

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H04-1156-21 **Applicant:** Ashley King (Developments) Ltd.

Proposal: Erection of 9 dwellings - Plots 17, 21, 22, 23, 25, 26, 27, 30 & 32 - previously approved under H04-0508-19

Location: Kilby Court Off Towndam Lane Donington

Terminal Date: 10th January 2022

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
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
12	Reserve Sites
17	Providing a Mix of Housing
18	Affordable Housing
28	The Natural Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
32	Community, Health and Well-being
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 2021

NPPF 2021.

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
BLACK SLUICE INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	1
RESIDENTS	2	0	0	1

CASE OFFICER ASSESSMENT

Proposal

Full application for the erection of 9 dwellings - Plots 17, 21, 22, 23, 25, 26, 27, 30 & 32 - previously approved under H04-0508-19.

The original dwelling mix for this part of the wider site is four 1-bed units, six 2- bed units and six 3-bed units. In comparison, the current application proposes four 2-bed units and nine 3-bed units, which would result on a net loss of 3 units over the overall scheme.

Specifically these 9 dwellings would replace 12 plots on the previously approved layout. The revised layout shows the dwellings to be vert close to the locations of the previously approved units, with the dwelling on Plot 30 (previously Plot 31) rotated slightly.

In addition, this scheme adds garages to (new) plots 23, 25, 26 and 27.

The application is supported by an Extended Phase 1 Survey Biodiversity report.

Site Description

The site is part of a wider development site, an irregular parcel of land of some 5.5 hectares, to the east of Town Dam Lane. The land is allocated for development for residential development (Don006) within Policy 11 Distribution of New Housing of the South East Lincs Local Plan (SELLP).

History

H04-0508-19. FULL. Erection of 136 dwellings with associated garaging, roads and sewers. APPROVED 26-11-20.

H04-1104-20. APPROVAL REQUIRED BY CONDITION OF PERMISSION. Details of Conditions 3, 4, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 & 21 of H04-0508-19. APPROVED 18-02-21.

H04-0200-21. APPROVAL REQUIRED BY CONDITION OF PERMISSION. Details of surface water drainage scheme (Condition 10 of H04-0508-19). APPROVED 11-05-21.

Consultation Responses

SHDC Strategic Housing

The applicant is amending the scheme to reduce the overall numbers to 132 new dwellings, reducing the number of 1 bed and 2 bed houses and increasing the number of 3 bed houses.

The scheme subject to planning consent H04-0508-19 was subject to a viability assessment that was independently tested by the Council. This concluded that only 1 affordable home and reduced education and NHS contributions were viable. At the time (May 2020) Strategic Housing questioned whether the applicant would deliver the 1 bedroom houses, and requested that any future revisions to the house types and sizes would be subject to further viability testing. Therefore, I request that the viability is revisited based on these revisions to establish whether any additional developer contributions can viably be sought.

LCC Highways and SUDS

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 proposed alterations to the identified plots on this previously Consented residential development are not expected to have an unacceptable impact upon highway safety, network capacity or surface water flood risk and therefore does not wish to object to this planning application.

Third Parties

One objection has been received on the grounds of overlooking, loss of light and an oak tree that has been retained on the site.

One objection has been received raising the name used for this part of the development. This is not a planning matter.

One comment has been received regarding provisions for Swifts.

Planning Considerations

The main issues in this case are:

Principle of Development

Layout and Design

Highway safety and parking

Impact of neighbouring Residents/land users

Flooding considerations

Foul and Surface Water Drainage

Biodiversity

Developer Contributions

Conclusion

Principle of Development

The site is within Donington Settlement Limit as defined in the South East Lincolnshire Local Plan (SELLP), 2019. Policy 1 (Spatial Strategy) indicates that within Main Service Centres, including Donington, development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps to meet the service needs of other local communities. No objections are therefore raised. In addition, the principle of developing this land is set by the outstanding consent on the wider site, that includes this red line area, and is referred to in Policy 11 of the SELLP.

Layout and Design

The proposed design of dwellings is typical of those seen on the applicant's other schemes in the District and are considered to be acceptable in design terms.

The layout of the proposal is effectively a reconfiguration of the dwelling plots already approved.

Since submission additional information has been provided to compare the proposed scheme with that already approved, in terms of levels, height, bulk and distances to the adjoining dwellings, that are now occupied.

It is considered that the revised configuration is similar to the scheme approved. Looking afresh at the scheme, it is considered that the layout would provide a pleasant frontage and form of development. The development would accord with Policies 2 and 3 of the SELLP in this regard.

The objection received from a third party is specifically addressed below.

Highway safety and parking

The parking arrangements accord with the SELLP requirements. The road layout is not altered by this scheme.

Impact of neighbouring Residents/land users

One objection has been received raising matters of overlooking, loss of light and the retention of an oak tree.

Since submission further drawings have been provided to demonstrate the current scheme in comparison to the previously approved scheme.

Looking at the siting and form of the development proposal in comparison to the dwellings in Kensington Close, the submitted sections demonstrate that Kensington Close sits at a slightly higher level to the proposed development. The sections submitted demonstrate that the placing and form of the dwellings of current scheme would not have a materially different impact in terms of overlooking, daylight or sunlight to the previously approved scheme.

The placing of the proposed pitched roofed garages to plots (new) plots 23, 25, 26 and 27 would bring built development closer to dwellings in Kensington Close, however separation distances would still be considered to be acceptable. It is to be noted that the dwellings in Kensington Close also have garages within rear garden areas, that are not significantly dissimilar to the proposed layout, albeit that dwellings in Kensington Close have a greater distance to the boundaries.

It is also to be noted that the fall back position of reverting to the previously approved scheme, permitted development allowances for garages and garden structures would be in play, as PD rights were not removed.

It is considered that the proposal would not have such an impact upon adjoining occupiers that planning consent could be withheld. The development accords with Policies 2 and 3 of the SELLP.

Flooding considerations, Foul and Surface Water Drainage

A Flood risk assessment has been submitted, that accords with the wider treatment of the site.

With regard to the drainage strategy, the scheme would link in to the provisions for the wider site, via new foul water drainage to be installed under extant permission H04-0508-19 as well as the existing sewer system and SUDs measures.

Biodiversity

Provisions for birds and hedgehogs are set out within the Extended Phase 1 Survey Biodiversity report, and these measures are to be conditioned.

With regard to the objection that an oak tree has been retained on the site, this development proposal does not impact upon this, and at the request of the case officer, photos were taken and submitted on 7.1.22 that do not identify an oak tree along this boundary.

Developer Contributions

The Strategic Housing officer has raised concerns, as set out above.

It is considered that given this application is essentially for a substitution of house types and would reduce the overall number of dwellings on site from 136 to 134, plus the existing S106 would remain in place to provide x 4bed rented unit and NHS and education contributions each of £67,000, the figures involved are such that it is not considered necessary to revisit the viability of the overall scheme as part of the determination of these applications.

Planning Balance

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

The proposed development would not materially harm the character or appearance of the locality, or amenity of nearby residents, and provides adequate parking and access facilities. Taking into consideration the factors and considerations set out above, the proposal is considered to comply with Policies 1, 2, 3, 4, 5, 6, 10, 11, 12, 17, 18, 28, 30, 31, 32, 33, 36 and Appendix 6 of the South East Lincolnshire Local Plan (SELLP), 2019, plus advice within the National Planning Policy Framework (NPPF) 2021.

Conclusion

There are no significant factors in this case that indicate against the proposal and outweigh factors in favour of the proposal and the policies referred to above.

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.