The Historic Environment
30	Pollution
33	Delivering a More Sustainable Transport Network
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

Section 3 - Plan-making
Section 4 - Decision-making
Section 5 - Delivering a sufficient supply of homes
Section 6 - Building a strong, competitive economy
Section 9 - Promoting sustainable transport
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

Representations:

	Object	Support	No Obj.	Comments
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PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
HISTORIC ENVIRONMENT OFFICER	0	0	0	1
BLACK SLUICE INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	3
OTHER STATUTORY BODIES	0	0	0	4
RESIDENTS	2	0	0	0

CASE OFFICER ASSESSMENT

Proposal

The proposed development is for the erection of 11 dwellings which are made up of 7 number town houses and four detached dwellings; resubmission of H04-0035-22.

Site Description

The application site is located within an Established Employment Site (High St, Donington, DO003) as identified by the SELLP proposal map (inset 4). The application site is located within the conservation area boundary for Donington and within flood zone 1 in accordance with EA Mapping systems.

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

History

H04-0035-22 - Erection of 9 dwellings comprising 5 detached dwellings and 4 town houses.

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

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

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

Consultation Responses

Anglian Water

The consultee states that their record show that no assets owned by Anglian Water or those subject to an adoption agreement are within the vicinity of the site boundary.

Waste Water Treatment

The foul drainage from this development is in the catchment of Donington Water Recycling Centre that will have available capacity for these flows

Section 3 - Used Water Network

This response has been based on the following submitted documents: SW-22-331-010/SW-22-331-REP-01 The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection.

Section 4 - Surface Water Disposal

The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer. "From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments in 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.

Black Sluice IDB

It is understood from the documentation provided that surface water from the development is to be discharged via a system of sustainable drainage into a piped watercourse maintained by the Board off-site.

Normally this would require prior written consent from the Board, and a discharge fee would be due. However, as the overall impermeable area is to be significantly reduced, and the proposed discharge rate into the Boards systems is to be no more than 5 litres per second, then no discharge fee will be payable. Formal consent to discharge will still be required (a relaxation of Board Byelaw No.3).

There is believed to be a historical piped watercourse, possibly a Victorian-era brick arch tunnel, crossing under the site from west to east, and whilst its condition is unknown, the Board believes this still serves a purpose for the drainage of properties to the west. The applicant should therefore ensure that this structure is not affected by any future works on the site. The Board recommends that a full survey is carried out to confirm the structures condition and functionality. If the structure is found to no longer serve any purpose and can be proved to be non-functional, then an application to fill the structure should be submitted to the Board as per Section 23 of the Land Drainage Act 1991.

Site Ground Levels

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

Historic Places Team

I recommend that If permission is granted, there be an archaeological condition for a mitigation strategy to effectively deal with this site. This will comprise a phased approach of investigation followed by archaeological mitigation work should it be necessary. This will initially comprise, but may not be limited to, a trial trench evaluation of the site which should aim to determine the

presence, absence, significance, depth and character of any archaeological remains which could be impacted by the proposed development as noted above and to inform a programme of further archaeological mitigation work which may be required if archaeological remains are identified in the evaluation. This should be secured by South Holland District Council's standard conditions AR01, 02 and 03 and is in accordance with National Planning Policy Framework paragraphs 194 and 205

Education Planning Manager

Education state that a contribution is required for both Primary and secondary places. The scheme is considered to produce 2 child spaces) at both primary and secondary). The primary contribution required is £36,734 (Indexed linked) and the secondary is £51,006 (indexed linked) making a total contribution of £87,740.00

Highways & Suds Support

No objection: The proposed residential development would occupy the site of a former commercial development, within the central built-up area of Donington, and would utilise the existing vehicle access that served that commercial development. This access has good visibility in both directions for safe egress into the highway. A footpath is to be provided between the two blocks of frontage dwellings, to allow pedestrian access, separate from the vehicle access.

The submitted details include sufficient parking and manoeuvring space within the site to allow vehicles to leave and enter the highway in a forward gear.

There have been some issues with vehicles parking on High Street in the vicinity of the Application Site entrance and it is therefore requested that the Applicants be required to enter into a Section 106 Agreement to make a £1,800 contribution towards the highway authority's expenses in progressing a Traffic Regulation Order (TRO) to provide KEEP CLEAR road markings at strategic positions on High Street.

In consideration of the above and 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, subject to the completion of the Section 106 Agreement, the proposed development would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network or increase surface water flood risk and therefore does not wish to object to this planning application.

NHS ICB

The above development is proposing 11 dwellings which, based on the average of 2.4 people per dwelling for the South Holland District Council area, would result in an increase in patient population of 26.

The financial contribution therefore (based upon 2.4 persons per dwelling @ £660 per dwelling) equates to £7,260.00

Crime Prevention Officer

Lincolnshire Police do not have any objections to this amended application

Conservation Officer

The proposal site is not only situated in a relatively central portion of the conservation area, but it also fronts onto the High Street, which is the central commercial street within Donington and forms one of the primary routes through the historic centre of the village. Therefore, development along this road can be said to have a substantial effect upon the Historic Environment.

The proposal is relatively similar to that which I was consulted on under the application that this proposal is a re-submission of (H04-0035-22). As I stated under the previous application, I do not have much in the way of objections to the design of the proposals, particularly of those which would front onto the high street as, though the area is historic, this type of 2-bay fronted, terraced and slate-roofed small property is relatively close to the vernacular for this form of development in the immediate setting. Furthermore, I have no objections on conservation grounds to the principle of a development of this type in this setting, and this is especially the case given that the structures

proposed to be removed are of no value to the character of the area.

However, as mentioned in my former consultation, the materials of construction do not appear to me to be fully appropriate to the setting. In particular, the proposed and extensive use of UPVC for both windows and doors throughout is unacceptable under terms of Policy 29 above and under Section B, Subsection 4 of that policy. Given that even with appropriate design, inappropriate or poor materials can negatively impact upon the aesthetic qualities of a proposal, I find that it is crucially important to ensure that materials in this prominent setting are fully appropriate and sympathetic to their surroundings. I, therefore, would suggest that the officer requests that the application be amended to incorporate the use of timber doors and windows as well as black, metal rainwater goods throughout. I would then recommend the use of conditions requesting that the details of all doors, windows, and roof lights be agreed upon prior to their installation.

It is pleasing to see that the developer proposes to use conservation-style roof lights, though their detail should be confirmed.

Furthermore, it appears that the applicant proposes to use imitation, concrete pantiles upon the rearward properties, this must be amended to incorporate authentic clay units, or preferably slates to match the street-front properties, as real slates represent the overwhelming vernacular in the immediate setting of the proposal site. Concrete tiles would again represent a breach of Policy 29, Section B, Subsection 4 of the SELLP.

Finally, should the applicant not wish to include final details of the brickwork prior to the determination of the application, I would request that the quality and sympathetic nature of the proposed bricks would be ensured by means of condition, a condition requiring the provision of a brick panel may well be the most appropriate means to condition this to any approval.

Environmental Protection

I request a standard contaminated land condition be applied at this location. No comments have been received in relation to the two noise assessments.

Representations

A local business expresses concerns in relation to the noise environment, more specifically that it is likely residents will suffer from Noise Related Impacts from the already established business activity in the area. The objector considers that this development should it be approved would result in complaints against that said business, resulting in unreasonable restrictions being placed to mitigate amenity standards.

Two number objections have been received from this business, the second following the updated noise report.

Planning Considerations

The proposal is a resubmission of planning application H04-0035-22 which was refused. This submission seeks permission to demolish the existing boundary walls & signage, rear workshops and associated gates, fences, paths and hard standing areas, the revised scheme proposes that the existing offices that form part of the existing street scene are to be demolished, which were sought for retention on the previous submission. The proposal is subjected to amendment which include the erection of an acoustic fence along the eastern boundary.

The following issues are relevant for assessment:

- Principle of Development
- Planning Obligations
- Design & Heritage
- Environmental Impacts including amenity
- Highway Safety & Parking Provision
- Flood Risk and Drainage
- Ecology/BNG

Principle of Development

The application site is located within the settlement limits for Donnington and on land allocated as an Established Employment Site (DO003, High Street, Donington) within the proposal maps of the

SELLP 2019. Policy 7 of the SELLP is therefore considered appropriate to apply, the policy states (in part):

The following Established Employment Sites, as identified on the Policies Map, perform an important role in the local economy and will be protected for new B1, B2 or B8 development and/or redevelopment in Class B1, B2 or B8, provided the proposed development is of a scale that respects the character of the area and/or neighbouring land uses. Any non-B development will only be supported where the applicant can show that it is ancillary to the effective functioning of the Established Employment Site.

The proposal is for a residential development (non-B uses) and the applicant has not demonstrated how the proposed development would be ancillary to the effective functioning of the established employment site. The proposal then whilst located within the settlement limits for Donnington would fail to accord with the requirements set out by policy 7 of the SELLP and is considered unacceptable in planning terms.

Planning Obligations

The proposal is a major planning application for residential development. The applicant seeks the erection of 11 number dwellings which has a combined floor space of over 1,000 sqm. The legal test for planning obligations are set out under section 122 of the Community Infrastructure Levy Regulations 2010 (as amended). They are reaffirmed under paragraph 57 of the National Planning Policy Framework, which states:

Planning obligations must only be sought where they meet all of the following tests:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development

Policy 5 of the SELLP considers meeting physical and service needs of an area, to make proposals that would otherwise have an unacceptable impact, acceptable in planning terms. Local Policy 6 of the SELLP is concerned with developer contributions it states that "Developments of 11 or more dwellings, or which have a combined gross floorspace of more than 1,000 sqm, or non-residential development of 1,000sqm gross floorspace or more will be expected to mitigate their impacts upon infrastructure, services and the environment to ensure that such developments are acceptable in planning terms."

The policy states that developer contributions amongst other things can relate to, affordable housing, transport infrastructure, education facilities, health facilities. Following consultation, requests have been made to support local infrastructure effected by the development. The NHS have requested a commuted sum towards local GP practices, Education have requested sums for both primary and secondary places, affordable housing requirements need also to be met and highways have requested some site-specific contributions.

Education

Appendix 8 of the SELLP sets out the developer contributions for education facilities within which the calculation of contributions is set out (under section 17.4). A response received from the county education department states that a contribution is required for both Primary and secondary places. The scheme is considered to produce 2 child spaces (at both primary and secondary). The primary contribution required is £36,734 and the secondary is £51,006 making a total contribution of £87,740.00 which would be secured through commuted sum.

Affordable Housing

Policy 18 of the SELLP 2019 concerns itself with Affordable Housing it states that "market housing sites of 11 or more dwellings (or residential developments with an internal floor area of 1,000sqm or more with a requirement of about 25% being affordable housing on sites in South Holland". The policy expands on the location of such housing, stating that "On site provision will be required. Where circumstances relating to the delivery of affordable housing make it impractical to deliver the affordable housing on site, developers will provide sound evidence to the Local Authority why on site provision cannot be achieved. Where such evidence is accepted by the Local Authority the developer will be expected to make equivalent off-site provision or a financial contribution to enable the need to be met elsewhere."

The applicant has shown 3 dwellings on the proposed site plan that would be affordable units. This represents a sufficient percentage of the scheme to accord with the above policy. The units would need to be secured in perpetuity through the S106 process.

Health Care facilities

Developer Contributions for Health care Facilities are set out under appendix 9 of the SELLP. Section 18.3 sets out when developer contributions will be sought, it states that "Developer contributions for new or improved health care facilities will be sought from relevant residential developments (Use Class C3 and C4)." In terms of 'relevance' the policy expands that this is based upon capacity at the nearest accessible surgeries.

A response from the NHS has been received stating that "The above development is proposing 11 dwellings which, based on the average of 2.4 people per dwelling for the South Holland District Council area, would result in an increase in patient population of 26."

The financial contribution requested is based upon 2.4 persons per dwelling @ £660 per dwelling. This equates to a commuted sum requirement of £7,260.00

Site Specific -TRO

Policy 5 of the SELLP which considers meeting the physical needs of an area and Policy 33 delivering a more sustainable transport network provide a policy basis for capturing site specific contributions, in this instance a traffic regulation order. The highway authority requested that the Applicants be required to enter into a Section 106 Agreement to make a £1,800 contribution towards the highway authority's expenses in progressing a Traffic Regulation Order (TRO) to provide KEEP CLEAR road markings at strategic positions on High Street.

Summary

The applicant has not challenged the obligations sought which are set out above. Affordable housing provision is shown on the proposed site plan, and commuted sums for education and health care facilities would be required. Lastly the applicant has explicitly agreed the contribution toward the TRO. All of which would be secured under S106.

Design & Heritage

The application site is located within Donington conservation area. Policy 29 of the SELLP sets out the local policy framework in respect of assessment proposals that affect the historic environment. The policy states that "To respect the historical legacy, varied character and appearance of South East Lincolnshire's historic environment, development proposals will conserve and enhance the character and appearance of designated and non-designated heritage assets, such as important known archaeology or that found during development, historic buildings, conservation areas, scheduled monuments, street patterns, streetscapes, landscapes, parks (including Registered Parks and Gardens), river frontages, structures and their settings through high-quality sensitive design."

Part A is concerned with Listed buildings, paragraph 3 is relevant to this assessment given that the proposal is not to change the use or extend a listed building nor does it involve the demolition of a listed building. Paragraph 3 states "Proposals that affect the setting of a Listed Building will be supported where they preserve or better reveal the significance of the Listed Building"

Part B of the policy is explicitly concerned with conservation areas, it states that "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."

Section C of the policy is also relevant as it relates to archaeology.

Paragraph 194 of the NPPF is concerned with determining planning applications and requires an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting.

Paragraph 197 states that "In determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and

putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness."

Paragraph 199 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). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance."

Paragraph 202 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."

Part 12 of the NPPF (Achieving well-designed places) states that good design is a key aspect of sustainable development and new development should be visually attractive as a result of good architecture and appropriate landscaping. It is important that new residential development should be of the highest quality to enhance and reinforce good urban design characteristics. It is generally accepted that good design plays a key role towards sustainable development. Regard must be had towards the impact that the proposed dwelling would have on local character, including topography, street patterns, building lines, boundary treatment and through scale and massing.

Specifically, paragraph 130 of the National Planning Policy Framework (NPPF), 2021 establishes that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area;

Policy 2 of the SELLP states that design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable. Policy 2 point 1 states that proposal should meet with sustainable development considerations specifically in relation to 'size, scale, layout, density and impact on the amenity, trees, character and appearance of the area and the relationship to existing development and land uses'. Policy 3 sets out the 'Design of new development' in part it states that "Design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable"

The historic assets that likely to be affected are:

- Red Crow Hotel, High Street Grade II
- The Peacock Guest House Grade II*
- Donington Conservation Area

Setting of listed buildings

The nearest two listed buildings to the application site are The Red Crow Hotel which is located on the north side of the Highstreet, to the west and The Peacock Guest House which is located on the southern side of the High Street slightly further west. Between the application site and The Red Crow Hotel is the fire station, a hot food take-away and a convenience store, The Peacock Guest House is located on the opposite side of the road further west.

The conservation officer has not expressed any concerns in relation to the impact upon the setting of these buildings. Given the distance and intervening land uses it is therefore considered that the proposals would preserve the setting of these two listed assets and thus accord with section a of policy 29 of the SELLP.

Conservation Area

The application is located wholly within the conservation area. The proposal seeks demolition of an existing office building, which is a frontage building. In place two terrace rows would be erected (a row of 4 and a row of 3) two storey properties. To the rear 4 larger detached properties are proposed. The access to the rear of the frontage properties (and associated parking spaces) and the 4 detached dwellings is to the east of the site. A landscape buffer strip is proposed along the eastern boundary along with a 2.4m high acoustic fence.

The frontage dwellings are two storey, with dual pitched roof, made up of a red multi facing brick

and traditional grey slate tiles. Openings are treated with cill and header detailing and a faux opening is located on the first floor of each property serving the bedroom. Roof lights are also proposed in both the front and rear roof pitch. The aesthetic theme for the two groups of terraces dwellings (1-4 & 5-7) are similar.

Plots 9 and 11 are four-bedroom properties with integral garage. A red multi facing brick is again proposed and the roof dressed in a Sandtoft, with a terracotta finish. A gable feature extends from the main form of the principal elevation. Plots 8 and 10 are made up of the same materials and scale but handed opposite.

All properties have a private amenity space to the rear and a scheme of landscaping is shown on the proposed block plan. The landscaping predominantly runs along the eastern boundary separating the scheme from the remaining established employment use. There is also a 2.4m acoustic fence proposed along this boundary which runs the full length and almost up to the High Street; elevations of boundary treatments are not provided, though some additional detail is given in the noise report.

The conservation officer has been consulted and has suggested that some amendments are sought prior to determination, these are "that the officer requests that the application be amended to incorporate the use of timber doors and windows as well as black, metal rainwater goods throughout. I would then recommend the use of conditions requesting that the details of all doors, windows, and roof lights be agreed upon prior to their installation" And "the applicant proposes to use imitation, concrete pantiles upon the rearward properties, this must be amended to incorporate authentic clay units, or preferably slates to match the street-front properties, as real slates represent the overwhelming vernacular in the immediate setting of the proposal site". And "Finally, should the applicant not wish to include final details of the brickwork prior to the determination of the application, I would request that the quality and sympathetic nature of the proposed bricks would be ensured by means of condition, a condition requiring the provision of a brick panel may well be the most appropriate means to condition this to any approval."

The officer has no objections to the principle of development in the conservation area and welcomes the removal of the office building which is considered to have 'no value'.

The officers' concerns are valid, and it is anticipated that the scheme should provide a palate of materials that would preserve and enhance the conservation area. The officer requests that facing bricks are either updated prior to determination or controlled through condition, there is no expanse as to why the proposed bricks are not appropriate, however it is understood that the officer would prefer to see a 'sample board' prior to agreeing, therefore a condition in this instance would be appropriate. In terms of roof materials and rainwater goods the officer has requested that these are to be updated prior to determination, however given there is no issue with the scale and general form of the dwellings then sufficient mitigation would exist for this material to be controlled through planning conditions.

In terms of the openings these not only have a material effect upon character of the historic environment but also upon the future amenity for residents. Openings therefore at this stage are not considered acceptable on the basis that they are UPVC and located within the conservation area, contrary to policy 29 of the SELLP, furthermore insufficient justification has been provided to support non timber framed openings. This issue cannot be conditioned given the technical performance requirements that these openings must have to meet with the mitigation measures outlined within the noise report.

Since the conservation officer's assessment an amended site plan has been received showing the 2.4m high acoustic fence; this is driven by the findings of an updated noise report. The fence would extend all the way along the eastern boundary and given the position of the access point to the development would have an effect upon the street scene. The proposed frontage plots would screen the fence from much of the views into the site, however the fence would be apparent from the front of the access. Notwithstanding the proposed landscaping scheme (which could be controlled through condition) the presence of a 2.4m high fence extending along the entire eastern boundary is not an appropriate feature within the conservation area.

It is therefore considered that in terms of the proposals impact upon the conservation area, whilst there are no principle objections to a residential development the technicalities of the design which necessitate the requirement for such a high an acoustic fence that would treat the entire eastern boundary, despite limited views would not contribute positively to the area's character, appearance

and setting and thus contrary to policy 29 of the SELLP. Furthermore, the use of UPVC openings without sufficient justification is also considered inappropriate and would again be contrary to policy 29. In turn the proposal would be contrary to policies 2 and 3 of the SELLP as well as part 12 of the NPPF.

Archaeology

The Historic Places Team have reviewed the application and have no objections to the proposed development subject to the attachment of archaeological related conditions. The team state "This will initially comprise, but may not be limited to, a trial trench evaluation of the site which should aim to determine the presence, absence, significance, depth and character of any archaeological remains which could be impacted by the proposed development".

At this stage without a desk top study and the lack of field work it is unclear what the potential for finding are. Therefore, and despite the brownfield nature of the site the conditions are considered to represent reasonable mitigation.

Summary

The proposal whilst in principle is considered acceptable within the conservation area, resulting in the loss of a building that has a neutral effect. The scheme whilst requiring some changes to the palette of materials, namely the use of appropriate facing brick and roof dressings as well as an updated scheme of rainwater goods is largely acceptable. However the requirement for an acoustic fence of the proposed height and length does give rise to character issues. The fence is only shown on site plan with no elevations however at this stage it is not clear how such a feature which would have a significant effect on the street scene (and so the wider conservation area) would contribute positively to the area's character, appearance and setting. To add to this, it is also not clear how this feature would age and whether the materials proposed would degrade overtime. Lastly the use of UPVC windows is not acceptable, these features cannot be controlled through condition given the technical performance requirements they require to provide an acceptable level of amenity for future residents. Therefore it is considered that the proposed acoustic fence would represent an incongruous feature within the scheme, the openings would not contribute positively to the conservation areas character and both would therefore have wider detrimental character impacts upon the historic environment.

Environmental Impacts

Paragraph 187 of the National Planning Policy Framework (2021) relates to the consideration of existing business and community uses within the vicinity of a proposed development, it states "Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed."

Paragraph 130 of the National Planning Policy Framework (2021) states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Policy 30 is concerned with pollution and places impacts in relation to noise, disturbance and air quality as important consideration when considering proposals for planning. It states that "Suitable mitigation measures will be provided, if required. Proposals will be refused if impacts cannot be suitably mitigated or avoided".

Policy 2 and of South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

The applicant has provided an updated noise report by Acoustic Associates. The report states in regard to noise measurements that long-term noise monitoring was carried out from Wednesday 6th October until Wednesday 13th October. Two locations for equipment were used, one to the side of

the existing Magnum Fabrications building and another adjacent to the fire station rear yard. Short-term noise monitoring equipment was also utilised intermittently throughout day time periods.

The conclusions are set out under section 2 of the report, and in part the findings are:

- The dominant noise across the site is from Road Traffic

- At Times industrial noise will be dominant or significant

- (i)The operations of fixed plant at George Barnsdale may cause a "significant adverse impact" at residential locations

- (ii)There is also potential for disturbance from fixed plant at Jacks fish bar and Budgens Supermarket; yard activities at the fire station and deliveries at Budgens

The report goes on to recommend an acoustic fence along the eastern boundary (at 2.4m high), amenity areas of dwellings to be treated with 1.8m acoustic fencing. There is also advice in terms of the technical standard of glazing, ventilation and overheating. It is recommended that residents should be able to achieve satisfactory ventilation if they decide to close their windows, also overheating control strategies via open windows is not recommended.

The Environmental Protection team have been consulted on this updated noise report and have not provided any comments. It is therefore not clear whether the proposed strategies are acceptable and would provide future residents with an acceptable level of amenity.

If it is taken that they are satisfactory, a conflicting issue arises with what design features would be appropriate within the conservation area. For example, the conservation officer requires the openings to be timber treated and these details which can normally be controlled through condition, would need to be provided prior to determination as they also require an assessment on their sound proofing values. The submission then lacks the technical depth to be able to ensure that conservation appropriate openings would provide the necessary sound mitigation.

Furthermore, the scheme appears to be heavily reliant upon acoustic fencing, both treating the amenity areas of dwellings as well as along the eastern boundary. A concerning finding within the report (section 6.1 noise sources affecting the site) is the noise emanating from George Barnsdale. The report states that "this consists of fixed plant noise from roof sources and breakout through the building envelope. The western facade facing the site is complete and without gaps and all of the windows were double glazed when the site was visited". The concerns come from two points, firstly it is unclear how the 2.4m acoustic fence would mitigate noise impacts emanating from fixed plant noise from roof sources and secondly that despite these openings being double glazed on the western elevation, they are all openable and no planning control exists over the working practices at George Barnsdale.

The Industrial noise assessment also states that "Significant adverse Impact" (in relation to the BS4142 assessment) and this has led to the recommendations. Just as the openings on the proposed dwellings need to be conservation compliant, so do does the design traits of the scheme. It is not envisaged that a 2.4m acoustic fence running the length of the eastern boundary would be an acceptable feature within the conservation area. Therefore without this mitigation (assuming that should the fence be erect it would create an acceptable noise environment for future residents) the effect upon residents (without the fence) would be that of a Significant adverse Impact. It is therefore considered that this mitigation is not appropriate as it has not given consideration to the wider site constraints (i.e. the historic environment) and in so this mitigation measure can not be supported.

Therefore, it is considered that insufficient information has been presented to demonstrate that an acceptable level of amenity could be achieved for future residents. Thus, should the development be approved it is likely to lead to unreasonable restrictions being placed upon existing business in the area. The proposal is therefore considered contrary to paragraph 187 of the national planning policy framework and policies 2 and 30 of the SELLP.

Highway Safety & Parking Provision

Policy 2 details that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation. Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal.

Section 9 of the National Planning Policy Framework (2021) specifically relates to 'Promoting sustainable transport'. Paragraph 111 of the National Planning Policy Framework (2021) advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

Policy 36 is concerned with Vehicle and Cycle Parking it states that "All new development, including change of use, should provide vehicle and cycle parking, in accordance with the minimum Parking Standards adopted by the Local Planning Authorities (in Appendix 6).

The applicant proposes to utilise the existing access arrangement for the site, with entry egress from the eastern side of the site. Parking provision for the frontage dwellings is located to the rear of the amenity space, whilst parking for the detached dwellings is provided on the driveways. The Highway Authority have been consulted and have stated that:

"The proposed residential development would occupy the site of a former commercial development, within the central built-up area of Donington, and would utilise the existing vehicle access that served that commercial development. This access has good visibility in both directions for safe egress into the highway. A footpath is to be provided between the two blocks of frontage dwellings, to allow pedestrian access, separate from the vehicle access. The submitted details include sufficient parking and manoeuvring space within the site to allow vehicles to leave and enter the highway in a forward gear"

Therefore, in terms of highway safety and parking provision the proposal is acceptable. Any permission would be conditioned to show provision for cycle storage prior to the first occupation. The Highway Authority have also requested a commuted sum as a traffic regulation order is required (Keep Clear markings) and the applicant has agreed to this.

The proposal then is considered to align with policies 2, 9 and 36 of the SELLP as well as section 9 of the NPPF.

Flood Risk & Drainage

Policy 4 of the SELLP sets out South Hollands planning guidance on flood risk. The application site is located within flood zone 1 in accordance with EA mapping systems. The policy states "Development in all flood zones, and development over 1 hectare in size in Flood Zone 1, will need to demonstrate that surface water from the development can be managed and will not increase the risk of flooding to third parties."

The applicant has provided a principal drainage strategy that surface water from the development is to be discharged via a system of sustainable drainage into a piped watercourse off-site. The water course is maintained by the IDB, who state:

"Normally this would require prior written consent from the Board, and a discharge fee would be due. However, as the overall impermeable area is to be significantly reduced, and the proposed discharge rate into the Boards systems is to be no more than 5 litres per second, then no discharge fee will be payable. Formal consent to discharge will still be required (a relaxation of Board Byelaw No.3)."

The LLFA and Anglian water have both been consulted and have no comments to make in regard to the appropriateness of the scheme. A condition will be attached as regards the submission of a detailed surface and foul water drainage scheme to ensure that an appropriate solution is implemented for future residents.

Therefore subject to this mitigation it is considered that the proposal would accord with policy 4 of the SELLP.

Ecology/BNG

Policy 28 is concerned with 'The Natural Environment', the site is located on brownfield land within an existing established employment site. At present it is clear that limited opportunity for biodiversity exists. However, there is policy requirement for this to be demonstrated. Policy 28 Point 3 is relevant, it states:

Addressing gaps in the ecological network:

a.by ensuring that all development proposals shall provide an overall net gain in biodiversity, by:

- i.protecting the biodiversity value of land, buildings and trees (including veteran trees) minimising the fragmentation of habitats;
- ii.maximising the opportunities for restoration, enhancement and connection of natural habitats and species of principal importance;
- iii.incorporating beneficial biodiversity conservation features on buildings, where appropriate; and maximising opportunities to enhance green infrastructure and ecological corridors, including water space; and
- iv.conserving or enhancing biodiversity or geodiversity conservation features that will provide new habitat and help wildlife to adapt to climate change, and if the development is within a Nature Improvement Area (NIA), contributing to the aims and objectives of the NIA.

In this instance as the site has limited existing potential for bio-diversity a condition that would require the submission of a bio-diversity management plan prior to occupation showing how a net gain is captured/nurtured would provide sufficient mitigation. Therefore subject to such a condition it is considered that the proposal has the potential to accord with policy 28 of the SELLP.

Previous reasons for refusal

This application represents an uplift in overall dwelling numbers and includes the demolition of an existing frontage building. There are therefore material differences between this application and the previous refusal H04-0035-22 and these are reflected in the concerns outlined within this report.

Previous concerns were expressed in relation to the ability to provide an acceptable level of amenity for future residents. This related in part to potential impact from operations at George Barnsdale on the proposed properties. These concerns have not been overcome for the reasons outlined within this report.

To provide an acceptable level of amenity mitigation measures have been proposed. Firstly insufficient evidence has been provided to suggest that those mitigation measures would be effective and secondly those mitigation measures do not have regard to the character of the historic environment. Therefore, this has resulted in a reason for refusal in relation to the detrimental impact upon character and the historic environment.

Lastly the previous submission sought to retain the main employment use building on site, an argument could therefore be made that the scheme was ancillary in relation to the wider site. However, this application seeks to remove the employment use from the application site despite it being located as an Established Employment Site within the plan. Therefore, a principle reason for refusal is also now appropriate to apply.

Conclusion

The proposal fails to demonstrate that an acceptable level of amenity for future residents could be provided. This would result in the potential for unreasonable restrictions being placed upon local businesses. The mitigation measures proposed to off-set noise impacts also do not consider their effect upon the historic environment. In turn those methods used to target a reduction in noise namely the acoustic fence and UPVC openings would have a detrimental impact upon the character of the conservation area. The scheme then would fail to contribute positively to the area's character, appearance and setting.

The proposal is also for residential development, located within an established employment site. The applicant has not demonstrated how the proposed development would be ancillary to the effective functioning of the established employment site nor that any other material considerations exist that would support a departure from the development plan.

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.