DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H04-1029-20**	**Applicant:**	**Minster Property Group**
Proposal:	Erection of 32 Dwellings - outline approval H04-0244-16		
Location:	Land 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
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 2021

NPPF 2021.

Representations:

	Object	Support	No Obj.	Comments

PARISH COUNCIL	0	0	0	0
WARD MEMBER	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	1
OTHER STATUTORY BODIES	0	0	0	3
RESIDENTS	6	0	0	1

CASE OFFICER ASSESSMENT

PROPOSAL

Erection of 32 Dwellings - outline approval H04-0244-16.

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 information regarding the separation distances to adjoining dwellings has been submitted.

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.

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.

H04-0268-20. RESERVED MATTERS. Erection of 40 Dwellings - outline approval H04-0244-16. Undetermined.

REPRESENTATIONS

Donington Parish Council

No response received.

SHDC Ward Members

Cllr S C Walsh

The comment from Anglian Water needs to be addressed to ensure with all the other agreed development in the area, its infrastructure is capable of accommodating all the proposed developments. The number of vehicles using Malting Lane needs to be reviewed by LCC Highways as it was never designed to take the volume of traffic it now does following other developments, let alone those developments in planning. When heavy vehicles use this road, properties along Malting Lane suffer from strong vibrations, which has worsened over the years of development. As with other developments, the Education & NHS services are under severe strain and need support to accommodate increasing resident numbers.

SHDC Housing Strategy

Following my previous comments on 8/6/21 the applicant has amended the tenure plans to deliver the bungalows as part of the Affordable Homes Ownership mix as requested.

The tenure mix for this and the remainder of the site, application for 40, planning reference H04-0268-20 now proposes a 44/56 split in favour of Affordable Home Ownership. This application proposes 11 for rent comprising of 4 x 1 bed maisonettes, 2 x 2 bed houses, 3 x 3 bed houses and 2 x 4 bed houses and 21 shared ownership comprising of 3 x 2 bed
bungalows, 10 x 2 bed houses and 8 x 3 bed houses. My other previous comments made 22/12/20 remain relevant.

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.

LCC Highways & SUDS

Does not wish to restrict the grant of permission.

On a point of detail, the footways around the edges of the open space and surface water attenuation pond could be omitted as the footways on the opposite side of the carriageway will provide adequate pedestrian access to the proposed dwellings. This would reduce both costs and the impervious area. The edges of the open space would be suitable and large enough to accommodate a roadside swale of filter drain.

The required highway Conditions are already set-out within the Decision Notice for the Outline Consent so there is therefore no need to repeat them here.

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 terms of highways and surface water flood risk and therefore, does not wish to object to this planning application.

Anglian Water

Anglian Water have commented on the sister application that is referred to above.

Black Sluice Internal Drainage Board

The Board has received the above planning application and has the following comments:

Rainfall Runoff

It is understood from the documentation provided that surface water from this phase of the overall development is to be discharged into a watercourse on the northern boundary. If this is the case, then as per Phase 1 of the development, the prior written consent of the Board is required.

If it is the applicant's intention to combine the surface water discharges for Phase 1 & 2 of the development, with a final discharge at a rate agreed with the Board in principle, then an application to discharge surface water must be submitted to the Board, prior to any discharge from either phase of development.

The applicant is reminded that the Board is unable to approve the overall on-site surface water scheme. Full details of any surface water schemes for the proposed development should be submitted to the local planning authority for consideration and approval.

Access to Watercourses

The open watercourse on the northern boundary of the site is a Board-maintained Watercourse. The watercourse is NOT owned by the Board, but maintained within the terms of the Land Drainage Act 1991.

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.

Whilst the Board acknowledges the applicant's proposals to ensure that there are no above-ground obstructions within this byelaw distance, the Board's officers have noted the turning head and parking spaces within the byelaw distance on the northern boundary, and requests that these are removed. The Board requires access to its watercourse at all times, and by permitting the parking spaces and turning head, the Board is effectively allowing obstructions which will prevent access, regardless of their temporary nature.

The Board also notes that the applicant has stated that the watercourse on the western boundary is also Board-maintained. At present this is NOT the case. However, the Board are actively considering adopting this watercourse in the future, and therefore the applicant's placement of permanent structures outside of the byelaw distance is welcomed, and this should remain the case.

Filling in or Culverting Watercourses

The applicant is reminded that as per common law, ownership and maintenance responsibility for any watercourse lies with the adjacent land or property owners, regardless of whether the watercourse is maintained by the Board, unless proved otherwise. The applicant should therefore ensure that the maintenance of these watercourses is included within any future grounds maintenance for the lifetime of the development. It is the Board's recommendation that ownership of the access strips around the northern and western boundaries is retained by the applicant and not transferred to any property owners.

The applicant is also reminded that they remain responsible for the ownership and maintenance of any structures within any watercourse bounding the site, unless proved otherwise. Under Section 23 of the Land Drainage Act 1991, the prior written consent of the Board is required for any proposed

permanent or temporary works or structures, within any watercourse, including infilling or diversion. This includes the replacement of any existing structures.

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 property.

Lincolnshire Wildlife Trust

Expects to see that:
· measures to increase biodiversity are developed and
· a Landscape Management and Maintenance Plan is produced for the development that integrates the surrounding wildlife habitats with those created on site.

Lincolnshire Bat Group

Having looked at the Habitat survey would like to make the following observations. Agree with the suggestion for integral bat boxes within the new properties; this would need to be followed up with a proper plan, and suggest some are also located in houses facing the railway line, which will also be a good foraging area, along with the drain. In addition endorse the recommendations about avoiding light pollution near bat boxes - perhaps to be included in the bat box scheme.

Public

Six objections have been received, raising the following matters:

Principle of further development of Donington;
Highway and pedestrian safety;
Traffic noise and speed;
Noise, disturbance and vibration during construction;
Impact on infrastructure and services of Donington;
Surface water drainage;
Sewage system;
Creation of cul-de-sacs lack of permeability and potential for increase in crime;
Inappropriate bulking and massing;
Disregard of the local vernacular;
Loss of privacy;
Loss of daylight/sunlight;
Fencing to the site;
Levels on the site being raised;
Relocate bungalows on the site;
Need to meet carbon emission targets;

One comment has been made regarding provisions for Swifts.

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
Impact on neighbouring employment site
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 effectivity 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.

Flood risk and drainage

Despite the comments of the IDB above, the principle of the raising of this land is accepted by the outline consent.

This site links to the phase 1 development for which a drainage scheme has been submitted. in addition, there are complexities regarding land ownership on this and the sister site. For this reason a condition seeking the drainage details is suggested, notwithstanding the submitted details. 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 have not suggested that the local roads are not of sufficient quality to hold construction traffic.

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.

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

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.

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.

Impact on neighbouring employment site

The site is allocated for residential development adjacent to the existing employment area. It is considered that the development would not impact detrimentally on the employment area, and para 187, ("agent of change") of the NPPF 2021 has been taken in to account in the consideration of the application.

Other material considerations

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.

With regard to build quality and need to meet carbon emission targets, the development shall need to accord with the relevant Building Regulations.

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.