



**NEWARK &  
SHERWOOD**  
DISTRICT COUNCIL

*Castle House  
Great North Road  
Newark  
NG24 1BY*

*Tel: 01636 650000*

[www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk)

**Monday, 25 June 2018**

**Chairman: Councillor D Payne**  
**Vice-Chairman: Councillor P Handley**

**Members of the Committee:**

**Councillor Mrs K Arnold**  
**Councillor R Blaney**  
**Councillor Mrs C Brooks**  
**Councillor B Crowe**  
**Councillor Mrs M Dobson**  
**Councillor P Duncan**  
**Councillor J Lee**

**Councillor Mrs P Rainbow**  
**Councillor F Taylor**  
**Councillor Mrs L Tift**  
**Councillor I Walker**  
**Councillor B Wells**  
**Councillor Mrs Y Woodhead**

**MEETING: Planning Committee**

**DATE: Tuesday, 3 July 2018 at 4.00 pm**

**VENUE: Civic Suite, Castle House, Great North Road,  
Newark, Notts, NG24 1BY**

**You are hereby requested to attend the above Meeting to be held at the time/place  
and on the date mentioned above for the purpose of transacting the  
business on the Agenda as overleaf.**

If you have any queries please contact Catharine Saxton on [catharine.saxton@newark-sherwooddc.gov.uk](mailto:catharine.saxton@newark-sherwooddc.gov.uk).



## AGENDA

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2. Declarations of Interest by Members and Officers	
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18. Local Development Framework Task Group

Three Members of the Planning Committee to be nominated to the Local Development Task Group (Planning Committee representatives For 2017/18 were Councillors G.P. Handley and D.R. Payne and B. Wells).

**Part 2 - Items for Information**

19. Appeals Lodged  
There were none.

20. Appeals Determined 216 - 222

**Part 3 - Statistical and Performance Review Items**

There were none.

**Part 4 - Exempt and Confidential Items**

21. Exclusion of the Press and Public

To consider resolving that, under section 100A (4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 3 & 5 of part 1 of Schedule 12A of the Act.

22. Residential Development At Epperstone Manor, Main Street, Epperstone 223 - 228  
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**NOTES:-**

A Briefing Meeting will be held in Room F1, Castle House at 3.00 pm on the day of the meeting between the Business Manager – Growth & Regeneration, the Chairman and Vice-Chairman of the Committee to consider late representations received after the Agenda was published.

# Agenda Item 4

## NEWARK AND SHERWOOD DISTRICT COUNCIL

Minutes of the Meeting of **Planning Committee** held in the Civic Suite, Castle House, Great North Road, Newark, Notts, NG24 1BY on Tuesday, 5 June 2018 at 4.00 pm.

PRESENT: Councillor D Payne (Chairman)  
Councillor P Handley (Vice-Chairman)

Councillor Mrs K Arnold, Councillor R Blaney, Councillor Mrs C Brooks, Councillor B Crowe, Councillor Mrs M Dobson, Councillor P Duncan, Councillor J Lee, Councillor Mrs P Rainbow, Councillor F Taylor, Councillor Mrs L Tift, Councillor I Walker, Councillor B Wells and Councillor Mrs Y Woodhead

APOLOGIES FOR None

ABSENCE:

### 1 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

Councillor Frank Taylor declared a Personal Interest in Agenda item 17- Flash Farm, Micklebarrow Farm, Averham – 18/00433/FUL as he knew the applicant.

### 2 DECLARATION OF ANY INTENTIONS TO RECORD THE MEETING

The Chairman informed the Committee that the Council was undertaking an audio recording of the meeting.

### 3 MINUTES OF THE PREVIOUS MEETING

The Committee considered the minutes of the meeting held on 8 May 2018.

AGREED that the minutes of the meeting held on 8 May 2018 be approved as a correct record and signed by the Chairman.

### 4 ORDER OF BUSINESS

With the agreement of the Committee, the Chairman changed the order of business as follows: Agenda Item 8, 5, 6, 13, 7, 16, 14 &15, 16, 17, 18, and 19. Agenda Items 9, 10 and 20 were withdrawn from the agenda.

### 5 LAND WEST OF WATERFIELD WAY, CLIPSTONE - 17/02051/RMAM

The Committee considered the report of the Business Manager Growth & Regeneration which sought planning permission for the erection of up to 100 Residential Units, Structural Landscaping, Open Space Provision and Access Roads. The proposed development of 100 dwellings would occupy the north part of the site and represent approximately 3 Ha of the overall 5.4 Ha site area (Phase 1). Phase 2 would occupy the south part of the site with a separate full application for 72 dwellings currently pending determination. Officers further recommended a 'Grampion' type condition to secure use of the access road for the development to ensure the access to roundabout serving Cavendish Way was brought into use (by

construction traffic and other vehicles accessing the site) prior to the commencement of development.

Councillor Paul Peacock, Local Ward Member, was in attendance to address the Committee. He raised concerns regarding the over intensification of the site, the proximity to existing dwellings, impact of additional car movements and the need for affordable housing. It was also noted that money had been identified for provision of a bus stop, however, there was no bus service to the estate.

Councillor Mrs Celia Brooks, also Local Ward Member, also raised concern with regard to the lack of amenities for people living on the estate and subsequent reliance on a car to access local services. She expressed her wish for increased green space on the estate, and also noted the amount of traffic using the proposed access road for tourism in the area.

The Committee considered the application, and were in agreement that a Grampian condition should be used to ensure that the road accessing the proposed development be adopted and used for construction traffic. Members were also minded to ensure that when applications were subsequently received for the remainder of the site, officers should work to secure relevant developer contributions, and focus this towards affordable housing. It was proposed and duly seconded to grant planning permission.

Members noted that a landscaping scheme was required, and it was proposed to place additional planting along boundaries. Concerns were raised with proposed parking to the rear of properties and the isolation of the proposed development from the village.

AGREED (9 For 6 Against) that Planning Permission be granted subject to the conditions in the report including the addition of an extra condition to ensure the access to roundabout serving Cavendish Way is brought into use (by construction traffic and other vehicles accessing the site) prior to the commencement of development.

#### 6 J HARRISON LTD, SOUTHWELL ROAD, LOWDHAM - 17/01616/FUL

The Committee considered the report of the Business Manager Growth & Regeneration which sought planning permission for change of use of existing car workshop/showroom and outdoor sales to local convenience store (Retail A1) incorporating relocation of Gonalston Farm Shop (Retail A1), ancillary coffee shop franchise and new local allotment provision. Members at the April Planning Committee agreed to defer the application pending the submission of Retail Impact Assessment (RIA), which had now been received. Members heard detail of the Retail Impact Assessment, which had found that the proposed development would not have an adverse impact on Lowdham Town Centre. Members' attention was drawn to the late items report, which also detailed the officer's recommendation to approve the application, which differed from the recommendation published in the original report to Members.

Councillor R. Blaney, Local Ward Member was in support of the application, noting

that the local farmshop would attract customers from a wider area than Lowdham. The Committee considered the application and were in general support.

AGREED (Unanimously) that Planning Permission be granted subject to the conditions detailed in the late report and subject to the completion of a S106 revoking the existing farm shop permission and the addition of an extra condition requiring details of how the car park will be split between the shop and garage site uses.

## 7 LAND AT TOLNEY LANE, NEWARK ON TRENT - 17/02087/FUL

The Committee considered the report of the Business Manager Growth & Regeneration which sought change of use of land to a private gypsy and traveller caravan site consisting of one mobile home, one amenity building and two touring caravans and associated works.

Councillor Matthew Skinner, Newark Town Council, was in attendance to address the Committee, speaking in opposition to the application due to the risk of flooding on the site, as it was in Flood Zone 2, and access was in Flood Zone 3.

Councillor Bob Crowe, Local Ward Member spoke against the application, noting the extant enforcement notice on the proposed, and the location of the site in flood zone three, with access in flood zone three. He felt that the proposal would present additional burden on the local authority with regard to emergency planning. He therefore proposed to refuse the application, in line with officer recommendation.

Other Members shared the concerns regarding the potential risk to life in a flooding event, and noted there were plans in place which sought to manage the flooding risk, and further developments on the site would increase the risk to life during a flooding event.

However, other Members felt that the community were aware of the flooding risks and could manage these. The community clearly wanted to be on that site and some Members felt that one additional pitch on the site would not place significant additional burden on the local authority with regard to emergency planning procedures.

The motion to refuse the application, in line with officer recommendation was put to the vote, and fell, with 7 for and 8 against.

It was therefore proposed and duly seconded to approve planning permission, against officer recommendation.

AGREED (9 For, 6 Against) Approve contrary to officer recommendation subject to conditions including the submission and approval of a full evacuation plan and details of flood risk mitigation measures (e.g. amenity block to allow flow of water underneath).

In accordance with paragraph 12.5 of the Planning Protocol, as the motion was against Officer recommendation, a recorded vote was taken.

Councillor	For	Against	Abstention
Kath Arnold			
Roger Blaney			
Celia Brooks			
Robert Crowe			
Maureen Dobson			
Peter Duncan			
Paul Handley			
Johno Lee			
David Payne			
Penny Rainbow			
Frank Taylor			
Linda Tift			
Ivor Walker			
Ben Wells			
Yvonne Woodhead			

8 7 BOWBRIDGE ROAD, NEWARK ON TRENT - 18/00591/FUL

Councillor Lee left the meeting prior to consideration of this item.

The Committee considered the report of the Business Manager - Growth & Regeneration which sought planning permission for Conversion of residential property Use Class (C3 Dwellinghouses) to an 8x bed HMO Use Class Sui Generis (Houses in multiple occupation) & 3 Storey Side Extension & Ground Floor Rear Extension.

Councillor Matthew Skinner, Newark Town Council, was in attendance to address the Committee, speaking in opposition to the application due to the impact upon highway safety and over intensification of the site.

Councillor Bob Crowe, Local Ward Member, spoke against the application due to the additional impact the vehicles associated with the development would create on parking and accessing the site. He noted that this was already a very busy road with a busy junction close by.

Members were in general agreement that the proposed development was not appropriate for the site. That area of Bowbridge road was already extremely busy with traffic and Members also felt that the proposal would negatively impact on the amenity of the adjoining property.

AGREED (Unanimously) that planning permission be refused contrary to officer recommendation due to adverse impact on the amenity of the adjacent dwelling arising from the increased intensification of the use of the site which has inadequate parking and access which would result in increased congestion in the area.

9 LAND TO THE REAR OF 37 AND 39 HALLOUGHTON ROAD, SOUTHWELL- 17/00771/FUL

The Committee considered the report of the Business Manager - Growth &



Regeneration which sought planning permission for the erection of one detached dwelling with attached garage. The application was withdrawn from the agenda of 5 December 2017 Planning Committee meeting with an Officer recommendation of refusal. The application was withdrawn from the agenda prior to the meeting at the request of the applicant in an attempt to address the expressed highway concerns. Further delay to the decision ensued at request of the applicant on the proviso that amended plans would be submitted for consideration. No such plans had been received and the applicant confirmed on 27 April 2018 that the application should be determined as submitted.

Councillor Handley, Local Ward Member, spoke against the application due to highways concerns, drawing the Members' attention to detail within the highways officer report. It was proposed and duly seconded to refuse planning permission in line with officer recommendation.

Other members echoed the concerns raised, noting the footpath along the proposed access, which was also very narrow. Concern was also raised regarding the design and layout of the proposed property.

However, other Members felt that the access could be managed by the residents of the site and many properties existed with similarly narrow access.

AGREED (10 For, 3 Against, 1 Abstention) that Planning Permission be refused in accordance with Officer recommendation.

10 11 FRIEND LANE, EDWINSTOWE- 18/00139/FUL

This item was withdrawn from the agenda.

11 FORMER GARAGE SITE, THORPE CLOSE, CODDINGTON - 18/00413/FUL

This item was withdrawn from the agenda.

12 LAND TO REAR 90 MAIN STREET, BALDERTON - 18/00357/FUL

The Committee considered a report from the Business Manager – Growth & Regeneration which sought planning permission for 4 one and a half story dwellings in the rear grounds of the Old Hall, Main Street, Balderton.

In considering the application, Members noted the protected trees within the grounds and the extant outline permission. Members also confirmed that the proposed development fell just below the threshold for the provision of affordable housing. Concerns were raised as there were no garages attached to the proposed development, and some Members agreed it would be likely that applications for garages would be submitted in future. Officers confirmed that permitted development rights could be removed by condition, and would therefore be subject to future planning applications.

AGREED (9 For, 5 Against) that Planning Permission be granted in accordance with Officer recommendation and subject to the conditions detailed within the report.

13 LAND ADJACENT LIME TREE HOUSE, HALAM HILL, HALAM - 18/00501/FUL

The Committee considered a report from the Business Manager – Growth & Regeneration that sought planning permission for the Erection of a new detached dwelling and detached garage.

Councillor Andrew Paris, Halam Parish Council, was in attendance to address the Committee, to speak in opposition to the application, due to the overdevelopment of an area which the village had wished to remain as open space and preserve views to the Church.

After hearing the Officer presentation, and representations from the Parish Council, it was proposed and seconded that the application be deferred to enable further negotiation with the applicant.

AGREED (13 For, 1 Against) that the application be deferred to enable Officer to further consider the height of the proposal, to amend the application to include Street scene elevations to include Radley Terrace. Ridge height appears excessive and should be reduced.

14 BECHERS COTTAGE, BECHERS WALK, BURGAGE LANE, SOUTHWELL - 18/00669/FUL AND 18/00670/LBC

The Committee considered a report from the Business Manager - Growth & Regeneration which sought planning permission for a single storey pitched roof extension to the north of Bechers Cottage, conservation roof lights to new and existing roof slopes and associated Listed Building Consent.

Councillor Handley, speaking as Local Ward Member did not consider that the application was acceptable due to the siting in a conservation area and a significant site for Southwell. Councillor Mrs P Rainbow, Local Ward Member, also felt that the proposed application would impact negatively on the amenity of the neighbouring properties.

It was therefore proposed and duly seconded, to refuse planning permission and listed building consent.

AGREED (13 For, 1 Against) that the application and listed building consent be refused, contrary to Officer recommendations Refuse contrary to Officer recommendation for the same reasons as 17/01787/FUL and 17/02137/LBC.

In accordance with paragraph 12.5 of the Planning Protocol, as the motion was against Officer recommendation, a recorded vote was taken.

Councillor	For	Against	Abstention
Kath Arnold			
Roger Blaney			
Celia Brooks			
Robert Crowe			

Maureen Dobson			
Peter Duncan			
Paul Handley			
Johno Lee	-	-	-
David Payne			
Penny Rainbow			
Frank Taylor			
Linda Tift			
Ivor Walker			
Ben Wells			
Yvonne Woodhead			

15 PRIMROSE COTTAGE, MANSFIELD ROAD, EDINGLEY - 18/00543/FUL

The Committee considered the report of the Business Manager – Growth & Regeneration which sought planning permission for the Siting of 1 no. lodge (modular building) to form annexe to Primrose Cottage.

Councillor Derek Bradford, Edingley Parish Council, was in attendance to address the Committee, speaking in opposition to the application. Although a neighbour of the site, he confirmed he would not be speaking in a personal capacity and the Committee was advised not to take into consideration any personal views, should any such views appear to be conveyed. He informed the Committee that the Parish Council was unanimously opposed to the proposed development, due to the size of the proposed development, impact on neighbouring properties and concern over the future use of the property.

Members of the Committee raised concern over the application, echoing those of the Parish Council. Members were concerned over the local need aspect identified by the applicant, and of the potential future use of the annexe. The proposed unit was also large and sited close to the boundary with the potential to impact on trees in the surrounding area.

AGREED (Unanimously) to Refuse Planning Permission, contrary to Officer recommendation as the annexe is not considered ancillary to the main dwelling therefore contrary to SP3, the style of the building is not in keeping with the area, it is too large and its positioning on site would be cramped and impact on trees.

16 FLASH FARM, MICKLEBARROW HILL, AVERHAM - 18/00433/FUL

Councillor Wells and Mrs Dobson left the meeting at this point.

Councillor Taylor declared a Personal Interest in the application, as he knew the applicant.

The Committee considered the report of the Business Manager – Growth & Regeneration which sought Planning Permission for the Conversion of Traditional

Agricultural Building to B1 Office Use with Associated Access and Parking.

The Committee considered the application and felt it to be acceptable, with an additional condition relating to the cutting back of the verges and hedgerows to ensure highway visibility.

AGREED (Unanimously) that Planning Permission be granted in accordance with Officer recommendation and subject to the conditions detailed in the report, and an additional condition relating to provision of visibility splays.

17 NEWARK LORRY PARK, GREAT NORTH ROAD - 18/00636/FUL

The Committee considered the report of the Business Manager - Growth & Regeneration which sought planning permission for Provision of free standing Classroom, Tool Store, Portaloo and installation of removable training test track.

The Committee considered the application and found it to be acceptable. It was proposed and duly seconded to approve planning permission in line with officer recommendation.

AGREED (unanimously) that the application be granted planning permission with the Conditions detailed in the report.

18 ROBIN HOOD VIEW CARAVAN PARK- BILSTHORPE - 17/01451/FUL

The Committee considered a report from the Business Manager- Growth & Regeneration which sought planning permission for removal/variation of condition 4 attached to planning permission 17/00147/FUL and Works to facilitate the siting of up to 15 additional caravans for holiday use. Officers apologised for issuing planning permission 17/00147/FUL with incorrect wording on Condition 4, and confirmed that the wording could not be changed retrospectively. The application therefore sought removal of Condition 4 and sought to control occupancy of the site with remaining conditions 5 and 6.

Some Members were supportive of the proposal, and sought clarification from Officers that the register of tenants in the caravans was kept, as per the existing conditions. Members were keen to ensure that the caravans were used by tourists and maintain turnover to improve tourism in the area. However, other Members felt that the application should be refused, and whilst there may be permanent caravans on site, use of them could be controlled with existing conditions and maintenance and checking of the register. It was therefore proposed and duly seconded to refuse planning permission.

AGREED (Unanimously) that variation of the planning permission is refused contrary to Officer recommendation as Condition 4 is required to enable the use to provide for a more transitory use on the site in combination with the additional 30 pitches where this level of control was not in place. It was also important to retain adequate control over the use of the site to prevent caravans/motor homes being used as permanent residences.

19 PROPOSED CHANGES TO CONSTITUTION

This item was withdrawn from the agenda.

20 APPEALS DETERMINED

AGREED that the report be noted.

Meeting closed at 7.40 pm.

Chairman

## PLANNING COMMITTEE – 3 JULY 2018

<b>Application No:</b>	<b>18/00711/FUL</b>	
<b>Proposal:</b>	<b>Application for the removal/variation of conditions 01 and 02 attached to application 17/00214/FUL for Two Detached Dwellings.</b>	
<b>Location:</b>	<b>Highfield Farm, High Street, South Clifton, Newark On Trent, Nottinghamshire, NG23 7AD</b>	
<b>Applicant:</b>	<b>Mr Stuart Kinch</b>	
<b>Registered:</b>	<b>13 April 2018</b>	<b>Target Date: 8 June 2018</b>

**This application is before the Planning Committee for determination as the officer recommendation differs from the views of the Parish Council.**

### The Site

The land is located to the south side of Vicarage Road and to the west of Coal Yard Lane forming a building plot to the east of Highfield Farm and to the south of Highfield Cottage. The land once formed part of the farmyard to Highfield Farm. To the north of Vicarage Lane, Bonnington, are grade II listed buildings. The site is located on the edge of South Clifton and within the defined Conservation Area.

The application site has been sectioned off by a post and rail fence and has two access points, one from Vicarage Road and one from Coal Yard Lane. The site is relatively open beyond the boundary fencing and has the general appearance of a building plot. To the north east of the plot is Highfield Cottage which is a detached dwelling facing east/west and is screened by hedgerows and mature planting. Further to the east, on the opposite side of Coal Yard Lane, are detached single storey dwellings. Highfield Farm house lies to the west, which is a two storey traditional farm house and outbuildings.

### Relevant Planning History

17/01892/FUL - Variation of condition 2 attached to planning permission 17/00214/FUL – Approved 07.12.2018 – *This permission approved the change of the roof tiles for both approved dwellings from pantiles to natural slate.*

17/00214/FUL – Two detached dwellings – Approved 04.07.2017

12/01691/FUL - Mixed use development of 3 live-work units and erection of 3 dwellings with access from Vicarage Lane and Coal Yard Lane – Withdrawn 25.02.13

10/01729/FUL - Erection of 4 No. detached houses and garages, together with associated works – refused 16.02.11

08/00486/FULM - Construct four 2 bedroom starter units in terrace and six new detached

dwelling with garages – Refused 28.07.08

07/00214/FUL – Two Detached dwellings – Approved 04.07.2017

### The Proposal

The proposal is to vary conditions 1 & 2 of planning consent 17/00214/FUL.

Condition 1 relates to the time limits for commencing development. The application states that condition 1 is incorrect in that it refers to the wrong date to commence development.

Condition 2 relates to the approved plans. The amendments proposed relate to plot 2 only and the changes proposed can be summarized as:

- A widening of the gable end of the main two storey part of the dwelling, which increases the ridge height by circa 300mm;
- The addition of a single storey sun lounge extension;
- Ground floor amendments and revisions including gable windows;
- First floor amendments including the removal of the 5<sup>th</sup> bedroom on this storey and its re-positioning within the roof space which maintains the '5 bedroom' local need;
- The roof space to be served by rooflights;
- Increase in gable width to the two step down elements to the north of the main dwelling by approx. 0.9m, increasing the ridge height of the corresponding step down sections by between approx. 0.3 and 0.4m.

### Public Advertisement Procedure

Occupiers of five properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.

### Planning Policy Framework

#### **The Development Plan**

*Newark and Sherwood Core Strategy DPD (adopted March 2011)*

Policies relevant to this application:

- Spatial Policy 1 - Settlement Hierarchy
- Spatial Policy 2 - Spatial Distribution of Growth
- Spatial Policy 3 – Rural Areas
- Spatial Policy 7 - Sustainable Transport
- Core Policy 9 - Sustainable Design
- Core Policy 14 - Historic Environment

Policies relevant to this application:

- DM5 – Design
- DM9 – Protecting and enhancing the historic environment

### **Other Material Considerations**

National Planning Policy Framework (NPPF) 2012  
Spatial Policy 3 Guidance Note

### Consultations

**South Clifton Parish Council** - "South Clifton Parish Council discussed the following three planning applications at the parish council meeting last evening 21st May 2018. Without any objections we supported all three and voted to support them.

The three applications are:

18/00711/ful - Highfield Farm  
18/00718/ful - The Rustics, Back Street  
18/00738/ful - Wheelgate, Vicarage Road"

**N&SDC Conservation** - "The proposal seeks to address an administrative error on condition 1 and to vary the approved plans (condition 2). These revisions affect plot 2 and include:

- A widening of the gable end of the main two storey part of the dwelling, which increases the ridge height by circa 300mm;
- The addition of a single storey sun lounge extension;
- Ground floor amendments and revisions including gable windows;
- Second floor amendments revisions including the removal of the 5th bedroom on this storey and position in the roof space which maintains the '5 bedroom' local need;
- The roof space to be served by rooflights.

These amendments are shown in the revised drawings ARQ/1014/03 Rev C (to replace ARQ/1014/03 Rev B) and ARQ/1014/06 Rev E (to replace ARQ/1014/06 REV C).

Conservation is concerned by the increase in gable width and height to the ridge of the main building. Although we acknowledge that the increase in ridge height is only 300mm, the gable increase is nearly a metre, and combined, the increases result in a dominating appearance. The reduction in the chimney stack size does not help in this regard. In the original scheme, we sought to achieve the appearance of a modestly scaled traditional 2 storey cottage; the current proposal will increase the dimensions to the extent that the new dwelling will have a potentially dominating impact on the street scene."

**No representations have been received from any local residents/interested parties.**

### Comments of the Business Manager

An application can be made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. One of the uses of a section 73 application is to seek a minor material amendment, where there is a relevant condition that can



be varied.

On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

(b) if they decide that planning permission should not be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

Whilst an application should define which condition the variation is being sought, the determining authority have the power to vary or remove other conditions as they are granting a new planning consent.

I consider all of these below.

#### *Variation of Condition 1*

The application proposes a change to condition 1 of 17/00214/FUL which states;

*“The development hereby permitted shall not begin later than three years from the date of this permission.*

*Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.”*

Based on the wording of this condition I do not consider there to have been any error in the drafting of this condition which I consider is clear and accurate providing 3 years from the date of the permission to begin development thus giving until 3<sup>rd</sup> July 2020 to implement the permission. I note the applicant has referred to an error in the drafting of Condition 1 of 17/01892/FUL in their application form but there is no facility to mix and match the varying of conditions across two consents.

Given the existing Condition 1 of this permission, there is ample time for the applicant to implement this permission and in any case, National Planning Practice Guidance confirms that planning permission cannot be granted under section 73 to extend the time limit within which a development must be started. (Paragraph: 014 Reference ID: 17a-014-20140306). On this basis condition 1 imposed on either of the aforementioned permissions cannot be amended and in the case of this S73 application it doesn't need to be.

#### *Variation of Condition 2*

The plans of the extant 2017 consent (17/00214/FUL) are controlled by condition 2. This proposal seeks to vary that condition through the substitution of a new set of plans providing for a number of alterations as noted above that would increase the scale and footprint of the dwelling approved on plot 2 only. The proposed changes have been detailed on revised plans ARQ-1014-03 C & ARQ-1014-06 E. I will assess each change proposed in turn as follows:

- A widening of the gable end of the main two storey part of the dwelling, which increases the

ridge height by circa 300mm.

This change is considered to be the largest change proposed and unfortunately I do not consider the increase in gable width proposed, at 0.79m over that previously approved, to be acceptable. In referring to the original officer report that recommended approval for the original scheme approved under 17/00214/FUL it is clear that the main gable width was a matter that was considered carefully by officers and amendments to the gable width were sought during the lifetime of that application to reach a satisfactory outcome. This consideration is again commented upon by the conservation team in commenting on this amendment where it is noted that: *"In the original scheme, we sought to achieve the appearance of a modestly scaled traditional 2 storey cottage; the current proposal will increase the dimensions to the extent that the new dwelling will have a potentially dominating impact on the street scene."*

The original plans submitted for 17/00214/FUL illustrated a 6.97m wide gable which was increased to 7.53m following amendments. To be clear a 7.53m gable was then approved. I note that in balancing the approval of the original application the need for a 5<sup>th</sup> bedroom by the applicant was noted at the time and that after re-consulting the conservation team on the amended plans no objection was raised. It is important to note however that the original comments from the conservation team sought a reduction in the gable width from the original 6.97m but the Officer took the view that a 7.53m gable was still acceptable.

The proposal in front of Members now proposes an increase of 0.79m over the approved 7.53m main gable. I concur with the comment provided by the conservation officer in relation to the application and find that the increased gable width will alter the appearance of the building and create a harmful impact on the street scene by presenting a larger modern executive scaled dwelling that is further from the traditional scale of the dwelling first approved. As a point of reference I notice that the adjacent Highfield cottage has a gable width of approx. 6.1m. The increase in gable width proposed also alters the height of the main part of the dwelling proposed with an increase from approx. 8.6m to 8.9m. My measurements are taken from the ground level shown on the approved plans rather than the DPC level which has been annotated on the plans given that I am considering the impact that the whole dwelling has. Although this increase may be considered marginal, I find that in this instance the increased scale further compacts the increase bulk that results from the increased gable width resulting in an overly large dwelling given the location of the site which is prominent upon entering the village and main built up area. I consider built form in such locations where the built up area is transitioning in and out of the open countryside should represent a decrease in size to assist in softening the transition.

Further to the above main gable width and height increase I note that the submitted plan also illustrate an increase in gable width to the two step down elements to the north of the main dwelling. It is unfortunate that the application does not list this increase as one of or part of the numerous amendments proposed. Notwithstanding that this not been explicitly signposted in the application, I have established that the stepped down section gable is proposed to increase in width by approx. 0.9m. This increases the ridge height of the corresponding step down sections by between approx. 0.3 and 0.4m.

The increases in ridge heights and gable widths present an unacceptably bulky dwelling but the appearance of the main front elevation is also compromised were the roof height increases by approx. 0.3 and 0.6m. This creates a discordant elevation lacking symmetry compared to what was approved.

- The addition of a single storey sun lounge extension;

I find that this proposed addition would detract from the simple linear plan form of the proposed dwelling by adding a return at one end of the dwelling. Although not ideal I find that the single storey nature of the extension and its position adjacent to the rear of the largest section of the proposed dwelling renders the addition, on balance acceptable in design terms and due to the separation distance between this proposed dwelling, the proposed dwelling at plot 1 and the existing dwelling to the east. I find there would be no material impact on neighbouring amenity with regard to privacy, loss of light or overbearing impact.

- Ground floor amendments and revisions including gable windows;

Overall the changes proposed to windows and fenestration are considered acceptable although I do note that the rear elevation will lose the existing approved symmetry due to the position of the sun room and loss of the first floor window above which although not objectionable, is far from ideal.

- First floor amendments revisions including the removal of the 5th bedroom on this storey and repositioning within the roof space which maintains the '5 bedroom' local need; and
- The roof space to be served by rooflights.

I will consider these two amendments together as they are inter-related. The alterations proposed are not considered to be objectionable but I must note that the roof lights proposed to the rear roof slope to serve the relocated bedroom are not considered appropriate given the overly cluttered roof slope that would be created which would detract from the traditional character of the dwelling approved. However due to the position of this roofslope to the rear of the property (that would not be readily visible from the street scene) I find on balance these changes are acceptable.

### Planning Balance and Conclusions

Condition 1 cannot be amended and in any event doesn't need to be as the applicant has until July 2020 to implement the extant permission.

The amendments to Plot 2 requested through variations to the plans have been carefully considered. In respect of impact on neighbours I have found that there would be no adverse impacts. However I do find that there would be adverse impacts upon the character and appearance of the Conservation Area.

Although there are some amendments that are considered acceptable, on balance the changes overall to the size of the dwelling in increasing the gable width and height of the all sections of the dwelling, it is considered that these amendments would be visually unacceptable and result in less than substantial harm to the character and appearance of the Conservation Area for which there is no justification or overriding public benefit. Officers negotiated the previously approved scheme to achieve a dwelling that had cottage like proportions. Whilst these amendments arguably are modest, often it is the small details that make huge differences in conservation area terms. In my view, the changes in combination would unacceptably change the appearance of the dwelling to a more dominating scale and these are a step too far in my view. The proposal is therefore considered to be contrary to the Development Plan for the reasons set out below.

## **RECOMMENDATION**

**That full planning permission is refused for the following reason:**

### **Reason for refusal**

#### **01**

In the opinion of the Local Planning Authority the change in gable widths and heights proposed tips the balance towards a visually obtrusive dwelling, resulting in a more unduly prominent impact at the junction of the highway which is considered to be especially sensitive due to the site being visible at the edge of the built up area where the village transitions into open countryside. The amendments to the dimensions of the building, combined with additions and alterations result in a disharmonious arrangement which causes harm to the character and appearance of the Conservation Area. Although the harm is moderate in the context of the whole Conservation Area, and therefore less than substantial for the purposes of paragraphs 132-134 of the NPPF, there is no clear and convincing justification for the proposal. Moreover, there is no public benefit which might decisively outweigh the harm identified. Therefore it is considered that the proposal fails to accord with Core Policy 9 (Sustainable Design) and Core Policy 14 (Historic Environment) of the Newark and Sherwood Core Strategy DPD and Policies DM5 (Design) and DM9 (Protecting and enhancing the historic environment) of the Allocations and Development Management DPD, as well as the NPPF, which is a material planning consideration.

### **Informatives**

#### **01**

You are advised that as of 1st December 2011, the Newark and Sherwood Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date. Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

#### **02**

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. Working positively and proactively with the applicants would not have afforded the opportunity to overcome these problems, giving a false sense of hope and potentially incurring the applicants further unnecessary time and/or expense.

### **Background Papers**

Application Case File

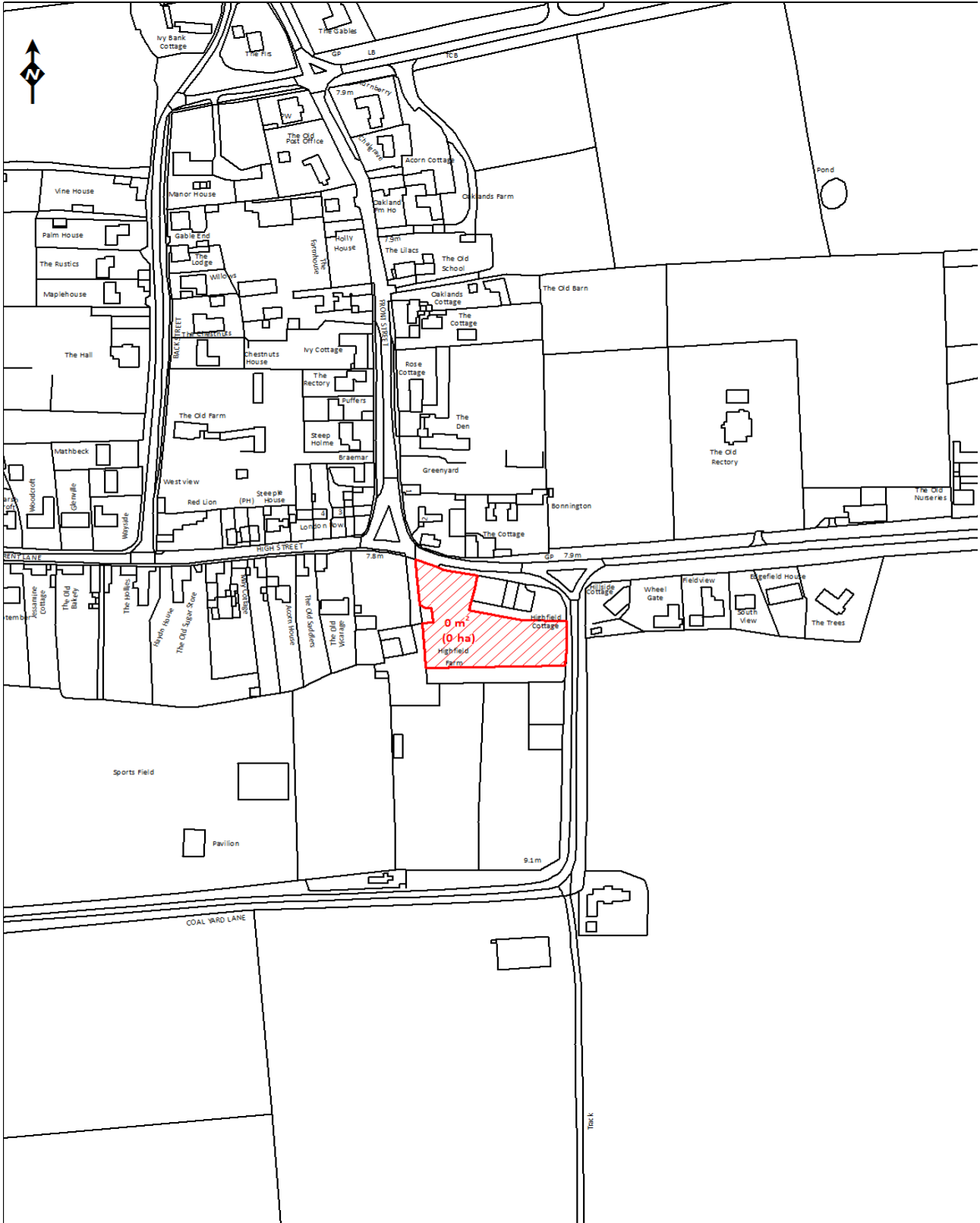
For further information, please contact Sukh Chohan on ext 5828.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**

**Business Manager – Growth & Regeneration**

Committee Plan - 18/00711/FUL



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## PLANNING COMMITTEE – 3 JULY 2018

<b>Application No:</b>	<b>17/01127/FUL</b>	
<b>Proposal:</b>	<b>Erection of 1 no. Agricultural workers' dwelling</b>	
<b>Location:</b>	<b>Gibbet Wood, Brown Wood Lane, Thorney, Nottinghamshire</b>	
<b>Applicant:</b>	<b>P A Arden &amp; Son – Miss I Arden</b>	
<b>Registered:</b>	<b>23<sup>rd</sup> April 2018</b>	<b>Target Date: 18<sup>th</sup> June 2018</b>
	<b>Extension of time agreed in principle</b>	

**The application is being referred to Planning Committee for determination as the Officer recommendation differs from the views of the Parish Council.**

### The Site

This application relates to circa 11 Hectares of land sited on the northern side of Brown Wood Lane which is associated with a poultry unit granted planning permission in 2014 and is now fully operational. The unit is accessed via a purpose-built driveway off Brown Wood Lane.

The site lies to the north east of the settlement of Thorney (approx.1.2km away) and is located on the north-eastern edge of the district. There are no immediate neighbours to the site, with the closest neighbour located approximately 175m to the NE of the site which is within the West Lindsey District.

The application site itself is a relatively open parcel of land immediately adjacent to the access road to the poultry unit. The boundary with the highway is treated with a newly planted hedge and post and wire fencing. The site is also located within Flood Zones 2 and 3 as shown on the Environment Agency's Flood Risk Maps.

### Relevant Planning History

**13/01873/FULM** - Erection of a free range poultry unit, 4 No. Feed Silos and formation of access (permitted 09.05.2014)

### The Proposal

Following the submission of revised plans full planning permission is sought for the erection of a rural workers dwelling in the form of a detached two-storey dwelling located approximately 90m to the south of the poultry unit it is intended to serve.

The dwelling would have a footprint of approximately 100m<sup>2</sup> with a ridge height of 8.1m. The dwelling would be laid out as an angled L-shape and accessed via the poultry farm access track. It is proposed that the dwelling will be constructed with a timber-clad finish and slate effect tiles. Windows and doors are proposed to be timber framed.

The dwelling will benefit from an ample-sized garden to the west of the dwelling, south of the

dwelling, adjacent to the public highway.

Since the submission of the application in 2017, the proposal has been amended several times following concerns raised by the LPA's agricultural consultant and the Case Officer. Discussions with the applicant have resulted in the dwelling's relocation to the west of the unit's access track, a reduction in the overall scale of the proposed dwelling both in terms of height and footprint and access via the private track rather than the public highway. This report and recommendation therefore relates to amended plans received on 26<sup>th</sup> March 2018 and revised site location plan received 24<sup>th</sup> May 2018.

#### Departure/Public Advertisement Procedure

Occupiers of 19 properties have been individually notified by letter. A site notice has also been displayed at the site.

#### Relevant Planning Policies

##### **The Development Plan**

*Newark and Sherwood Core Strategy Adopted March 2011*

Spatial Policy 1: Settlement Hierarchy

Spatial Policy 3: Rural Areas

Spatial Policy 7: Sustainable Transport

Core Policy 9: Sustainable Design

Core Policy 12: Biodiversity and Green Infrastructure

Core Policy 13: Landscape Character

*Allocations and Development Management DPD Adopted July 2013*

Policies relevant to this application:

Policy DM5: Design

Policy DM7: Biodiversity and Green Infrastructure

Policy DM8: Development in the Open Countryside

Policy DM12: Presumption in Favour of Sustainable Development

##### **Other Material Considerations**

*National Planning Policy Framework 2012*

*Planning Practice Guidance 2014*

*NSDC Landscape Character Assessment 2010*

#### Consultations

**Thorney Parish Council** – Thorney Parish Council recently examined this modified plan. Two councillors declared an interest and abstained from the vote. The other three all voted against it. Therefore, Thorney Parish Council **objects** to these plans.

Councillors acknowledge that the objection re access has been addressed but they feel that too many of the points they raised on their previous response still remain true & so they still reject it in its current form.

Councillors felt that they would have appreciated additional information & plans to be provided in hard copy format so that they could better assess changes in size etc.

Comments from Thorney Parish Council dated 19<sup>th</sup> July 2017:

Two councillors declared an interest & abstained from any vote. The other three all **object to the proposal in its current form** for the following reasons:

- This is not a conventional “Agricultural Workers’ Dwelling” as described. It is, in fact, a large family house.
- It stands alone, on the absolute border of both the Parish & the County & is beyond the ribbon development.
- There is inadequate justification of the need for such a property on the site. The need is overstated in the Agricultural Appraisal & Design Access Statement (paras 2:18-2:21). Councillors felt the “dwelling” could be sited elsewhere, for example on the Plot Farm site. There were also suitable properties on the market in the vicinity at the time of the application’s submission, e.g. two on Wigsley Road, Harby, which would be close enough to serve both the Gibbet Wood unit &, later, the Ox Pasture one. Councillors, therefore, reject the statement that: “the poultry farm is in a remote rural location & there are no other suitable/affordable dwellings in the locality of the holding.”
- It is not accepted that welfare regulations or supply contracts would be jeopardised if there is not an agricultural worker living on site. Neither do councillors accept the “ethical & financial” argument that “only on-site accommodation can ..... safeguard the business.”
- **Access:** the planned additional access to the proposed property is inappropriate. It is unnecessary & potentially hazardous. There is a substantial access road for the poultry unit so access to any property on the site should be from this existing access. The suggested additional access is also too close to the Ox Pasture Drain.
- **Water/drainage:** it is noted that considerable problems were caused to the supplies to the nearest existing property when the poultry unit went operational. An additional property on the site would increase these pressures.
- **Overdevelopment:** councillors do not accept the judgment that this proposed dwelling is “considered small”. It is felt that the provision of the office, ancillary workshop/barn for vehicles, showers etc. should be at the actual workplace (i.e.at the poultry unit) not at the “workers’ dwelling.”

#### **Agricultural Consultant – Comments received 4<sup>th</sup> June 21018**

I refer to your amended planning application consultation dated 27<sup>th</sup> April, 2018 with additional comments from the applicants, and a copy of the poultry unit accounts for the three years ended 5<sup>th</sup> April, 2018 attached, I now comment as follows:-

1. The proposed new dwelling is shown as being sited close to the highway rather than in a position close to and well related to the poultry building – although it is now closer than the originally proposed site I still do not consider it is well related to the poultry building to which the essential/functional need relates.



2. The proposed dwelling still appears to be a very large dwelling. It should not exceed 185 square metres gross external floor area to be commensurate with the established functional requirement.
3. The accounts submitted show profits reducing from a high in 2015/16 to their lowest in 2017/18 however, the profit figures in all three years would be capable of sustaining the cost of a dwelling up to 185 square metres gross external floor area. I therefore consider that the enterprise is capable of passing the financial test in Annex A to PPS7, and also the sustainability element of the Framework.
4. The notes to the poultry unit accounts state that as the unit is empty for one month, and then it is a further month before the hens start to lay and this is why the profitability has fallen i.e. only 10 months production in the 12 month accounting period. The norm in a poultry unit of this nature is for a two week changeover period with the birds purchased being point of lay pullets at 16/17 weeks of age. These birds should start laying within one or two weeks of arrival. Therefore, reducing the non-production period from 2 months to approximately one month. However, this would not affect the viability/profitability of the unit as the income generated is by each batch or crop of hens put through the unit.

In conclusion, I continue to ADVISE that there is agricultural support for a new agricultural workers dwelling, however the dwelling should not exceed 185 square metres gross external floor area and it should be sited closer to and better related to the poultry unit to ensure it is both commensurate with the established functional requirement, and able to fulfil the essential/functional needs of the enterprise.

**Comments received 17<sup>th</sup> January 2018** – I note the amendments proposed are shown on the amended plan submitted on the 7<sup>th</sup> December 2017 showing a reduction in the size of the dwelling. The proposed dwelling still appears to be a very large dwelling however I am unable to assess the exact gross floor external floor area from the plans. I consider that if the proposed dwelling has a gross external floor area of more than 185 sq. m it would still be excessive in size and would not be commensurate with the established functional requirement.

The now proposed site of the dwelling although better than the original site (it is slightly nearer to the poultry building) is still not in my opinion well related to the poultry building as it is adjacent to the highway rather than being well related to where the essential/functional need exists.

I consider a better site/location to fulfil any essential/functional need would be to the north of the current site and preferably to the west of the existing access road into the poultry unit where it would then be able to fulfil the essential/functional need of the unit and also be well related to the poultry building which it is to serve.

In conclusion it is advised that if the proposed dwelling is no more than 185sq.m gross external floor area and the proposed site is moved to be closer and better related to the existing poultry unit there would be agricultural support for the proposed new dwelling.

**Comments received 2<sup>nd</sup> October 2017** - Following the submission of additional information the following comments are made:-

With regards to the large farm office proposed within the dwelling I consider this would not be required to be this large as it is stated that separate farm offices are being set up for various different branches of the business. Therefore the office for the poultry farming business will only need to accommodate that part of the enterprise.

I note that the size of the dwelling has been reduced to 1890 sq. ft. it is not stated whether this is an internal or external measurement, if it is external then I would consider that this size of dwelling would be commensurate with any future established functional requirement and would comply with paragraph 9 of Annex A to PPS7. However if it is an internal floor area which I think it may be I consider that it would still be excessive and not comply with paragraph 9 which states 'Agricultural dwellings should be of a size commensurate with the established functional requirement. Dwellings that are unusually large in relation to the agricultural needs of the unit or unusually expensive to construct in relation to income it can sustain in the long term should not be permitted. It is the requirements of the enterprise rather than those of the owner or occupier that are relevant in determining the size of the dwelling that is appropriate to a particular holding.

The wording of paragraph 9 makes it clear that it is the requirements of the enterprise rather than the needs of the owner or occupier that are relevant in determining the size of the dwelling that is appropriate.

With regards to the proposed siting of the dwelling paragraph 11 of Annex A to PPS7 states that 'Agricultural dwellings should be sited so as to meet the identified functional need and be well related to existing farm buildings or other dwellings'. The proposed dwelling is clearly not well related to the poultry unit being situated to the SE corner of the site.....supporting documentation regarding the reasoning behind the separate access are noted. However from both site security and animal welfare aspects I remain of the opinion that the dwelling should have an access off the entrance road to into the poultry unit, any bio security measures such as wheel washes and access arrangements into the poultry unit can be placed on the access road after the access to the dwelling and therefore the access to the dwelling would pose no greater risk to the unit than that of the access from the highway.

I do not consider that odour and ammonia emissions are reasons for having the dwelling sited more remote from the poultry unit. If the dwelling is required to house the poultry unit manager then the poultry unit manager would expect to be subjected to odour or ammonia emissions from the unit as part of their job. The same argument could be applied to dwellings associated with pig or dairy farms where dwellings are also required to be sited close to and well related to existing farms.

I note that 2 of the 3 conversions under PD rights at plot farm are to be used as holiday/residential properties and will therefore not be available to the farm or poultry business. I do not consider this is a reasonable reason to discount these dwellings from the existing number of available dwellings to the business and that these dwellings should be taken into account as they could clearly be made available to the business to house any essential worker.

In conclusion the continued advice is that there is not agricultural support for the proposed permanent dwellings as the poultry business has not been established for 3 years, there are other dwellings or permissions for dwellings close by on the holding which are as well related to the poultry unit as the proposed dwelling would be.

**Comments received 10<sup>th</sup> August 2017** conclude 'that there is no agricultural support for the proposed permanent dwelling as the poultry unit has not been established for 3 years, there are other dwellings or permissions for dwellings on the holding and within 1.2km from the unit which are or will be both suitable and available to fulfil any essential/functional needs of both the new poultry units and the proposed dwelling is excessive in in size and not commensurate with any established functional requirement'.

If a permanent dwelling was considered essential at the site I consider the dwelling should be accessed off the existing access road to the poultry unit and be situated between the entrance to the site and the poultry building preferably closer to the building than the entrance to the site.

**NSDC Access & Equalities Officer** – It is recommended that the developer make separate enquiry regarding Building Regulations matters.

No further comments have been received.

**NCC Highways** – The revised drawing 362-A-002 Rev H is generally acceptable.

It should be pointed out, however, that the red-line site boundary should include the access up to the point it joins the public highway.

The boundary hedge planting that is shown (or any other boundary treatment) must not interfere with the requirement to provide a visibility splay of 2.4m x 215m required of the poultry unit access approved under 13/01837/FULM. Therefore any approval should be conditioned accordingly i.e.:

The dwelling hereby approved shall not be occupied until visibility splays in each direction of 2.4m x 215m are provided. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.6m in height.

Reason: In the interests of Highway safety.

**Comments received 7<sup>th</sup> August 2017** - This proposal is for the erection of an agricultural workers dwelling in association with the adjacent poultry farm. The visibility splays from the proposed access have not been provided on the site plan. There is existing vegetation at the back edge of the verge to the east of the proposed access, which reduces the visibility for emerging vehicles.

Therefore, whilst the Highway Authority would not wish to raise objection to this development, it is recommended that the access be relocated to a position further to the west of the site to maximise the available visibility for emerging vehicles, or be served by the existing access used by the poultry farm.

**Trent Valley Internal Drainage Board** – No objection to the proposal

**Environment Agency** – The proposed development will only meet the requirements of the National Planning Policy Framework if the following measure(s) as detailed in the Flood Risk Assessment with this application are implemented and secured by way of a planning condition on any planning permission.

### **Condition**

The development permitted by this planning permission shall be carried out in accordance with the Flood Risk Assessment for Gibbet Wood Brown Wood Lane Thorney Nottinghamshire with the following mitigation measures:

1. The dwelling shall be a minimum of 2 storeys
2. Finished Floor Levels shall be set no lower than 5.80mAOD
3. Flood resilient and resistant construction techniques should be used. Please refer to the following document for information on flood resilience and resistance techniques to be included: 'Improving Flood Performance of New Buildings - Flood Resilient Construction' (DCLG 2007).

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

### **Reason**

To reduce the risk of flooding to the proposed development and future occupants.

The NPPF places responsibilities on local authorities to consult their Emergency Planners and the Emergency Services with regard to specific emergency planning issues relating to new development.

It is not our role to comment on or approve the adequacy of these plans and we would expect local planning authorities, through their Emergency Planners, to formally consider the implication of this in making their decision.

Please note that the Local Planning Authority must be satisfied with regard to the safety of people (including those with restricted mobility), the ability of such people to reach places of safety including safe refuges within buildings and the ability of the emergency services to access such buildings to rescue and evacuate those people.

**In addition to the above, 13 Letters of representation which support the application have been received. The following is a summary of their comments,**

- It has become increasingly difficult to recruit and retain poultry farm managers and therefore provision of a high standard of accommodation has become key to ensuring that the functional needs of a poultry farm are addressed whilst providing the manager and his/her family with a decent quality of life. We have found that farms with poor quality accommodation typically experience a high staff turnover, which in turn proves detrimental to the viability of the business. High turnover of key personnel can also be detrimental to the local community, i.e. schools etc.;
- Appropriate architecture using natural materials;
- It is beneficial to have staff on site to manage the unit and respond promptly to alarms to protect bird welfare and site security;
- Proposal would maintain or increase the value of nearby properties as well as attracting employment into the area;

- In order to maintain good welfare standard for the hens, the applicant needs to have a manager living close to both this application site and another unit at Ox Pasture Farm approximately 1 mile from the site;
- In order to protect the unit against a possible outbreak of Avian Influenza, good agricultural practice dictates that the house should have its own separate entrance from the poultry sites as this reduces the bio security hazard;
- Site security in this remote part of Thorney is paramount;
- The revised scheme shows a modest-sized dwelling;
- The chicken industry is now a very high-tech business using computers etc and therefore employment of suitably qualified staff as farm managers is essential and therefore to attract such people the dwellings must be of interest; the days of 'Eastwood' bungalows are over.

### Comments of the Business Manager

#### **Principle of development**

Spatial Policy 1 and 2 of the Adopted Core Strategy sets the development hierarchy for new residential development throughout the District with the Newark Urban Area being the main focus for residential development. Spatial Policy 3 of the Core strategy states that development away from the main built up area of villages, in the open countryside will be strictly controlled and restricted to uses which require a rural setting.

Due to the location of the development outside of any settlement boundary I consider the site to be within the open countryside and as such the proposal falls to be assessed against Policy DM8 of the adopted Allocations and Development Management DPD. This states that new rural workers dwellings will be required to demonstrate a functional and financial need in relation to the operation served and the scale of new development should be commensurate with the needs and ability of the operation they serve to fund them. Paragraph 7.42 of the above policy states that proposals will need to demonstrate a clearly established existing functional need for the dwelling and this could be related to the essential proper functioning of the enterprise. The unit and activity should be established for at least three years, and have been profitable for at least one of them, are clearly financially sound and have clear prospect of remaining so. The applicant should also demonstrate that in order for the business to function there are no other dwellings within the locale that could not fulfil this role.

Policy DM8 reflects the requirements of national policy. Paragraph 55 of the NPPF states "Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside" which is of particular relevance to this application.

In the case of agricultural dwellings the NPPF is only supportive providing the enterprise is financially viable and capable of sustaining the cost of the proposed dwelling.

In assessing functional and financial need, although cancelled, Annex A of Planning Policy Statement 7 sets out a useful tried and tested methodology for assessing essential need for a rural workers dwelling on an enterprise and that there is no reason to discount the Annex as a potentially useful tool, an approach taken in other planning and appeal decisions.

I am mindful that Paragraphs 3, 8 and 9 of Annex A to PPS 7 as a tried and tested methodology as set out above Paragraph 3 (i) and (ii) of Annex A to PPS7 state “New permanent dwellings should only be allowed to support existing agricultural activities on well-established agricultural units, providing there is clearly established existing functional need and the need relates to a full time worker”.

Paragraph 3 (iii) also states “The unit and the agricultural activity concerned have to have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so’.

The proposed dwelling would be intended to serve a poultry unit which has been up and running since c.2015. In supporting documentation deposited with the application the agent has submitted information which includes three years’ worth of accounts. I am mindful that Policy DM8 requires a minimum of 3 years’ worth of accounts and as such on this basis, the business is able to fit this criteria.

In addition to the above, the Agricultural Consultant in their comments dated 8<sup>th</sup> August 2017 states that ‘the Framework is only supportive of sustainable development, which in the case of agricultural dwellings is taken to mean that the farming enterprise is required to be financially viable and capable of sustaining the cost of the proposed dwelling after the deduction of all costs in the long-term’. It is considered by the agricultural consultant that there is an existing/functional need for one person to live at or near to the poultry unit as the labour requirement is in excess of one full-time person, and therefore satisfies the need element highlighted by paragraph 55 of the NPPF.

I am mindful that at the time of writing this report there are various residential properties owned by the wider agricultural unit which could provide suitable accommodation for an agricultural worker; however these have been considered unsuitable or unavailable by the applicant. Additionally, a search on *Rightmove* suggests that there is a property for sale approximately 2.5 km from the site (when driven) that is within a similar price range to the likely build cost of the proposed dwelling. However, I have been advised by the applicant’s agent that an even shorter distance of 1.2km would be too far from the site for the needs of the unit. I have no evidence before me that would contradict the reasons given by the applicant and therefore I would accept that there is a functional need for the dwelling.

Taking the above into account I would concur with the agricultural consultant’s comments in so far that there is a functional need for the dwelling, and that there has been a sound financial case put forward which results in the application being fully in accordance with the need criteria of Policy DM8 of the DPD. On this basis, I consider the principle of a rural worker’s dwelling associated with the poultry unit to be acceptable. However issues relating to visual impact, amenity and highway safety also need to be taken in to consideration and are discussed below.

### **Visual Impact**

The NPPF states that good design is a key aspect of sustainable development and Policy DM5 of the DPD states that local distinctiveness should be reflected in the scale, form, mass, layout, design and materials in new development. Core Policy 9 of the Core Strategy seeks to ensure that new development is of an appropriate form and scale to its context and complements the existing built and landscape environments.

## Landscape Character

Alongside the above, the landscape character of the area also needs to be taken into consideration. A Landscape Character Appraisal (LCA) has been prepared to inform the policy approach identified within Core Policy 13 of the Core Strategy. The LCA has recognised a series of Policy Zones across the five Landscape Character types represented across the District. The application site is located within the East Nottinghamshire Sandlands 'Wigsley Village Farmlands with Plantations' area (ES PZ 02) which is defined as being of moderate condition with very low landscape sensitivity. It is acknowledged there are moderate distance views across the landscape area due the predominantly flat land surrounding villages but there are frequent shelterbelts and mixed plantations across the landscape. The policy displays an intention to create new hedgerows and recreate field patterns whilst containing new development within historic boundaries. Furthermore the policy seeks to restore arable land to pastoral land and/or introduce field margins to link habitats and increase biodiversity, which can in part be done through the enhancement of tree covering and landscape planting. In terms of built features, the policy seeks to conserve what remains of the rural landscape by concentrating new development around existing settlements.

Taking account of this appraisal, I am mindful that the proposed dwelling would be isolated and thus would not follow the guidance to direct built form towards existing settlements. However, given the dwelling's siting close to the existing poultry unit, which is considerable in size, I would not expect the proposed dwelling to have a significant impact upon the landscape character as it would be read as part of the agricultural unit, which is the dominant land use within the area. The building would also be considered to be on the cusp of acceptability in terms of its scale and through appropriate use of materials to reference the rural character of the area which would be secured by condition. Furthermore, owing to surrounding woodland, views of the dwelling would be mostly to the public highway reducing the long distance views across to the site. As such, I am of the view the proposal would not have a harmful visual impact in terms of landscape character.

The issues regarding scale, access and location are assessed below.

## Scale

In addition to the above, Policy DM8 of the DPD also provides guidance on new rural workers dwellings. This policy states,

The scale of new and replacement dwellings and extensions to those existing should be commensurate with the needs, and the ability of the operation they serve to fund them. Where a new or replacement dwelling is justified, its siting will be influenced by its functional role and the visual impact on the surrounding countryside should also be taken into account. These are considered above.

Having regard to the above guidance, paragraph 9 of Annex A of PPS7 also reiterates that agricultural dwellings should be of a size commensurate with the established functional requirement; it is the requirements of the enterprise, rather than those of the owner or occupier. Whilst no definitive size of dwelling is stated either locally or nationally, the LPA's agricultural consultant has advised that the external floor area of should be no more than 185m<sup>2</sup>. In the case of this proposal, the gross external floor area is circa 195m<sup>2</sup>.

The proposal provides 3 double bedrooms, the master bedroom with en-suite along with a farm office at ground floor with a utility room and two areas for boot storage. I understand that the applicant intends to provide accommodation that would attract a manager in the future, however I do have some concerns that the level of accommodation could be considered to be over and above what is required for the agricultural worker needs in order to provide the functional/essential need identified and this has been raised on several occasions with the applicant.

However, whilst it would be preferable if the proposed floorspace were to be under 185m<sup>2</sup> in accordance with the agricultural consultant's advice, I am mindful that in reality, an additional 10m<sup>2</sup> (or 5%) is unlikely to have an adverse impact upon the character of the area and thus would be difficult to defend a refusal on this basis; a 10m<sup>2</sup> reduction would be the equivalent of losing the porch area at the rear of the dwelling (which is 5m<sup>2</sup> in area), along with a small area of the dwelling. However if the floorspace were to be any greater, it is likely that the LPA would resist this. I would therefore recommend that should Members be minded to approve the application, permitted development rights for extensions and outbuildings are removed from the dwelling to limit any further extension to the dwelling.

### Access

In addition to the proposed size of the new dwelling, concerns have also been raised with regards to the proposed access to the dwelling. Access to the site was originally directly from Brown Wood Lane, however following various discussions with the applicant, the access has been moved to come from the access track serving the poultry unit. The reason for this amendment was to ensure the dwelling remains well-related to the farm and thus more difficult to separate the dwelling from the agricultural unit. Following the amendments I am satisfied that the access to the proposed dwelling now relates well to the context of the poultry farm unit which it would serve. The impact upon highway safety is discussed later in this report.

### Location

Amendments to the scheme have also seen the proposed dwelling relocated from its original position some 95-100m to the east of the revised location. I appreciate the reasons behind the original location, being screened to the west by dense woodland; however this location had a very limited relationship with the poultry unit which is not supported by either Policy DM8 or the NPPF. Policy DM8 of the DPD states that the *siting will be influenced by its functional role and the visual impact on the surrounding countryside should also be taken into consideration.*

The revised location in my view is much better-related to the poultry unit and does allow for additional surveillance of comings and goings to the unit, in line with one of the reasons the applicant has stated as a need for a rural workers dwelling. However, I note the agricultural consultant's comments regarding the location and would concur that the dwelling might be better-related to the unit if sited closer to where the essential/functional need exists; it would still be several minutes' walk to the unit from the dwelling, being 90m distant from the unit. To this end, the agricultural consultant has suggested a more appropriate location to be to the north of the current site, closer to the unit so that it is better-related.

However, before seeking to amend the location further, it may be helpful for Members to understand the bio-security issues the poultry unit can face with regards to Avian (bird) Flu. Members may recall that a few years ago, many poultry farmers were faced with outbreaks of flu



amongst their birds which results in them being kept indoors for a period of time. Since then guidance has been issued to farmers to reduce the likelihood of another outbreak, which includes measures to prevent visitors to the site from bringing any contaminant into the site. In the case of this poultry unit, bio-security gates are installed close to the entrance to the unit from Brown Wood Lane which are monitored. Members will note that the entrance to the proposed dwelling is just before these gates so as to prevent visitors to the dwelling bringing potential contaminants on to the unit.

The applicant has also provided information from various professional bodies explaining the position with Avian Flu and the requirements for bio-security measures and I have no information before me that would counter-act their arguments for the separation requirement to prevent contaminants spreading.

With this in mind, I appreciate that a dwelling any closer to the unit could present bio-security issues for the unit and therefore a relocation in my view would be difficult to insist upon given the guidance following the Avian Flu outbreak without any sound evidence to the contrary that a dwelling closer to the poultry unit would not pose a threat to the poultry.

I therefore consider the location, on balance to be acceptable in this instance.

#### **Impact on Residential Amenity**

Policy DM5 requires development to be acceptable in terms of not having a detrimental impact on residential amenity. Given the distance from the nearest dwellings I am satisfied that the proposal would not have a significant detrimental impact upon neighbour amenity.

It is therefore considered that the proposal accords with Policy DM5 of the DPD.

#### **Highway Safety**

Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision and Policy DM4 seeks to ensure no detrimental impact upon highway safety.

I note the comments of the Highway Authority and consider that the proposal would not raise any highway safety issues subject to the suggested conditions. The applicant has also amended the red line boundary of the site so that it abuts the public highway, as shown on the plan received on 24<sup>th</sup> May 2018.

As such, it is unlikely that the proposed development would result in any adverse impact upon highway safety in accordance with Spatial Policy 7 and Policies DM4 and DM5 of the DPD, however this does not outweigh the issues outlined above.

#### **Flood Risk**

Policy DM5 of the DPD states that the Council will aim to steer new development away from areas at highest risk of flooding. In addition Core Policy 9 requires development proposals to include measures to proactively manage surface water wherever possible.

Core Policy 10 'Climate Change' requires that development be located to avoid both present and future flood risk and details that in considering site allocation and determining proposals the District Council will, led by the SFRA, adopt a sequential approach to future development and work alongside partners to secure strategic flood mitigation measures.

Core Policies 9 and 10 of the Draft Amended Core Strategy reflect the aims of these existing Core policies.

The NPPF states within paragraph 100 that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development necessary, making it safe without increasing flood risk elsewhere.

The application site sits within Flood Zone 3 and policy DM5 of Newark and Sherwood's Local Development Framework states that the Council aim to steer new development away from areas at highest risk of flooding. The Environment Agency Plan indicates that the wider site owned by the applicant is entirely within Flood Zone 3, with much of the surrounding are within Flood Zones 2 and 3. With this in mind, it is noted that paragraph 100 of The Framework states that;

Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. ....

and

Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change, by:

- applying the Sequential Test;
  - if necessary, applying the Exception Test;
  - safeguarding land from development that is required for current and future flood management;
  - using opportunities offered by new development to reduce the causes and impacts of flooding;
- and
- where climate change is expected to increase flood risk so that some existing development may not be sustainable in the long-term, seeking opportunities to facilitate the relocation of development, including housing, to more sustainable locations.

It is clear that if the District of Newark and Sherwood were considered as a whole, this site would certainly fail the Test as there are other areas within the District that fall within Flood Zone 1 where new housing could be built.

However, if the Sequential Test is considered locally, the whole site owned by the applicant is within Flood Zone 3, with the wider area within Flood Zones 2 and 3. I consider that there is appropriate justification has been put forward in this instance to apply the Sequential Test locally in the context of the need for an agricultural workers dwelling to be close to the poultry farm which it would serve.

A Detailed Flood Risk Assessment (FRA) has been deposited with the application which states that the site is adequately protected by fluvial flood defences that are maintained by the Environment Agency and Internal Drainage Board (Upper Witham and Trent Valley). The FRA also states that the dwelling would have the following resilient measures to protect it against flooding:

- The ground floor living accommodation for the two storey dwelling is to be raised 0.5m above the existing ground level and floor level to be set at 5.80mODN
- The ground floor to be constructed with a solid concrete floor with no voids beneath and no low-level wall vents.
- Fix plasterboard to the ground floor area horizontally, for ease of replacement
- Avoid the use of absorbent cavity insulation to the ground floor level.
- Fit anti flood valves to all external drainage pipes to prevent flood waters entering the dwelling.
- Arrange for all service circuits to be routed at first floor level where practical socket outlets, boilers etc. to be a minimum of 0.5m above the raised upper ground floor level.
- All external doorways to be fitted with “Stormguard” flood doors or other approved.

In addition to the above, the FRA recommends the applicant signs up to the Environment Agency Floodline Warning Direct system.

It is acknowledged that the Environment Agency has been consulted on the proposal and has raised no objection to the proposal, subject to a condition relating to mitigation measures.

### **Conclusion and Planning balance**

Taking the above into account it is considered that an essential/functional need has been sufficiently demonstrated for an agricultural workers’ dwelling on the site, given the absence of any suitably located existing dwellings being available. The scale, access and location of the dwelling are also considered on balance to be acceptable in this instance, working alongside the bio-security constraints of the site. The proposal is not considered to unduly impact upon the character and appearance of the area or the wider landscape setting to justify refusal in this instance nor impact residential amenity, raise any highway safety or flood risk issues subject to conditions. As such, officers recommend that planning permission is granted subject to the conditions outlined below.

### **Recommendation**

**That full planning permission is approved, subject to the following conditions;**

01

The development hereby permitted shall not begin later than three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

02

The development hereby permitted shall not be carried out except in complete accordance with the following approved plan references:

- Site Location Plan – 362-A-003 Rev.B
- Proposed Sketch Proposals OPT 2 – 362-A-001 Rev.F
- Proposed Sketch Site Plan OPT 2 – 362-A-002 Rev.H

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission.

03

No development shall be commenced until [details] samples of the materials identified below have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

- Facing materials
- Bricks
- Roofing tiles
- Cladding
- Render

Reason: In the interests of visual amenity.

04

No development shall be commenced until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:

- a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species.
- existing trees and hedgerows, which are to be retained pending approval of a detailed scheme, together with measures for protection during construction.
- proposed finished ground levels or contours;
- means of enclosure;
- car parking layouts and materials;
- other vehicle and pedestrian access and circulation areas;
- hard surfacing materials;
- minor artefacts and structures for example, furniture, play equipment, refuse or other storage units, signs, lighting etc.)
- proposed and existing functional services above and below ground (for example, drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.)

- retained historic landscape features and proposals for restoration, where relevant.

Reason: In the interests of visual amenity and biodiversity.

05

The approved landscaping shall be completed during the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority.

Reason: To ensure the work is carried out within a reasonable period and thereafter properly maintained, in the interests of visual amenity and biodiversity.

06

The dwelling hereby approved shall not be occupied until visibility splays in each direction of 2.4m x 21.5m are provided. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.6m in height.

Reason: In the interests of Highway safety.

07

The development permitted by this planning permission shall be carried out in accordance with the Flood Risk Assessment for Gibbet Wood Brown Wood Lane Thorney Nottinghamshire with the following mitigation measures:

- The dwelling shall be a minimum of 2 storeys
- Finished Floor Levels shall be set no lower than 5.80mAOD
- Flood resilient and resistant construction techniques should be used. Please refer to the following document for information on flood resilience and resistance techniques to be included: 'Improving Flood Performance of New Buildings - Flood Resilient Construction' (DCLG 2007).

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

08

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (and any order revoking, re-enacting or modifying that Order), other than development expressly authorised by this permission, there shall be no development under Schedule 2, Part 1 of the Order in respect of:

- Class A: Enlargement, improvement or other alteration of a dwellinghouse.
- Class B: Additions etc. to the roof of a dwellinghouse.

- Class D: Porches
- Class E: Buildings etc incidental to the enjoyment of a dwellinghouse.
- Class F: Hard surfaces incidental to the enjoyment of a dwellinghouse.

Or Schedule 2, Part 2:

- Class B: Means of access to a highway.

Unless consent has firstly be granted in the form of a separate planning permission.

Reason: To ensure that any proposed further alterations or extensions do not adversely impact upon the openness of the countryside.

09

The occupation of the dwelling hereby permitted shall be limited to a person solely or mainly working or last working in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependents.

Reason: The dwelling is located in the open countryside where new residential development is normally restricted to the essential need for the uses described.

#### Notes to Applicant

01

You are advised that as of 1st December 2011, the Newark and Sherwood Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date.

The proposed development has been assessed and it is the Council's view that **CIL IS PAYABLE** on the development hereby approved. The actual amount of CIL payable will be calculated when a decision is made on the subsequent reserved matters application.

02

This application has been the subject of discussions during the application process to ensure that the proposal is acceptable. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

#### BACKGROUND PAPERS

Application case file.

For further information, please contact Nicolla Ellis on Ext 5833.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

Matt Lamb  
Business Manager – Growth & Regeneration







## PLANNING COMMITTEE - 3 JULY 2018

<b>Application No:</b>	<b>18/00279/FUL</b>		
<b>Proposal:</b>	<b>Retrospective consent for the installation of engineering operations for site drainage. Consent for the change of use of the land from Car Sales to Car Sales and Car Wash and the erection of fencing</b>		
<b>Location:</b>	<b>Lowdham Cars, Lowdham Road, Gunthorpe, Nottinghamshire, NG14 7ER</b>		
<b>Applicant:</b>	<b>Ms Hibbitt</b>		
<b>Registered:</b>	<b>16.03.2018</b>	<b>Target Date: 11.05.2018</b>	<b>Extension agreed to: 08.06.2018</b>

**This application has been called before the committee by Cllr R Jackson on the grounds of flood risk as a result of the proposed development.**

### The Site

The application site is located to the east side of Lowdham Road outside the built-up area of Gunthorpe within a ribbon of mixed development washed over by the Green Belt. The entire site also lies within Flood Zone 3 as defined by the Environment Agencies Flood Mapping.

North of the application site, Lowdham Road is characterised by large residential properties but around the site there are a number of commercial uses comprising caravan sales and garage sites, including the Lowdham Cars site itself, as well as residential uses.

The northern half of the site has a car sales unit and forecourt and a dwelling approx. 25 m from the proposed car wash site. The southern section of the site is not hard bound like the car forecourt and currently has two car wash canopy structures covering concrete hardstanding that have been erected without consent.

The application site is set back from the road with hardstanding to the access on to Lowdham Road. Car parking is currently available at the front of the site. Across the highway is the Lowdham Motorhome and Caravan Sales site which has a palisade and chain link fence perimeter to the site with the highway and has a large forecourt displaying motorhomes with a large warehouse unit towards the west.

### Relevant Planning History

**07/00630/FUL** – Change of use from fuel filling station to car sales – Permitted 05.2007

**07/00188/FUL** – Demolition of existing petrol filling station and house. Erection of new sales building, car wash and petrol filling station development – Withdrawn 2007

**05/01594/FUL** – Demolition of existing filling station & house. Erection of new sales building, car wash & petrol filling station (Re-submission) – Permitted 2005

**05/00835/FUL** - Demolition of existing filling station and house. Erection of new sales building, car wash and petrol filling station – Withdrawn 2005

### The Proposal

For the avoidance of doubt, the application has been significantly modified throughout the course of this application in response to initial officer objections to the proposal on the grounds of impact on the openness of the Green Belt – revised plans have subsequently been submitted. As such, the revised plans to be considered are “Proposed Site Plan – 372(08)S10 Rev B” received 04.05.2018.

The application seeks consent for the change of use of the land from solely a Car Sales Unit (*sui generis*) to Car Sales and Car Wash (also *sui generis*) unit. In addition the application seeks retrospective consent for the installation of engineering operations for site drainage to serve the car wash. Permission is also requested for the erection of a new 2.4m/8ft security fencing to the north (c.22 m), north-east (c.40 m) and south-east (c.45.3 m) site perimeters. The fence proposed is a green v-mesh fence approx. 2.4 m in height.

The application **does not** seek consent for the retention of the white canopies that have been erected on the site without consent and their removal will be sought through a separate enforcement process if necessary. Nevertheless the application shows the removal of these structures.

The two car wash areas to be retained are positioned to the south-east of the application site and are c.10 m x 10 m in size, positioned approx. 3 m from the southernmost boundaries of the site and approx. 5 m apart from one another. The car wash area is proposed to be approx. 25 m from the house on the site towards the NW.

### Departure/Public Advertisement Procedure

Occupiers of 5 properties have been individually notified by letter with the consultation period expiring on 1<sup>st</sup> May 2018.

### Planning Policy Framework

#### The Development Plan

#### **Newark and Sherwood Core Strategy DPD (adopted March 2011)**

Spatial Policy 1: Settlement Hierarchy

Spatial Policy 4B: Green Belt Development

Core Policy 6: Shaping our Employment Profile

Core Policy 9: Sustainable Design

## **Allocations & Development Management DPD**

Policy DM5 – Design

Policy DM10 - Pollution and Hazardous Materials

### **Other Material Planning Considerations**

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014

### **Consultations**

**Gunthorpe Parish Council** – “Major concerns were expressed about this application, there had been development prior to an application being made, impervious surfaces had been laid, the land is on a main flood corridor, the plans are an over development of the site which is 50 yards from a problematic road junction and will cause increased problems with traffic flow, PC unanimously against the application.”

**NCC Highways Authority** – 30.05.2018 – “The submitted information regarding drainage is unclear. If the proposal is to connect to an existing drain in the highway which outfalls into the ditch then this is not acceptable. If the proposal is to put in a new drain to the ditch then Internal Drainage Board permission should be sought. Further clarification should be sought.”

Following clarification with the agent and NCC Highways they have confirmed there is no objection to the application given the drain proposed does not discharge into the highway, it is an existing surface water drain that discharges to the rear of the site (so no change from the current arrangement). As per the layouts submitted.

### **The Environment Agency – 18.06.18**

*For clarity, the Environment Agency have submitted a number of revised comments throughout this application in light of the amendments made to the proposal and the information provided by NSDC Environmental Health regarding the contaminated land concerns. As a result the EA has chosen to retract their previous comments to be replaced by the following comments received 18.6.18. In doing this they have also had sight of the officer report and have reviewed the Officer's interpretation of the flooding concerns relating to the development and can confirm that this reflects the advice that is given by the Environment Agency.*

“Retrospective consent for the installation of engineering operations for site drainage. Consent for the change of use of the land from car sales to car sales and car wash and the erection of fencing at Lowdham Cars, Lowdham Road, Gunthorpe, Nottinghamshire, NG14 7ER

Thank you for consulting us on the application above. Please accept this letter as our formal, standalone, response to the application.

### *Environment Agency position*

We have no objection to the proposal as submitted, subject to our recommended mitigation measures being secured and implemented by way of planning conditions on any subsequent planning permission. Our recommend conditions are set out throughout our response.

We would like to take this opportunity to highlight that, in our view, the two main issues with this site are the potential for contamination and the sites location within the floodplain. We would like to offer somewhat detailed comment on both matters, and for that reason, we will split our comments into these two sub headings.

### *EA comments on Groundwater and Contaminated Land*

The previous use of the development site as a petrol filling station presents a high risk of contamination that could be mobilised by surface water infiltration from the proposed sustainable drainage system (SuDS) leading to pollution of controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is located upon Secondary aquifer A associated with the Holme Pierrepont Sands and Gravels.

The previous petrol filling station on site also came with underground fuel storage facilities. We have previously held discussions with the environmental consultants for the site about significant hydrocarbon contamination beneath the site. As far as we aware, this was being remediated in 2007; however, no completion report or validation of the works carried out has been submitted to date and so it is unclear whether or not remediation has been carried out.

In light of the above, we do not believe that the use of infiltration SuDS is appropriate in this location until it has been proven that any contamination in the ground and groundwater has been remediated to acceptable levels. We therefore request that the following planning condition is included in any permission granted. Without this condition we would object to the proposal in line with paragraph 109 of the National Planning Policy Framework (NPPF) because it cannot be guaranteed that the development will not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution.

### *Condition 1*

No infiltration of surface water drainage into the ground where contamination is present is permitted other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason 1 - To ensure that the development is not put at unacceptable risk from, or adversely affected by, unacceptable levels water pollution caused by mobilised contaminants in line with paragraph 109 of the NPPF.

### *Condition 2*

Prior to any part of the permitted development being brought into use a verification report demonstrating the completion of works set out in a remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason 2 - To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete.

Informative advice on Condition 2 - Please note that a remediation strategy will need to be prepared and submitted, which sets out how known contamination on site will be remediated. We understand that your environmental health department have already requested that a full remediation strategy should be required by planning condition and we fully support this view. Our recommended condition has been set out on the assumption that such a condition will also be applied to any planning permission.

### *Condition 3*

If, during operation of the site, contamination not previously identified is found to be present at the site then no further use (unless otherwise agreed in writing with the Local Planning Authority) shall be permitted until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason 3 - To ensure that the development is not put at unacceptable risk from, or adversely affected by; unacceptable levels water pollution from previously unidentified contamination sources at the development site.

### *EA comments on Flood Risk*

Newark and Sherwood's Level 2 Strategic Flood Risk Assessment (SFRA) shows the application site is within Flood Zone 3b, an area defined as 'the functional floodplain'. Furthermore, hydraulic modelling has been produced ('River Trent and Tributaries at Newark SFRM2', dated 2011) which shows the site to be within the 1 in 10 year flood outline (10% annual probability of flooding from the River Trent). Essentially, this means the site is at a very high risk of flooding.

The National Planning Policy Framework (NPPF) and associated Planning Practice Guidance (PPG) clearly state that only 'Water-compatible development' should be considered in areas of Flood Zone 3b. The PPG suggests that 'less vulnerable' development 'should not be permitted' in these areas. None the less, it is the responsibility of the Local Planning Authority (LPA) to determine the vulnerability classification of the development and not the Environment Agency. For this reason, we will not be objecting to the application on these grounds. Notwithstanding this, we strongly recommend that you consider whether or not the proposed use would be appropriate in this location; there are several factors which may inform your decision making on this matter such as the current permitted use of the site, etc.

From a flood risk management perspective our primary concerns in areas of Flood Zone 3b are floodplain storage and flood flow routes, given these are areas where water has to flow or be stored during times of flood. Any raising of ground levels, or the creation of new structures, will take up space that could be used to store floodwater, potentially increasing flood risk elsewhere. However, in this particular instance, the supporting documents show that only canopy supports and fencing will be introduced, which is unlikely to take up a significant area. Palisade fencing is relatively permeable and should not significantly affect flood flows. If ground raising will in fact

take place as part of the proposals, then please do re-consult us as soon as possible as our stance may well change.

The hardstanding itself will not affect fluvial flood risk, however, if *new* hard standing is proposed on an area of previously permeable ground it may affect the risk of flooding from surface water. The new canopies may also have an impact on surface water flows. The Lead Local Flood Authority (LLFA) are responsible for assessing surface water flooding and the associated risks. In this particular instance, Nottinghamshire County Council are the LLFA and we therefore strongly recommend that you formally consult them on this application; we understand that a formal consultation has been requested. The LLFA will be better placed to comment on the potential flood risk impacts arising from the proposed hardstanding and canopies.

#### *Informative advice on planning conditions*

As you are aware the discharge of planning conditions rests with your Authority. It is, therefore, essential that you are satisfied that the proposed draft conditions meet the requirements of paragraph 4 of the National Planning Practice Guidance (Use of Planning Conditions, section 2). Please notify us immediately if you are unable to apply our suggested conditions, as we may need to tailor our advice accordingly.”

**NCC Flood Risk** - Thank you for inviting the Lead Local Flood Authority (LLFA) to comment on the above application. Having considered the application the LLFA will not be making comments on it in relation to flood risk as it falls outside of the guidance set out by Government for those applications that do require a response from the LLFA.

As a general guide the following points are recommended for all developments:

1. The development should not increase flood risk to existing properties or put the development at risk of flooding.
2. Any discharge of surface water from the site should look at infiltration – watercourse – sewer as the priority order for discharge location.
3. SUDS should be considered where feasible and consideration given to ownership and maintenance of any SUDS proposals for the lifetime of the development.
4. Any development that proposes to alter an ordinary watercourse in a manner that will have a detrimental effect on the flow of water (e.g. culverting / pipe crossing) must be discussed with the Flood Risk Management Team at Nottinghamshire County Council.

**NSDC Environmental Health** – “The above site was previously used as a petrol filling station with underground fuel storage facilities. Environmental Health has previously been in discussions with the Environment Agency regarding significant hydrocarbon contamination beneath the site. This was being remediated by use of a Total Fluids Recovery system and was being managed by Arcadis GMI Ltd on behalf of Total UK Ltd in 2007. I am aware that the ownership of the site was taken over by London & Boulton in 2011 who subsequently employed SLR to manage the remediation on their behalf.

To date no validation report of the works carried out has been submitted to Environmental Health and it is unclear whether or not it has been carried out.

Furthermore it is uncertain whether the fuel tanks from the former filling station are still in situ. I would therefore recommend the use of parts C and D of our full phased contamination condition

to ensure that remediation and verification are carried out to the satisfaction of Environmental Health.”

*Verbal discussion with NSDC EH regarding the phased contamination has confirmed parts A-D are required given the passage of time and development proposed in this application.*

**Cadent Gas Plant Protection** – “Should you be minded to approve this application please can the following notes be included an informative note for the Applicant

*Considerations in relation to gas pipeline/s identified on site:*

Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent’s legal rights and any details of such restrictions should be obtained from the landowner in the first instance.

If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. The Applicant should contact Cadent’s Plant Protection Team at the earliest opportunity to discuss proposed diversions of apparatus to avoid any unnecessary delays.

If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent’s Plant Protection Team to see if any protection measures are required.

All developers are required to contact Cadent’s Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to.

Email: [plantprotection@cadentgas.com](mailto:plantprotection@cadentgas.com) Tel: 0800 688 588”

**Comments from 2 interested parties** have been received, they can be summarised as follows:

**Objection** on the grounds that:-

- a) Unauthorized works have taken place on the site.
- b) There is land contamination and a vast amount of earth has been removed from the site.
- c) The applicants/owners of the site have not complied with previous planning conditions.

Concerns have also been raised regarding compliance with the conditions attached to permission 05/01594/FUL and 07/00630/FUL, namely the archaeological condition “No development shall take place within the application site until details of a scheme of treatment have been submitted to and approved in writing by the LPA” and the condition restricting the number of cars to be stored on the site.

### **Comments of the Business Manager**

#### **Principle of Development**

The Core Strategy outlines the spatial strategy for the District aiming to direct new development

to the more sustainable areas of the District such as the Newark Urban Area or principal villages such as Lowdham. The application site lies within Gunthorpe parish, to the south of Lowdham in a strip of commercial units on Lowdham Road. Gunthorpe itself is considered to be an 'Other Village' within the Core Strategy albeit the site lies outside of any settlement within the Nottinghamshire-Derby Green Belt. Spatial Policy 1 clearly states that, where development falls within the designated Green Belt, proposals will be assessed against Spatial Policy 4B. This policy in turn directs assessment to the relevant paragraphs of the NPPF.

### Impact on Green Belt

Paragraph 89 of the NPPF regards the construction of new buildings within the Green Belt as inappropriate, and by definition harmful to the Green Belt, with the exception of six listed circumstances.

The application has been revised to remove the unauthorised canopies and as such, this proposal does not comprise the erection of any new 'building' within the green belt. The application does however relate to the erection of boundary fencing within the Green Belt and the change of use of land within it. Para 89 of the NPPF regards the **construction of new buildings** within the Green Belt as inappropriate, and by definition harmful to the Green Belt subject to a number of exceptions. The current application does not relate to the erection of a building in the dictionary sense of the word but it does nevertheless relate to operational development which would have a permanent form. The erection of a fence does not fall neatly within any of the exceptions to inappropriate development cited by para. 89 of the NPPF. However, in an overall context, the proposed change of use and associated security fencing could be considered as the partial redevelopment of a previously developed site (which does not exclude sites in continuing use). I therefore deem that the principle of development in the Green Belt could be considered acceptable subject to it not having a greater impact on the openness of the Green Belt and the purpose of including land within it.

The main element of the proposal that could have the potential to impact the openness of the green belt is the erection of new perimeter fencing to the north (c.22 m), north-east (c.40 m) and south-east (c.45.3 m) boundaries. The fence proposed is a green v-mesh fence approx. 2.4 m in height. The current treatment to these boundaries comprise an approx. 1.8 m close boarded palisade fence and an approx. 1.8 m high post and rail fence to the SE boundary.

I am mindful that the applicant could exercise their permitted development rights to construct boundary treatment on these particular boundaries up to 2 m in height (under Schedule 2, Part 2. Class A - Gates, Fences, Walls etc. of the Town and Country Planning (General Permitted Development) (England) Order 2015) without the need for planning permission. Given the proposal seeks to erect an approx. 2.4 m boundary fence the difference is only minimal that would actually need permission and represents a strong fallback position. In addition, given the backdrop to these boundaries are dense vegetation and tree lines the fencing, considering that is proposed to be a v-mesh in green, is considered to assimilate with the surrounding area and represents an acceptable visual backdrop of the wider area.



Paragraph 79 of the Framework indicates that openness is an essential characteristic of the Green Belt. It can be considered as meaning an absence of built development. I accept that the site as existing does not have an open character due to the existing buildings and the storage of cars. Given that the site constitutes a previously developed site, in a strip of commercial units along Lowdham Road that also include the storage of vehicles I consider that the erection of this fencing would not have a greater impact on the openness of the Green Belt and the purpose of including land within it, the application is considered to comply with the objectives of the NPPF.

In addition, the proposal would see part of the site that was previously hardstanding and used as part of the car sales forecourt used as a car wash area with two concrete areas installed to serve the hand car wash sites. Whilst I accept that this application is for retrospective consent for the installation of the concrete hardstanding and associated engineering operations the land previously was graveled and part of the forecourt for the storage of vehicles. As such, the development of the car wash areas have not resulted in the loss of green land or countryside. In addition, examples can be seen in close proximity, across the highway, of similar concrete bases and fences to the commercial units on Lowdham Road. Given the proposed design of the mesh fence and colour it is considered that the fencing will not be unduly prominent in the wider area and will not impact the openness of the Green Belt.

Having considered the purposes of the Green Belt listed at para. 80 of the NPPF I see no credible reason to conclude that the proposal would not conform with the objectives of the NPPF. The proposal is therefore not considered to constitute inappropriate development within the Green Belt.

#### Impact on Flooding

The Environment Agency have submitted revised comments throughout this application in light of the amendments made to the proposal and the information provided by NSDC Environmental Health regarding the contaminated land concerns. As a result the EA have chosen to retract their previous comments to be replaced by comments received 18.6.18. In doing this they have also had sight of the officer report and have reviewed the Officer's interpretation of the flooding concerns relating to the development and can confirm that this reflects the advice that is given by the Environment Agency. The conditions suggested by the EA relating to flooding have been discussed and they have confirmed that the Contaminated Land condition is sufficient to cover the ground contamination concerns with the retention of the surface water drainage condition.

The site is situated to the east of the River Trent and within Flood Zone 3 according to the Environment Agency maps. The applicant has provided details of the drainage that has been installed and confirmed that waste water passes through an interceptor and then into the main sewer system for the area thus ensuring there is no surface water drain off. Initially, the Environment Agency reviewed the submitted details and had raised no objection to the proposed development suggesting the imposition of standard conditions to ensure there is no water

pollution from the site. They also considered the flood risk and considered the development to be of low risk.

In response to the comments received from the Environmental Health officer regarding contamination on the site the Environment Agency (EA) submitted revised comments, again raising no objection to the proposal in principal subject to further contaminated land conditions. The previous use of the proposed development site as a petrol filling station presents a high risk of contamination that could be mobilised by surface water infiltration from the proposed sustainable drainage system (SuDS) leading to pollution of controlled waters. In light of the above, the EA advised that the use of infiltration SuDS is not appropriate in this location until it has been proven that any contamination in the ground and groundwater has been remediated to acceptable levels.

Further to concerns that have been raised by the Local Member regarding the potential for third party flood risk and impact upon the flood plain the EA have submitted additional comments which can be read in full in the consultation section above. In summary the EA reiterated that subject to conditions, they had no objection to the principal of this application, they also outlined the potential for flood risk as a result of this development advising that Newark and Sherwood's Level 2 Strategic Flood Risk Assessment (SFRA) shows the application site is within Flood Zone 3b, an area defined as 'the functional floodplain'. Furthermore, hydraulic modelling has been produced ('River Trent and Tributaries at Newark SFRM2', dated 2011) which shows the site to be within the 1 in 10 year flood outline (10% annual probability of flooding from the River Trent). Essentially, this means the site is at a very high risk of flooding.

The National Policy Framework (the NPPF) provides guidance on dealing with development within Flood Zones 2 and 3. Chapter 10 of the NPPF outlines that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change, by:

- applying the Sequential Test;
- if necessary, applying the Exception Test;
- using opportunities offered by new development to reduce the causes and impacts of flooding; and
- where climate change is expected to increase flood risk so that some existing development may not be sustainable in the long-term, seeking opportunities to facilitate the relocation of development, including housing, to more sustainable locations (paragraph 100).

Paragraph 101 of the NPPF confirms that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.

The above guidance is reflected in Core Policy 10 of the Newark and Sherwood Core Strategy which states that when determining development proposals, the Council will, informed by national guidance and the District's Strategic Flood Risk Assessment, apply a sequential approach to future development and will work with partners to secure strategic flood mitigation measures as part of new development.

Policy DM5 of the Allocations and Development Management DPD contains similar provisions, confirming that the Council will aim to steer new development away from areas at highest risk of flooding. Policy DM5 confirms that proposals within Flood Zones 2 and 3 will only be considered where they constitute appropriate development and it can be demonstrated, by application of the Sequential Test, that there are no reasonably available sites in lower risk Flood Zones. Where development is necessary within areas at risk of flooding, proposals will also need to satisfy the Exception Test by demonstrating they would be safe for the intended users without increasing flood risk elsewhere. In accordance with the aims of Core Policy 9, proposals should wherever possible include measures to pro-actively manage surface water including the use of appropriate surface treatments in highway design and Sustainable Drainage Systems.

Within Flood Zone 3 proposals are subject to the Sequential Test in accordance with national planning policy and the Newark and Sherwood Development Plan, however, as set out within the NPPG the sequential test does not need to be applied for 'minor development' or development that involves a change of use. The NPPG discusses what is classed as 'minor development' in relation to flood risk and it is considered that this proposal accords with point 2 of this definition '*alterations: development that does not increase the size of buildings e.g. alterations to external appearance*' given that the application does not seek consent for the erection of a new building or the extension of an existing building. As such, it can be concluded that the sequential test does not need to be applied for this development.

Notwithstanding this, I have considered the application in line with the parameters of the sequential test - Paragraph 33 of the Planning Practice Guidance: Flood Risk and Coastal Change advises that for individual planning applications where there has been no sequential testing of the allocations in the development plan, a pragmatic approach on the availability of alternative sites should be taken and the area to apply the Sequential Test will be defined by local circumstances relating to the catchment area for the type of development proposed. The PPG uses the example of an extension for an existing business premises to advise that where the proposal needs to be in a certain location, it might be impractical to suggest that there are more suitable alternative locations for that development elsewhere. Therefore in any event it is considered that given the application seeks to allow for business diversification it would be impractical to suggest that there is a more suitable alternative location. The proposal would therefore, in any case, satisfy the sequential test.

This then leads me to consider whether the application would pass the Exception Test. As set out in paragraph 102 of the Framework, the Exception test is a method to demonstrate and help ensure that flood risk to people and application sites will be managed satisfactorily, while allowing

necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available.

The NPPF and associated guidance clearly state that only ‘Water-compatible development’ should be considered in areas of Flood Zone 3b. The PPG suggests that ‘less vulnerable’ development ‘should not be permitted’ in these areas, this proposal is considered to fall within a ‘less vulnerable’ use in my view. The table set out in the Guidance is provided below:

Flood Zones	Flood Risk Vulnerability Classification				
	Essential infrastructure	Highly vulnerable	More vulnerable	Less vulnerable	Water compatible
Zone 1	✓	✓	✓	✓	✓
Zone 2	✓	Exception Test required	✓	✓	✓
Zone 3a †	Exception Test required †	✗	Exception Test required	✓	✓
Zone 3b *	Exception Test required *	✗	✗	✗	✓*

Key:

✓ Development is appropriate

✗ Development should not be permitted.

However I note the comments from the EA that signpost to the notes within the NPPG that supplement the Exception Test. These state that in FZ 3b (functional floodplain) where the Exception Test is required it should be designed and constructed to:

- *remain operational and safe for users in times of flood;*
- *result in no net loss of floodplain storage;*
- *not impede water flows and not increase flood risk elsewhere.*

From a flood risk management perspective the primary concerns of the EA in areas of Flood Zone 3b are fluvial flooding, floodplain storage and flood flow routes, given these are areas where water has to flow or be stored during times of flood. Any raising of ground levels, or the creation of new structures, will take up space that could be used to store floodwater, potentially increasing flood risk elsewhere. However, in this particular instance, the application does not include the raising of ground levels, nor does it include the construction of a building that would impede surface water run-off or fluvial patterns in flood events. The hardstanding proposed to be retained, as well as the level of fencing proposed to be erected is not considered to result in a significant net loss of floodplain storage. I note that the fencing proposed to be erected is open meshing; this is considered to be permeable and would not impede water flows in flood events. The EA have

identified that the hardstanding itself will not affect fluvial flood risk, however they have advised that if further hard standing is to be proposed in the future on an area of previously permeable ground it may cumulatively affect the risk of flooding from surface water.

The Lead Local Flood Authority (LLFA) are responsible for assessing surface water flooding and the associated risks. Despite consultation no comments specific to this application have been received from the LLFRA. However an informal discussion with Ross Marshall (Principal Flood Risk Management Officer) from NCC Flood Risk has clarified that the risk of flooding as a result of this proposal is “borderline unquantifiable”, the officer advised that “the pluvial impact of this development would be insignificant given the amount of concrete hardstanding is so small and separated from adjacent properties.” The capacity of the functional floodplain is considered by the Environment Agency and reaffirmed by the LLFRA concluding that given this development is so small scale within the floodplain the development would have an insignificant and undetectable impact upon the capacity of the floodplain and that the risk would be much higher to the actual business than to the impact on floodplain retention and 3<sup>rd</sup> party flood risk.

Whilst I acknowledge that technically the application should not be permitted as set out in the guidance, this is not enshrined in policy - it is guidance only and for the application to be refused there needs to be demonstrable planning harm. In this particular case, there are no physical buildings being proposed and neither the EA nor the LFRA have identified any harm despite having looked at this very carefully on several occasions. As a result I conclude that the proposal would not cause an unacceptable flood risk from fluvial or pluvial flooding. Without any technical support for the refusal of this application, along with the lack of harm that has been identified, there would be no grounds to refuse this application based on flood risk.

#### Impact of Design

Policy CP9 identifies that the District Council will expect new development to be of a high standard of sustainable design that, amongst other things, demonstrates an effective and efficient use of land that where appropriate promotes the re use of previously developed land and optimises site potential at a level suitable to the local character of the area.

Policy DM5 of the Allocations and Development Management DPD considers the matter of design. Criterion 4 of this policy outlines that the character and built form of new proposals should reflect the surrounding area in terms of scale, form, mass, layout, design, materials, and detailing.

The design of the proposed fencing is functional to its end use and similar in style to a number of other fences which exist within the surrounding area. On this basis I see no reason to resist the application on the basis of its design and the proposal is considered compliant with the relevant elements of Policy DM5.

### Impact on Amenity

The closest residential property is the house of the application site that is approx. 25 m away from the application site for the car wash facilities. The current business comprises of people visiting the forecourt to view vehicles for sale, a similar pattern of visitation and vehicular movement is anticipated from the new use as with the existing use with cars periodically parking and leaving to use the facilities. Given the separation distance and the operation as part of the main unit it is not considered that the operations at the car wash would have an adverse impact by way of noise on neighbouring properties. In terms of visual amenity; the car wash facility will be read in conjunction with the wider site. As such it is not considered that the development has an adverse impact upon visual amenity and does not result in overbearing upon any neighbouring properties.

### Impact on Highways

Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access appropriate parking provision. The application has been revised so that it no longer includes amendments to the access to the site and also no longer includes fencing on the boundary with the highway.

The Highways department has commented on the application advising, "The submitted information regarding drainage is unclear. If the proposal is to connect to an existing drain in the highway which outfalls into the ditch then this is not acceptable. If the proposal is to put in a new drain to the ditch then Internal Drainage Board permission should be sought. Further clarification should be sought."

Following clarification with the agent and NCC Highways they have confirmed there is no objection to the application given the drain proposed does not discharge into the highway, it is an existing surface water drain that discharges to the rear of the site (so no change from the current arrangement).

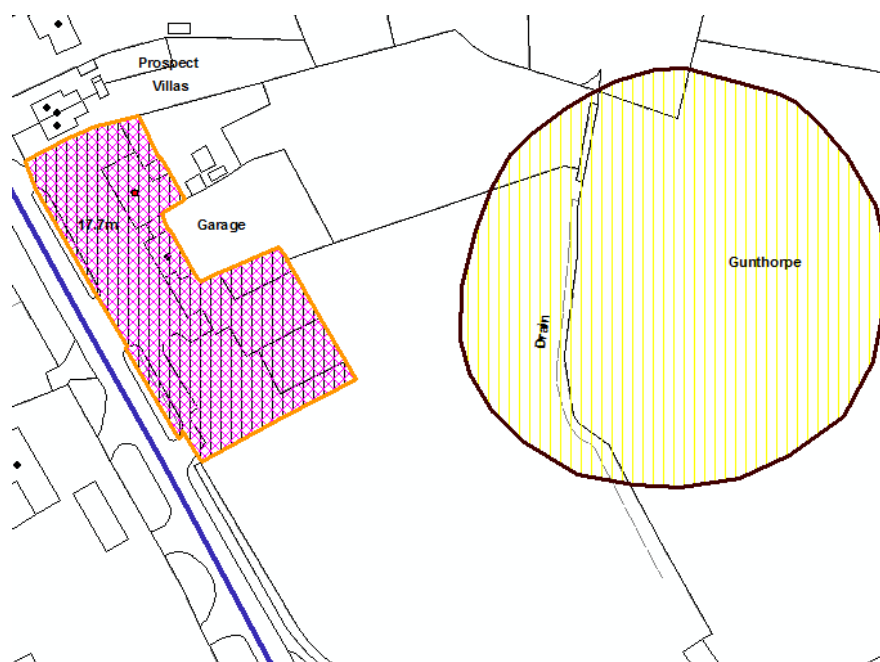
In any case, NCC Highways Authority have raised no objection to the car wash. The applicant has provided details of the drainage that has been installed which is considered by officers sufficient to ensure surface water is managed in an appropriate fashion. The boundary fencing to the north, north-east and south-east boundaries are not considered to have an impact upon the highway in accordance with SP7.

### Other Matters

Comments have been received from interested parties which object to the proposal and they have been duly taken on board. The comments raised relate to the carrying out of unauthorised works on the site and the failure to comply with previous planning conditions relating to car storage and archeological surveying.

The council accepts that work has been undertaken on the site without planning permission and I note that the site has been the subject of ongoing enforcement action which has initiated the submission of this application. I also note that concerns have been raised regarding the site owners failure to comply with planning conditions relating to the storage of cars on the site, this matter is currently being addressed with the applicant and will be pursued through the enforcement process – it is not considered material to this decision. Notwithstanding the enforcement proceedings, it is considered reasonable to reaffirm the conditioned opening hours and car storage numbers within this application to prevent unacceptable impact upon neighbouring residential amenity.

I also note the failure to comply with the archeological condition attached to the 2007 permission has been raised in consultee comments – this matter has been discussed with the Senior Conservation officer and the Enforcement team who have discussed the severity of works close to a scheduled ancient monument (SAM) with the applicant, however, it is noted that the SAM is in excess of 50 m NE of the concrete hardstanding that has been installed (see below image), any works that have taken place could have damaged land of archeological significance however, anything of merit is no longer available for inspection and as such cannot be investigated.



Comments received have also referenced the Environmental Health (EH) Officer's comments relating to the contamination on the site following a petrol leak in 2007. It is acknowledged that there was a contamination risk associated with the land following a leaking storage tank on the site, the EH officer has advised that to this date, no validation report of the works carried out have been submitted to EH for confirmation. As such they have advised that parts C and D of the full phased contamination conditions be attached to any permission to ensure that remediation and verification are carried out to the satisfaction of Environmental Health – further clarification with the EH officer has concluded that it is pertinent to attach condition parts A-D regarding contamination given that works have been undertaken on the site that would supersede the 2007 permission and any previous remediation scheme would need to be revised to ensure it

is compatible with the new water sensitive use. The Environment Agency have also considered the contaminated land on site advising that conditions be attached to any permission to ensure that any contamination does not interfere with the watercourse.

Comments received from the parish council have been duly taken on board, I note that they make reference to the impact the development will have on flooding, surface water run-off and the highway – these matters have been considered in full in the appraisal section above.

### **Conclusion**

As concluded above, the proposal is not considered to constitute inappropriate development within the Green Belt in accordance with the objectives set out by the NPPF. The development is not considered to unduly impact the character and appearance of the Green Belt or wider area or impact the amenity of any neighbouring residents. In addition the development is also not considered to have a detrimental impact on the public highway. With regards to flooding, it is accepted that as a matter of fact and degree no harm has been identified as a result of this proposal. Any potential impacts the development could have on flooding have been concluded to be insignificant from both pluvial and fluvial flood risk, and in any event would be outweighed by the economic benefit for allowing an existing business to diversify.

I consider the proposal would be typically functional to the intended use of the land. I have identified no other material planning considerations which would justify resistance of the proposal. As such approval is recommended on the basis of the following conditions.

### **RECOMMENDATION**

**That full planning permission is approved subject to the conditions and reasons shown below.**

#### **Conditions**

##### **01**

The development hereby permitted comprising the erection of the fence and the change of use shall not begin later than three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

##### **02**

The development hereby permitted shall not be carried out except in complete accordance with the following approved plans reference:

- Site Location and Block Plans – 372(02) S10
- Revised Proposed Site Plan - 372(08)S10 REVISION B
- Surface Water Layout Plan



- Drainage Layout

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission.

### **03**

The fence hereby permitted shall be constructed entirely of the materials details submitted as part of the planning application unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual amenity.

### **04**

Unless otherwise agreed by the Local Planning Authority, the car wash use must not commence until Parts A to D of this condition have been complied with.

#### **Part A: Site Characterisation**

The car wash use hereby permitted shall not be commenced until an investigation and risk assessment has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
  - human health;
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
  - adjoining land;
  - ground waters and surface waters;
  - ecological systems;
  - archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model  
**Agenda Page 57**

Procedures for the Management of Land Contamination, CLR 11'.

### **Part B: Submission of Remediation Scheme**

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

### **Part C: Implementation of Approved Remediation Scheme**

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

### **Part D: Reporting of Unexpected Contamination**

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Part A, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Part B, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with Part C.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

### **05**

No infiltration of surface water drainage into the ground where contamination is present (as identified within condition 04) is permitted other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development is not put at unacceptable risk from, or adversely affected by, unacceptable levels water pollution caused by mobilised contaminants in line with paragraph 109 of the NPPF.

## **06**

The car sales and car wash premises shall only be open to the public between the hours of 08.30 am and 6pm.

Reason: In the interest of residential amenity.

## **07**

There shall be no more than 30 cars for sale displayed on the premises at any time unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure that the site remains in a tidy condition and there is adequate customer and staff parking areas and to protect the openness of the Green Belt.

## **08**

There shall be no outside storage or paraphernalia associated with the car wash facility erected on the site unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect the openness of the Green Belt.

### Notes to Applicant

#### 01

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the development type proposed is zero rated in this location.

#### 02

#### **Considerations in relation to gas pipeline/s identified on site:**

Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to

Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance.

If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. The Applicant should contact Cadent's Plant Protection Team at the earliest opportunity to discuss proposed diversions of apparatus to avoid any unnecessary delays.

If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent's Plant Protection Team to see if any protection measures are required.

All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to. Email: [plantprotection@cadentgas.com](mailto:plantprotection@cadentgas.com) Tel: 0800 688 588

03

This application has been the subject of discussions during the application process to ensure that the proposal is acceptable. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

#### BACKGROUND PAPERS

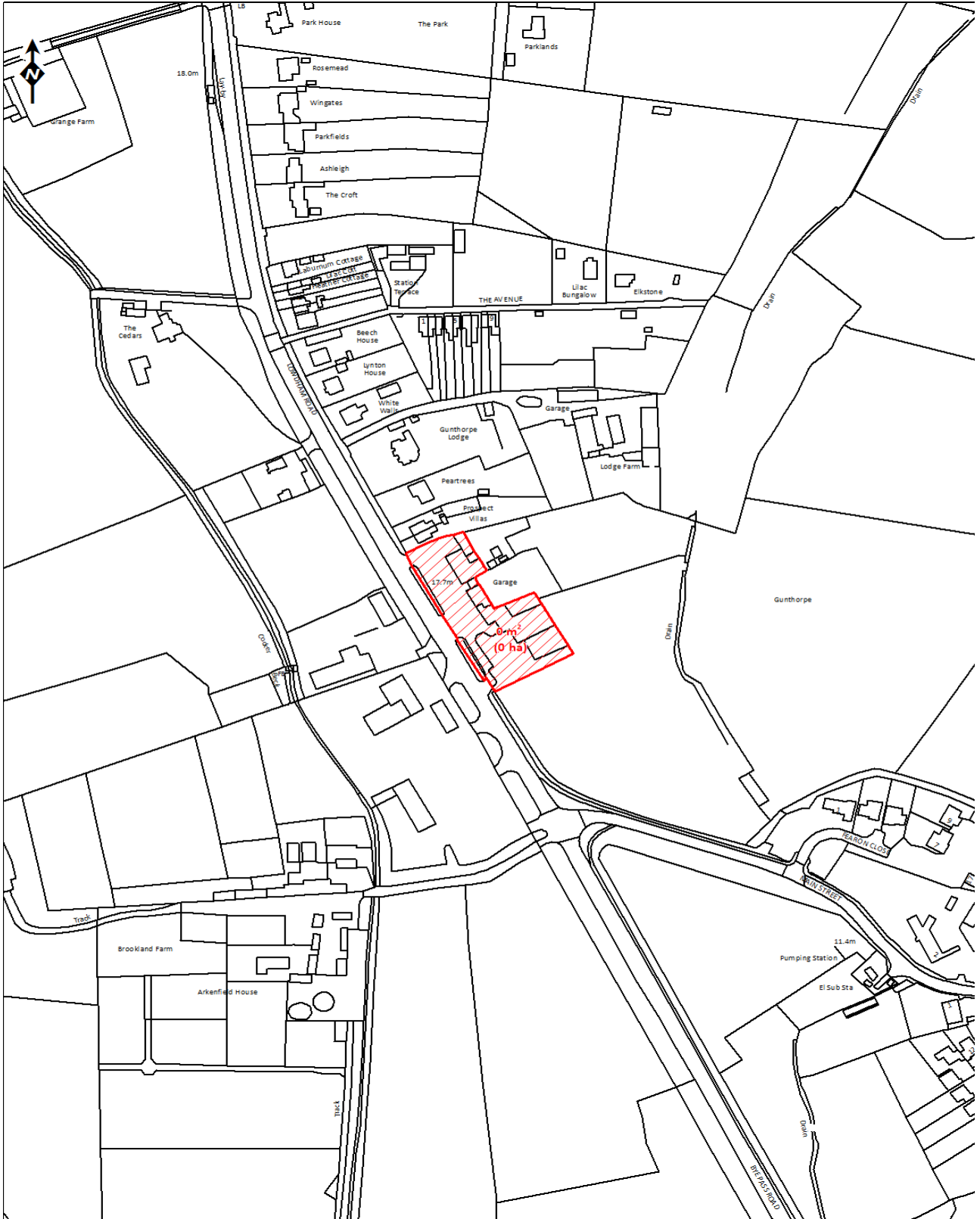
Application case file.

For further information, please contact Honor Whitfield on ext. 5827.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**  
**Business Manager Growth and Regeneration**

Committee Plan - 18/00279/FUL



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## PLANNING COMMITTEE – 3 JULY 2018

<b>Application No:</b>	<b>18/00125/FULM (MAJOR)</b>	
<b>Proposal:</b>	<b>Proposed conversion of Hatton House (formerly Newark Working Men's Club) Beacon Hill Road Newark, to form 8 apartments. Remainder of building to be demolished. To include erection of 8 new cottages and associated access and landscaping works.</b>	
<b>Location:</b>	<b>Newark Working Men's Club, 13 Beacon Hill Road, Newark On Trent</b>	
<b>Applicant:</b>	<b>Northgate Lettings</b>	
<b>Registered:</b>	<b>31 January 2018</b>	<b>Target Date: 01 May 2018</b>

**Due to the difficult balance that needs to be struck between heritage benefits and highway harm, this 'major' application has been referred to the Planning Committee by the Business Manager for Growth and Regeneration under his powers set out in the Scheme of Delegation.**

### The Site

The site lies on the northern side of Beacon Hill Road in Newark and contains a Grade II listed building that was formerly the Newark Workings Men's Club. The list description states:

*"Formerly known as: Hatton House School BEACON HILL ROAD. House, now working mens' club. Mid C19, with mid and late C20 alterations. Stucco with hipped slate roof and 4 coped external gable stacks, each pair with a shaped gable between them. Chamfered quoins, dentillated eaves. 2 storeys plus garrets; 3 window range. Projecting hipped central bay with central French window and fanlight, flanked by plain sashes and resembling a Venetian window. On either side, a tripartite plain sash. Tetrastyle Doric portico with dentillated cornice, covering a pilastered doorcase with multiple keystones and 2-leaf fielded panelled door, flanked by single plain sashes. Single small sashes in each return angle. Beyond, single C20 French windows with sidelights. In each gable, a round headed margin light sash and above, a paired sash to the garrets. Interior altered late C20."*

The building is set amongst hardstanding which was last used for car parking and can, according to the applicants accommodate c54 cars. The building is currently vacant and in a relatively poor state of repair.

Vehicular access to the site is located from Beacon Hill Road between No. 11 Beacon Hill Road and No. 1 The Close. The driveway is defined on either side by walls/fencing. There is an existing mono pitch garage (at the northern end of the drive) which appears to take its access from the driveway but which isn't the application site.

The application site also includes a small part of the garden of a property to the west which was erected under a permission granted in 1993 (FUL/93/0905) and is known as 26 Lindum Street. This part of the site until recently accommodated a single storey modern outbuilding which appears to have been demolished. This part of the site is bound by weathered fencing.

To the north of the site is the blank gable end of the two storey Victorian terraces of Lindum Street. No. 21 (the end terrace) takes its rear access via a passageway further along the row of the terraces albeit its garden bounds the site. Also to the north is the side elevation of Lindum Mews (a two storey mews terrace) which sits approximately 1 metre from the boundary (comprising relatively new timber fencing with laurel bushes planted in front of these). No. 1 Lindum Mews, (planning ref. 86/0217) which is the nearest dwelling, has a window at first floor level which appears to serve a bedroom.

To the south of the listed building are two storey modern dwellings known as numbers 1 to 7 The Close. These dwellings front the highway but vehicular access to these dwellings is between numbers 2 and 3 (which provides a view of the listed building from the roadside) and leads to its parking/garage court.

A Chapel of Rest/Funeral Directors has its buildings forming part of the eastern boundary with its single storey blank elevation facing the application site.

The site lies within the 'Newark Urban Area' as defined within the Allocations and Development Management DPD. The site also lies within an area that is prone to surface water run off according to the Environment Agency Maps.

### Relevant Planning History

18/00126/LBC – Listed building consent is sought for the 'Proposed conversion of Hatton House (formerly Newark Working Men's Club) Beacon Hill Road Newark, to form 8 apartments. Remainder of building to be demolished. To include erection of 8 new cottages and associated access and landscaping works.' This application was submitted concurrently with this planning application and is pending consideration.

PREAPP/00199/17 – Pre-application advice was sought for the conversion of the existing listed building to residential use and its extension by way of the erection of a new apartment block and some new dwellings; totalling 17 dwellings. Advice was offered in November 2017.

### The Proposal

Full planning permission is sought for the conversion (and change of use) of the former working men's club to 8 residential apartments and the erection of 8 new build dwellings within its grounds; totalling 16 dwellings. Car parking for 19 vehicles is now proposed on-site having been amended from 16 in an attempt to address highway concerns. A pedestrian access route is now also proposed via a passageway at the north-west corner of the site linking the site to Lindum Street to the north.

### Plots 1 to 8

The existing listed building would be converted to form 8 x 2 bedroom apartments; with two on each storey.

Within the Basement, Unit 1 would have an open plan kitchen, diner and lounge which would gain natural light from a lightwell, a master bedroom with shower room and a second bedroom also gain light from a second lightwell. Also within the Basement Unit 2 has its dining/lounge area and

separate kitchen arranged to benefit from a lightwell. The main bedroom also benefits from a further lightwell, whilst the second bedroom proposes a high level window in an existing opening to serve it. A separate shower room and toilet are also proposed.

At ground floor level Units 3 & 4 would have an open plan kitchen, diner and lounge, two double bedrooms (one with en-suite) and bathroom.

At first floor both Units 5 & 6 are accessed off grand central staircase and would have an open plan kitchen, diner and lounge, two double bedrooms (one with en-suite) and shower room.

At second floor Units 7 & 8 would be accessed off a secondary, rear staircase. Each would have an open plan kitchen, diner and lounge, two double bedrooms and a shower room.

### Plots 9 to 13

A row of 5 two storey cottages is proposed to run parallel with the eastern boundary. These would each have a frontage width of c7.6m across with a narrow gable depth of 5.7m. These simple cottages would measure 4.79 to eaves and 7.37m to ridge height excluding the chimneys.

Each unit would have downstairs w.c and open plan kitchen, dining and living space and two bedrooms and a bathroom at first floor.

### Plots 14 to 16

An L shaped mews type of arrangement would form 3 dwellings proposed to the north-western corner of the site.

Plot 16 is the corner plot which is two storey which is 7.37m to the ridge height, excluding chimney stack. This comprises a downstairs cloakroom and store, open plan kitchen diner, small study and lounge within a single storey element. At first floor 3 bedrooms (1 double, 2 singles) and a bathroom are proposed.

Plot 15 is also two storey and to the same height. This has an open plan kitchen/diner, lounge and cloakroom as well as 3 bedrooms (2 doubles one with en-suite and 1 single) and a bathroom.

Plot 14 is a single storey dwelling with open plan living, two bedrooms and a bathroom. This has a ridge height of 5.18m (excluding chimney) and 2.47m to eaves.

The following plans and documents accompany the application. It should be noted that the layout plan has been amended to correct an annotated error (which referred to a non-existent Plot 17) and to revise the plans to address concerns:

- 17.3410 - Site Location Plan
- 17.3410.01 Existing Details Sheet 1 of 8 (Ground Floor Plan of existing building)
- 17.3410.02 Existing Details Sheet 2 of 8 (First Floor Plan of existing building)
- 17.3410.03 Existing Details Sheet 3 of 8 (Basement Floor Plan of existing building)
- 17.3410.04 Existing Details Sheet 4 of 8 (Section AA through existing building)
- 17.3410.05 Existing Details Sheet 5 of 8 (Section BB through existing building)
- 17.3410.06 Existing Details Sheet 6 of 8 (Section CC through existing building)
- 17.3410.07 Existing Details Sheet 7 of 8 (Existing Front & Side Elevations)



- 17.3410.08 Existing Details Sheet 8 of 8 (Existing Rear & Side Elevations)
- 17.3410.16D - Detailed Planning Sheet 1 of 8 (Proposed Block Plan, Site & Roof Plans) received 01/06/2018
- 17.3410.17B - Detailed Planning Sheet 2 of 8 (Proposed Elevations for Plots 1 to 8)
- 17.3410.18B - Detailed Planning Sheet 3 of 8 (Proposed Floor (Basement & Ground) Plans for Plots 1 to 8)
- 17.3410.19B - Detailed Planning Sheet 4 of 8 (Proposed Floor (First & Second) Plans for Plots 1 to 8)
- 17.3410.20 - Detailed Planning Sheet 5 of 8 (Elevations for Plots 9 to 13)
- 17.3410.21 - Detailed Planning Sheet 6 of 8 (Floor Plans for Plots 9 to 13)
- 17.3410.22A - Detailed Planning Sheet 7 of 8 (Elevations for Plots 14 to 16)
- 17.3410.23A - Detailed Planning Sheet 8 of 8 (Floor Plans for Plots 14 to 16)
- 17.3410.25 – 3D Visualisations Sheet 1 of 2
- 17.3410.25 – 3D Visualisations Sheet 2 of 2
- OTH/MSE/3698 – Topographical Survey
- Heritage Impact Assessment, Grover Lewis Association, January 2018
- Protected Species Survey by CBE Consulting, October 2017
- Flood Information, dated 17<sup>th</sup> November 2017
- Heads of Terms Statement
- Design & Access Statement

The applicant has also submitted 3 x Viability Appraisals upon request (focusing on (1) the developer contributions sought, (2) focusing on just the conversion of the listed building and (3) focusing on the new building element) during the lifetime of the application as well as information on the marketing of the club.

#### Departure/Public Advertisement Procedure

Twenty neighbours were individually notified and the application has been advertised in the local press and 3 site notices have also been displayed at the site and in the vicinity of the site. Re-consultation has been carried out in respect of amendments where appropriate.

#### Relevant Planning Policies

#### **The Development Plan**

##### *Newark and Sherwood Core Strategy Adopted March 2011*

Spatial Policy 1 - Settlement Hierarchy

Spatial Policy 2 - Spatial Distribution of Growth

Spatial Policy 7 - Sustainable Transport

Spatial Policy 8 – Protecting and Promoting Leisure and Community Facilities

Core Policy 1 – Affordable Housing Provision

Core Policy 3 – Housing Mix, Type and Density

Core Policy 9 -Sustainable Design

Core Policy 10 – Climate Change

Core Policy 12 – Biodiversity and Green Infrastructure

Core Policy 14 – Historic Environment

NAP1 - Newark Urban Area

*Allocations and Development Management DPD Adopted July 2013*

Policy DM1 - Development within Settlements Central to Delivering the Spatial Strategy

Policy DM2 – Developer Contributions and Planning Obligations

Policy DM5 - Design

Policy DM7 - Biodiversity and Green Infrastructure

Policy DM9 - Protecting and Enhancing the Historic Environment

Policy DM12 - Presumption in Favour of Sustainable Development

Other Material Planning Considerations

National Planning Policy Framework

Planning Practice Guidance 2014

Newark and Sherwood Developer Contributions SPD

Publication Amended Core Strategy

Consultations

**Newark Town Council – Object:**

**31/05/2018** (comments made in respect of applicants Highway Statement):

‘Newark Town Council’s Planning Committee considered the above application at their meeting last night and they felt that the access road remained too narrow and that the application was still too over intensive for the site. It was decided to Object to this application and confirm the original reasons for the objection namely:

“Objection was raised on the grounds that the proposed development was over intensive and the access/egress onto Beacon Hill Road could cause further traffic congestion on an already busy road”.’

Previous comments: 02/02/2018:

“18/00125/FULM & 18/00136/LBC – Newark Working Men’s Club, 13 Beacon Hill Road, Newark

The above applications were considered at Newark Town Council’s Planning Meeting on 31st January 2018 and Objection was raised on the grounds that the proposed development was over intensive and the access/egress onto Beacon Hill Road could cause further traffic congestion on an already busy road. Please note the additional comments made below:

‘Members felt that this application could have a significant impact on the local community beyond the immediate neighbouring properties, particularly with respect to the traffic impact arising from such a large number of additional properties being proposed on such a small site. It was AGREED therefore, that the District Council be asked to undertake a wider direct consultation than would normally be the case to include, but not exclusively, the Ropewalk and properties on Beacon Hill Road that are close to the site’.

**NCC Highways – Object:**

**01/06/2018** (In response to amended block plan Rev D showing new pedestrian link to Lindum Street):

“This proposal does not change our views. The new pedestrian link is not an attractive option for people accessing the town centre and not on the shortest desire line. No further comment.”

**30/05/2018** (in response to applicants Highway Statement):

“Additional Information

The agent has submitted further details by email dated 8 May relating to the previous use of the site along with possible improvements to the existing driveway by way of traffic calming measures, appropriate signage and lighting.

The access driveway is approx. 40m in length and its width cannot be increased to enable two vehicles to safely pass. There are no footways along its length so the site does not encourage pedestrian activity for residents, nor provides safe passage given that Spatial Policy 7 seeks safe, convenient and attractive access for all including the elderly, disabled and others with restricted mobility.

The lack of pedestrian facilities encourages dependency on the car. This is exacerbated further in that whilst residents may wish to travel by car only minimal parking is provided to cater for potential demand.

There are no proposals to reduce the number of units on the site.

As such, the concerns raised in my previous comments dated 27 March remain and it is recommended that this application be refused for the following reasons:

1. The access road leading to the site is substandard in that it is of inadequate width to allow two vehicles to pass and the increased use of the access would result in an increase in the likelihood of unacceptable danger to users of the highway.
2. The proposed development fails to make adequate provision for the parking of vehicles within the site curtilage resulting in an increase in the likelihood of danger to other users of the highway due to the likelihood of vehicles being parked on the public highway.
3. 3. In view of the poor access width and lack of pedestrian facilities, the proposal is contrary to Spatial Policy 7 in that it fails to provide safe, convenient and attractive access for all, including the elderly, disabled and others with restricted mobility.”

**28/03/2018:** “This proposal is for the conversion of the former Newark WMC to form 8 apartments and the erection of 8 new dwellings. The site is served by an existing access onto Beacon Hill Road, which is bounded each side by a wall with fencing along each side of the driveway up to the application site. Considerable on street parking currently exists along Beacon Hill Road including on each side of the access.

In accordance with the current Highway Design Guide (6C's), for this number of dwellings an access is required to have a minimum width of 5.8m (4.8m minimum width with 1m added as the access is bounded on each side). The existing access is considerably less than this. This would result in the situation where a vehicle would turn into the driveway to meet an egressing vehicle.

This would lead to reversing/manoeuvring from the access driveway onto Beacon Hill Road to wait for a clear passage along the driveway, increasing the likelihood of vehicular/pedestrian conflict.

From the plans submitted, plots 15 and 16 have 3 bedrooms and the remainder are two bedroomed. The layout plan submitted, drawing no. 17.3410.16C, provides 1 parking space per unit. There is the concern that this is insufficient and would further increase on street parking in the vicinity.

There are no footways or lighting along the length of the driveway and as such is unsuitable for pedestrian activity.

Therefore, it is recommended that this application be refused for the following reasons:

1. The access road leading to the site is substandard in that it is of inadequate width to allow two vehicles to pass and the increased use of the access would result in an increase in the likelihood of unacceptable danger to users of the highway.
2. The proposed development fails to make adequate provision for the parking of vehicles within the site curtilage resulting in an increase in the likelihood of danger to other users of the highway due to the likelihood of vehicles being parked on the public highway."

**NCC Lead Flood Risk Authority** – ‘Thank you for inviting the Lead Local Flood Authority (LLFA) to comment on the above application. Having considered the application the LLFA will not be making comments on it in relation to flood risk as it falls outside of the guidance set out by Government for those applications that do require a response from the LLFA.

As a general guide the following points are recommended for all developments:

1. The development should not increase flood risk to existing properties or put the development at risk of flooding.
2. Any discharge of surface water from the site should look at infiltration – watercourse – sewer as the priority order for discharge location.
3. SUDS should be considered where feasible and consideration given to ownership and maintenance of any SUDS proposals for the lifetime of the development.
4. Any development that proposes to alter an ordinary watercourse in a manner that will have a detrimental effect on the flow of water (eg culverting / pipe crossing) must be discussed with the Flood Risk Management Team at Nottinghamshire County Council.’

**NCC (Developer Contributions)** – No response received.

**NSDC Conservation** – **have made the following comments during the lifetime of the scheme (in response to various amendments and clarification. They now support the scheme:**

**08/03/2018** – “Further to the submission of this email and the revised plans sent by Mark Smalley 1st March 2018 I am now happy with this scheme.

I am happy, in this case, that the cellar be tanked, as there are no features that would be lost or obscured by doing so. The system they have described also has the capacity to drain water potentially trapped between the dry lining and outer wall away, particularly important as I doubt the existing render on the outside is very breathable. If this is combined with the re-laying of the cellar brick pavers, consolidated into the main room in each basement flat, this addresses my concerns about the cellar.

In terms of sound insulation the scheme now protects the first floor, which is the principal floor in terms of surviving architectural features, as well as the hall stairs and landing. The scheme for the attic, which also survives well but is lower status in terms of architectural features, can hopefully be achieved by sound insulation between floor joists, which is acceptable. I note the annotation on the attic floor plans also says floor will be overlaid if needed – I am happy that this stay on the plans, but would rather the use of this only if necessary, secured by condition if we can.

I also note the confirmation of the use of downstands where walls are to be removed, which is now acceptable.

I now believe this addresses all my Conservation concerns and, subject to condition, have no objection to this scheme.”

**28/02/18** – “Thank you for this. However, as I understood it the plan was that the 1st floor would be left untouched in terms of its floors and ceilings, especially as it has decorative fireplaces. The plan I discussed with Kevin was to under-draw the ceilings to the ground floor as this floor is most altered (and the re-fix covings, which in any event may not be original), though not undrawn any area of the stairs and hallway (which shouldn’t be necessary in any event I presume) and then lay a floor over that the attic level, which would require skirtings and one less decorative fire place to be lifted, as well as doors (where they survive in the attic) to be minorly trimmed. This would therefore avoid altering the highest status floor.

Please can you confirm that this is the understanding with the client and amend plans accordingly? I am happy that the cellar brick pavers in the rooms they survive will be lifted and re-laid over insulation and dpc. I note the alteration of the rooflights to conservation rooflights, which is better, thank you.

Other queries still not answered:

Is the cellar to be tanked?

Can a downstand be left where walls are to be removed pleased?”

**16/02/18** – “I am managed to have a look through these plans and I believe they cover nearly all my requests for amendments. I am grateful for these amendments having been taken on board – this has made this a much improved scheme, especially so with the main central staircase and treatment of plan form.

What I have not had time to do is check them for new or different amendments and perhaps the agent could confirm the amendments only relate to my comments as requested?

The item which remains unaltered in elevation is the rooflights – which are still shown as being of different designs. I note the plan annotation speaks of conservation rooflights but I still think these would look better in a consistent design.

My comments also included a number of queries about whether the cellar was to be tanked, what was to happen to the brick paver floors, details of sound insulation, the potential for keeping downstands above wall removal etc. - all of which are still crucial to getting an acceptable scheme. Could agent now look through my comments and follow up on the questions posed please?”

**09/02/18:** “Further to the submission of plans to convert the Newark Working Men’s Club and associated new build in the grounds I have the following comments. (Please note that comments

underlined require amendments with potential conditions are in **bold** and a number of queries are in *italics*)

This submission follows extensive pre-application discussions under PREAPP/00199/17.

### Site description

The building is a Grade II listed building, formerly called Lindum House and built in the mid-1860s for a wealthy local businessman and former mayor of Newark. The building is built in the Victorian Classical style, using plain and margin light sashes, rusticated quoins, large moulded eaves and a portico porch.

When first built the building was set in extensive grounds with gate lodges, formal gardens and glass houses. The building also once had full width glass house/orangery to the rear, stepped entrance down into the basement with Regency style awnings over the ground floor windows either side of the porch.



1885 OS Map showing original extent of grounds

By 1882 Lindum House was renamed Hatton House and used as a boys' boarding school, creating a new block to the north of the building (now lost). In 1913 the building became used for Newark Working Men's Club. The building was then requisitioned during WWI for billeted soldiers and as a military hospital. When leased back to the Working Men's Club in the 1920s the curtilage was significantly reduced. From 1900 onwards there was a piecemeal and progressive contraction of the building's land and the consequent residential development around it. The setting of the building today has been significantly impacted by this reduction and development of its curtilage, with no trace of formal gardens now surviving.

In the late 1960s and 1970 large flat roofed extensions were added to the building, taking out the rear wall at ground floor and infilling most of the remaining rear land, again significantly and negatively impacting upon the significance of the building. These extensions are particularly harmful as they overlap the footprint of the building, making them visible in all directions. At some

point in its history the grand, central staircase was removed from ground to first floor, leaving legible but much altered vestiges at first floor and an attractive tiled floor to the former hallway at ground floor. The former hallway became a bar area with a suspended ceiling (recently removed to reveal overall good survival of the decorative coving).

The building's plan form is essentially four rooms off the central hallway/staircase, but this plan form has been significantly altered over time and while legible in a plan based exercise survives only in part on the ground floor and somewhat better at first floor. The attic is generally better preserved, having a number of rooms off a central corridor. The attic doors, where they survive, still retain a notation about the number of men allocated to each room – a survival presumably from its military days. The attic did previously have a bank of rooflights, the glass from which has been smashed in and the lights roofed over.

In terms of architectural detail - survival is varied. Of note is the tiled floor in the hallway (covered in screed in places but hopefully mostly capable of repair), decorative coving to the former hallway and landing (part damaged but again hopefully capable of repair), grand, staircase at first floor, a few fireplaces and a few fire baskets, partially legible plan form, good survival at attic level. The basements are a number of rooms with the remains of blocked sash windows. Some brick paver floors survive while others have been lost. There is one set of cold slab shelves in the basement.

### **Statutory framework**

Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') require the Local Planning Authority (LPA) to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess. In this context, the objective of preservation is to cause no harm, and is a matter of paramount concern in the planning process.

Policies CP14 and DM9 of the Council's local plan, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. Key issues to consider in proposals for additions to heritage assets are proportion, height, massing, bulk, use of materials, land-use, relationship with adjacent assets, alignment and treatment of setting.

The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 12 of the National Planning Policy Framework (NPPF). Paragraph 132 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 7).

### **Comments on proposed scheme**

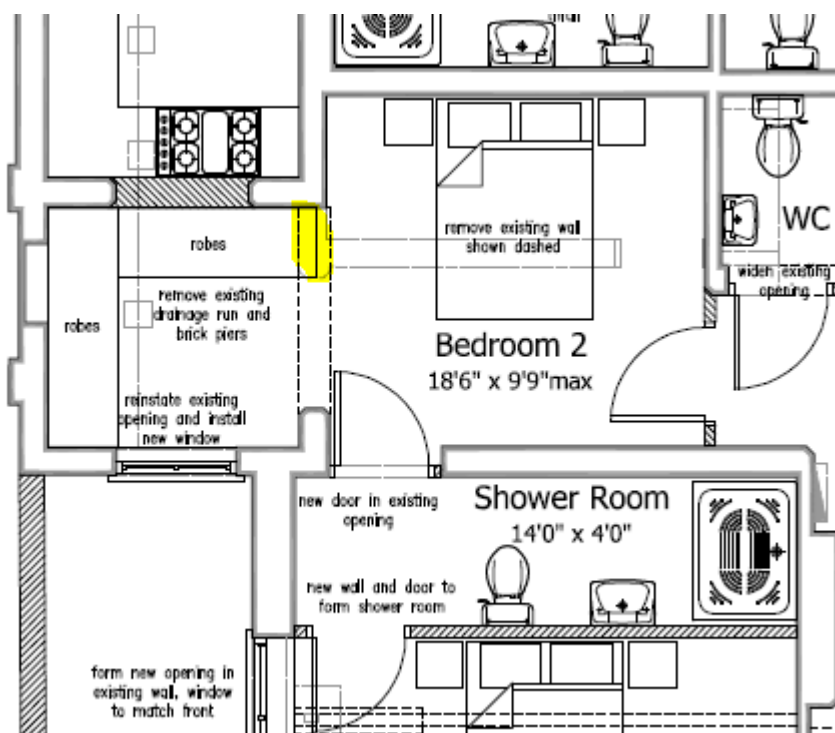
#### **Basement**

One of the main changes to the basement is the reinstatement of the windows here, which can be seen surviving, albeit in a derelict and blocked in form. These were reasonably formal sash windows and show that the basement was used as living accommodation in some form. Their reinstatement and the better use of the cellar will be a positive heritage gain for the building. Ido

note, however, that for some reason the new cellar windows have been drawn as almost full height but are not currently. I can see no reason why the existing pattern (which survives well enough to be copied) could not be re-used. I would be grateful if you could pursue this amendment please. I understand from the owner that some hidden steel supports will be required behind these window architraves but I have no objection to this. **All repairs and structural interventions required should be conditioned.**

In terms of plan form, the overall existing layout is actually quite well preserved in the proposed plans. I note one of the small store rooms is being removed to create a larger room, but appreciate the re-use of the adjacent store room as a shower and another as a kitchen.

There is one small area, see plan extract below, where an attractive rounded arch is being removed to create a wider entrance to a wardrobe area. Given the use of this space there is no need for this removal of fabric and the arch should be retained.



It is a shame to lose the shelving with the cold slabs, though I do accept they could be hard to re-use within the flats conversion. Overall I think the reinstatement of the windows and an active use here makes for an acceptable balance and I have no objection.

I note in the proposed sections one area of cellar floor will be raised – this is where it has been reduced in height previously and I have no objection to this.

**Ideally the brick pavers, where they exist, should be retained, which should be conditioned.**

*Is there a proposal to tank the cellar?* It does not actually seem to smell or feel damp so I am not sure this is necessary, though do accept that there are no architectural features which would otherwise be covered or compromised (other than the floor covering – see above) if it were tanked (especially as the windows will be reinstatements).

**Ground floor**



The main alteration here is the reinstatement of the grand, staircase down from the first floor level. This will be a significant heritage gain and improvement to the aesthetic significance of the building as well as making the plan form more legible. I understand new decorative metal stair rods would be cast to match, though this detail should be conditioned. Now that the suspended ceiling over the bar has been removed the decorative coving is now revealed and while it will **need repair (to be conditioned)** it is relatively well preserved and mostly capable of repair. **The treatment of the tiles in the hallway, as well as the spec for coving repair, should also be conditioned.** This should secure a significant heritage gain for this building.

In order to divide off the separate residential units from this communal hallway I appreciate that a new inner hall is to be created, to allow not just access into the flats but access *within* the flats to different rooms. This seems like an acceptable compromise and the original hallway will still be retained in plan but **the retention of a downstand** where historic walls are being widened out should be conditioned, as this will make the plan form more legible. I understand the **new inner hall can sit just within (and therefore not harm) the moulding on the hallway ceiling, but again this detail could be secured by condition.**

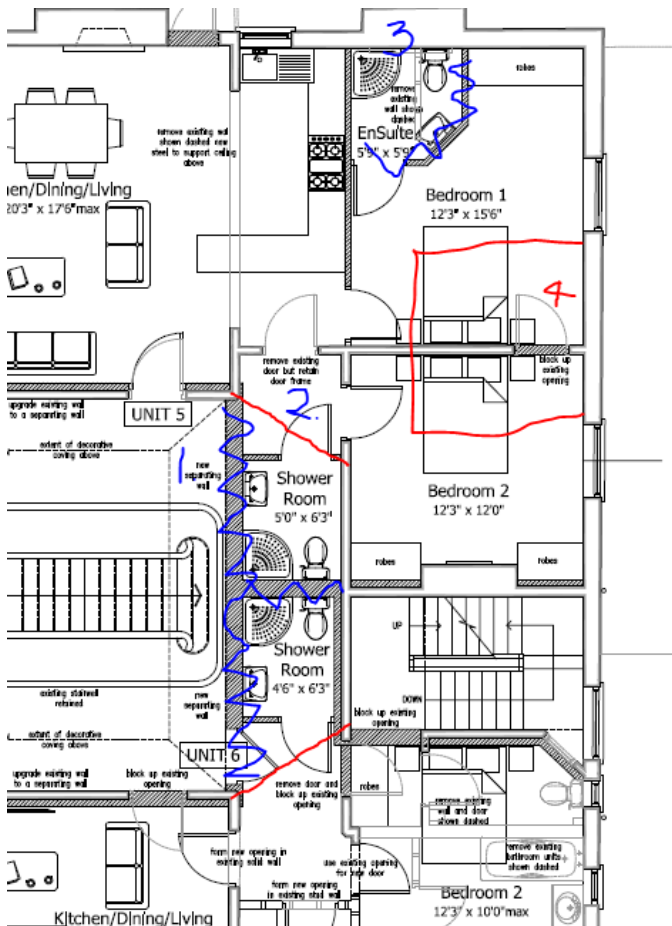
The front rooms are the only rooms which retain their original proportions, though with no fireplace or chimney breast. While the left hand room will be partially opened up to create a kitchen/diner the original layout can be read by conditioning a downstand, and is a 'trade-off' for the re-formation of the right hand room.

The removal of the rear extension gives the opportunity to re-form the original position of the back wall. While these back rooms are to be then subdivided they have long since lost any significance by the wholesale opening up which occurred in the 1960s/70s, so I have no objection to their subdivision and think there is still overall heritage gain by re-forming the original position of the back wall.

*How is any acoustic separation going to be made between first and ground floor? If needed I think this should be made within the ground floor living areas (though not in the communal staircase and hallway) as these rooms are quite altered and I am not convinced the coving in these ground floor rooms are original. Details should be submitted or conditioned.*

## **First floor**

Please see my annotated floor plan for suggested amendments to the first floor:



My main issue with this first floor layout is the way the reinstatement of the grand staircase will be compromised by bringing forward rooms right up the banister, removing the landing, as marked with the blue zigzag line and number 1. This will crowd the staircase and undermine the ostentatious sense of space (and circulation) that it was designed to bring. I have spoken to the owner about this specifically and accept there needs to be some form of easement to keep access across the landing to the flats, but that this can be achieved by a chamfered corner, as marked number 2 above, leaving most of the original landing open. This will complete the positive impact of reinstating the grand staircase.

I am also not happy at the proposed ensuite across a fireplace (marked number 3 above). I do appreciate an existing inappropriate stud wall here, but the removal of this and reinstatement of the fireplace as a proper feature will be a positive enhancement which could be achieved here. The compromise is the need to achieve bathroom space and I feel this is best achieved by creating a 'Jack and Jill' style arrangement as marked number 4 above. Overall, I think this will be a better arrangement than is currently at the building and a reasonable compromise moving forward. What we didn't discuss on site, but which could be looked at, is whether the floor to ceiling height is such that this ensuite could be formed more as a pod, sitting under the original ceiling height allowing the original layout of the room to be read. The other option, which was used at St Pancras Station Hotel and put forward in the recent Kelham Hall application, is to create a bespoke bed which has an ensuite behind, almost like a fitted wardrobe, although I appreciate this may be more appropriate for hotels than for residential properties.

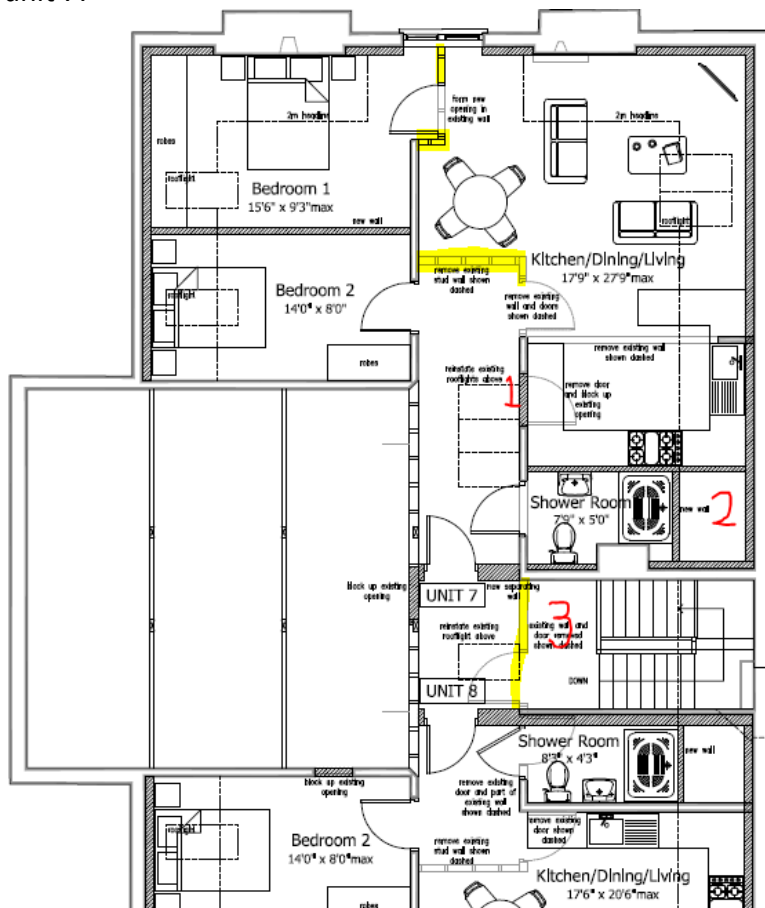
I also note there are various areas of internal lining to improve acoustic qualities between separate units. While this is an otherwise unwanted intervention the room proportions are such that this can be achieved with no perceptible alteration but I would ask that the **coving, skirting and picture rails be reformed and secured by condition.** It is a better compromise to have this

lining within the living areas, rather than on the staircase and landing, and so overall I have no objection to this intervention. Equally bedroom 2 of unit 5 sees lining either side of the chimney breast, but the reveal is deep enough here to allow for this with no perceptible loss of the chimney breast projection. **I would ask that the annotation marked robes either side of this chimney breast not rise to full ceiling height, allowing the dimensions of the chimney breast to be read, again to be secured by condition.**

Second floor

The second floor has the best degree of preservation in plan form, although unsurprisingly the least amount of fine architectural detail (as is usual of what would have been servant's quarters). I am disappointed to see a large degree of loss to the planform here, which in most cases does not seem necessary at all. The owner and I discussed potential revisions here and feel a similar and workable layout can be achieved by mostly retaining the existing plan form, as indicated below:

In unit 7:



Fabric marked yellow should be retained and the scheme would work the same with this retained.

This includes the entrance lobby to the second floor (marked by number 3) where the arched opening should be retained, although the door itself can be lost as this is a modern, somewhat flimsy, door.

At my number 1 the historic door (which retains details of the number of billeted soldiers painted onto it) should be retained and fixed shut.

I note there is a bathroom to be formed across a chimney breast but this is the flue only and no sign of having had a fire place opening, so I am happy with this. We discussed not wasting the void at number 4 but incorporating this for a bath, which seem a sensible use of space.

Again, where the wall is to be removed to create the large kitchen/dining/living area I believe there should be space for small downstand to be left?

I believe a bed is shown across a fireplace with fire insert in bedroom 1. While I appreciate this is indicative only the fireplace and fire insert here should be retained.

Generally at second floor:

I believe my annotations for unit 7 also apply to unit 8 which is a symmetrical reflection of this unit, so I would also be seeking similar alterations on this part of the second floor.

I have objection to the proposed division of the large rooms into two double bedrooms. While the rooms have a central fireplace it is very much a functional, rather than decorative, feature and the rooms have no other architectural features that would be harmed by its division. I am therefore sympathetic of the desire to create two double rooms out of this one larger room.

I note again the use of internal acoustic lining. I note this will remove the small projection of the chimney breast, however the existing arrangement is almost flush anyway and the fireplaces are very functional with no grandeur, so I have no objection to this intervention.

I note the reinstatement of the lost rooflights (those closer to the ridge), which I have no objection to. I note these are not shown as 'conservation rooflights', i.e. no central bar is shown – *do we have any evidence they were large sheets of glass as shown?* I wonder if there would be more consistency if these were also designed as conservation rooflights with the central bar? I also note new additional rooflights but do not object to these as they are required to bring a new use to this upper floor, which is lit by minimal natural light at present, and were already a feature historically used at the building. I would rather these were not on the front elevation, but there is no way to sensibly create a second bedroom without them, so provided these are **conditioned to be low profile conservation rooflights** I have no objection.

In terms of acoustic separation between the first and second floor I feel the compromise should occur at the second floor. There is space in the floor void for insulation and I believe a small air gap can be created by over-boarding the second floor floorboards. This would require a minor amendment to the few surviving doors and may require one fire insert to be lifted, but this could be achieved without a visual compromise and leaves the more sensitive first floor preserved. **The exact means of acoustic interventions should be conditioned throughout.**

## Elevations

I note the huge improvement to the rear elevation through the demolition of the flat roofed extensions and the re-formation of the rear wall. I also note the use of a matching margin light sash to the new ground floor elevation, bringing consistency back to this elevation. While I had wanted all the new windows to be aligned at the rear elevation, I note this is not possible due to the location of the servant's stairs, so I doubt this arrangement ever was truly symmetrical. **All new windows should be conditioned.**

I also note reinstatement of the enclosures around the basement windows, which will better reveal the original appearance and significance of the building, and should again be conditioned.

I think it is a plan drawing error but the round topped finish to the side elevation windows has been lost between the existing and the proposed plans, though I can see no reason why. Please can this be looked at and hopefully re-drawn?

### Landscaping

The demolition of the large flat roofed extensions will enhance the setting of the building. The creation of a small area of formal garden to the rear of the building in its place will further help enhance the building, as will the small area of formal greenery to the right of the front entrance way.

I note the equivalent space to the left of the entrance is given over to parking, but I would very much like this space removing and relocating, so that a sense of formality could be seen across the whole of the front (see below). Considering how little is now left of the grounds a sense of greenery and formal setting is now extremely important, especially with the proposed new building in the grounds (see comments below)



I note the proposal has close boarded fencing around the perimeter of the site. While this is far from the historic boundary treatment one would have once seen here, I see it is what is already around the site (plus a small area of modern bricks from an adjacent garage). As such I have no objection but perhaps we could **condition this to be a dark brown colour and softened with planting where possible.**

### Development in the grounds

Units 14-16 have been designed and placed to equate to the kind of ancillary outbuildings a building of this status may once of have had, and their location at the end of the drive would have been similar to other historic arrangements of stables and coach houses etc. Their overall scale is modest and traditional and does not rival the host building. They have a general sense of traditional detailing, in the window proportions, segmental arches, gable stacks etc., but have simple details which avoid the pastiche. They are not located on a part of the site which specifically contributes to its setting and will not affect any significant views. I have no objection to these new units and they may even enhance the setting of the building, enclosing its curtilage and blocking out the residential developments beyond.

The current design of units 9-13 is the result of extensive pre-application discussions, which began initially in creating a new build extension to replace the existing flat roofed units. However, due to the large floor to ceiling heights of the host building, along with its high status and imposing appearance, we were unable to create an extension which respected the architectural features of the host building, deferred to its dominance but also provided a level of accommodation desired by the applicant. While accepting that the total removal of the existing extensions and no commensurate extensions or new build would be the ideal situation, weight must be given to the starting point of these modern flat roofed extensions being a reality and a fall-back position. I am therefore happy that the best way forward is to effectively shift the bulk of extensions and new build away from the main building and create detached structures. Again, I note the overall modest and traditional form and detail of these units, which I do not think will look out of place in this general context. Given the historic removal of the formal setting and grounds of this building and the current impact of the flat roofed extension I think the new build here as proposed this will cause no net harm over the existing arrangement. I do also feel the re-formation of the hall and a small sense of formal grounds around it, even with the new build as proposed, will overall enhance the setting of the hall.

As such I have no objection to these new-build elements **subject to conditions for high quality materials and details.**

### **Conclusions**

Overall I am supportive of this application and am keen to find a viable new use for this listed building which is currently vacant and has been under-used and poorly maintained for many years. Given the building's size but limited grounds I have considered the unlikely event of it being bought as a single residential unit and feel its use as flats is a pragmatic way forward. While there are some inevitable compromises required to divide this building up into smaller units, the scheme also brings with it significant and tangible heritage benefits which, on balance, make for a positive scheme.

There are various elements of detail which I feel need altering to ensure this is not a harmful scheme, especially as in these cases the harm cannot be justified as there are sensible and workable revisions which overcome this harm. I therefore do want to see this scheme improved by negotiation.

If recommended for approval there are various specific and detailed conditions which would be necessary (as well as the more standard conditions seen on listed building conversions) which I have tried to highlight above but am happy to work through prior to determination.

I trust these comments are helpful for now."

**Historic England** – 'Thank you for your letter of 13 June 2018 regarding the above application for planning permission. On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.'

**NSDC – Parks & Amenities** – No response received.

**NSDC – Strategic Housing** – 'Under the Council's current policy, we would be seeking up to 4 units of on-site affordable housing. In terms of tenure we would be looking at 50% affordable rent and

50% shared ownership. I have spoken with a couple of our Registered Providers and given the site details available they would now show some interest in the houses only. (S106 capacity varies from month to month). Their current offer would be in the region of 40% of open market value for the rented and approximately 70% for the shared ownership.

I have discussed the perceived values of these with Planning Policy and they believe this would range from £90K (for the smallest) to £120K for the two bed houses. They would therefore be making an offer of £84k for the two rented properties and approximately £168k for the 2 shared ownership properties. This obviously represents a loss to the developer of £126K for the rented and £72k for the shared ownership. This totals an offer to the developer of £252K for the 4 properties. Therefore they will 'lose' or the planning gain is £198k.

The Council may also be interested in purchasing the properties and also Newark and Sherwood Homes may register and interest.

The Council's policy on commuted sum payments (Affordable Housing SPD) states that any financial contribution must provide sufficient funds to enable the equivalent value of on-site affordable housing to be provided off-site. Where there is no provision on site, the payments must reflect the fact that 100% of the on-site development will be market housing (compared to 70% when affordable housing is provided on site).

Thus for every seven dwellings on site, the commuted sum payment must provide for 3 dwellings off-site.

I would suggest that the commuted sum is a minimum of £200k on this site. If we added the uplift from the site becoming 100% market housing this would increase to £300k.'

**NSDC – Community Facilities (Community Sports and Arts Development)** – 'I have no objection to this proposal subject to a full community facilities contribution in accordance with the current Developer Contributions SPD. Such contribution would be directed at a community project in the locality. Further details can be provided as necessary should this be necessary.'

**Further comments:** "The project I have identified is the Sherwood Avenue Pavilion. The club are keen to open the facility to the wider community particularly in the daytime and outside of the bowling season to make it more sustainable as it is currently underused. The site could be promoted as a community resource where local people could go for social purposes and get some refreshments. The plan is to extent the pavilion ideally and create a kitchen facility and more internal floor space. The facility could be opened up for visitors to the park. I think that the site may have had some S106 monies previously but that would be approximately 13 years ago."

It has since been clarified that the building is an asset now owned by Newark Town Council having been transferred from NSDC.

**Nottinghamshire Wildlife Trust** –(06/02/2018) "Thank you for sending through the Protected Species Survey Report. Whilst the survey work was carried out late in the season, we find we are satisfied with the report's conclusions. Should the application be approved, the recommendations should be secured through use of a planning condition."

**NSDC – Access and Equalities Officer** – Makes general observations

**Independent Viability Assessor** – (in respect of viability report focusing on developer contributions)

‘The applicant has sought to challenge the level of developer contributions by way of Affordable Housing and Infrastructure provision on the basis that the level of contributions proposed would render the development economically unviable.

An independent viability assessment has been commissioned to determine whether the policy based contributions are viable and, if not, the level of contributions that can be delivered whilst maintaining economic viability.

The main premise of the viability appraisal, following advice contained in the NPPF, is that the development should be deliverable, taking account of the full cost impact of planning policies (including affordable housing, CIL and other infrastructure contributions) whilst maintaining a reasonable return to the landowner and developer.

The detailed methodology to assess the economic viability of development is set out in ‘Vi-ab Viability for Town Planners Guidance Notes’.

Summary

The site contains a Grade II Listed Building which is proposed to be refurbished and therefore will have a number of inherent abnormal repair and restoration costs. The remainder of the site will be developed for new build terraced houses.

Key Assumptions

GENERAL		
Net Developable Site Area		0.23Ha
Development Scenario		Brownfield
Total Unit Numbers		16
AREAS		
Net Residential Sales Area	Houses	572sqm
	Apartments	537sqm
Gross Construction Area	Houses	572sqm
	Apartments	671sqm
AFFORDABLE HOUSING		
Affordable Housing Delivery Test Parameters		0-30%
Affordable Housing Tenure Mix		60% Social Rent
		40% Intermediate
SALES VALUES		
	Houses	£1991qm
	Apartments	£1937sqm
CONSTRUCTION COSTS		
	Houses	£1175sqm
	Apartment Refurbishment	£791sqm
ABNORMAL DEVELOPMENT COSTS		
Abnormal Construction Costs	Listed Build Repairs	£79,000
	Demolition	£40,000



<b>LAND VALUE ALLOWANCE</b>		
Residual Land Value with Planning Permission		£111,952
Existing Brownfield Land Use Value		£85,100
Share of Uplift in Land Value to Landowner		50%
Land Value Allowance in Viability Appraisal		£98,526
<b>OTHER FEES &amp; COSTS</b>		
Professional Fees		8.0%
Legal Fees		0.5%
Statutory Fees (Planning, Build Regs, Warranties)		1.1%
Sales/Marketing Costs		3.0%
Contingencies		5.0%
<b>FIXED DEVELOPER CONTRIBUTIONS</b>		
CIL		£0
Planning Obligations		£0
<b>FINANCE COSTS</b>		
Interest		5%
Arrangement Fee		1%
<b>DEVELOPMENT PROFIT</b>		
Development Profit Return on GDV		20%

### Assumptions Comments

The sales values proposed by the applicant for apartments at £1937sqm are significantly in excess of the values recently adopted by the Council in the viability evidence presented at the Local Plan Examination in February 2018. The housing the proposed housing values are broadly in accordance with evidence at £1991sqm. As such the sale values are agreed for the purpose of the appraisal.

The applicant proposes construction cost rates (inc external costs) of £1175sqm for the new build houses and £791sqm for the Apartment refurbishment. This compares favourably to current BCIS rates at £1318 for new build terraced houses and £1351 for refurbished apartments. The applicant's proposed costs have therefore been adopted in the appraisal.

The applicant has included £40,000 for demolition works and £79,000 for various Listed Building repairs including staircase reinstatement, chimney stack overhaul, portico/frontage works and cellar brick sett works. These costs have been investigated in detail but do not seem unreasonable in connection with Listed Building refurbishment.

The land value allowance has been calculated following the benchmarking methodology adopted by NSDC. This splits the uplift in land value 50:50 resulting from the grant of planning permission and is calculated as follows :-

$$\text{Benchmark} = \text{Existing Use Value (Based on Brownfield)} + \frac{(\text{Residual Land Value} - \text{Existing Land Value})}{2}$$

Office/Industrial Use)

$$\begin{array}{rcl} \text{Benchmark} & = & \text{£85,100} & + & \frac{(\text{£111,952} - \text{£85,100})}{2} \\ & & \text{(Based on} & & \\ & & \text{£370,000 per HA)} & & \end{array}$$

The resulting benchmark value at £98,526 is significantly lower than the proposed land value allowance of the applicant at £222,000, which is the reported purchase price.

The standard fee and cost assumptions adopted by NSDC have been used in the appraisal.

For the purpose of the appraisal no Sec 106 Infrastructure contributions have been assumed and the location carries no CIL charges.

### Viability Results & Conclusions

A copy of the Viability Appraisal is attached to the Report.

The viability assessment indicates a small positive margin of £4784. This is not considered sufficient to make any meaningful contribution to Affordable Housing or Infrastructure. It is also acknowledged that the adopted land value benchmark in this case at £98,526 (at approximately £6,000 per residential plot) may be unrealistically low to secure a residential site in this location in Newark.

On balance it is considered that the proposed development is not able to viably support any developer contributions.'

**Four neighbours/interested parties** have made comments/raised concerns which are summarised as follows:

- This development could involve the parking of at least 16 cars and possibly 32 – has this been taken into account?
- Access onto Beacon Hill Road is poor due to on-street parking every day of the week;
- This level of existing on-street parking already obscures the visibility when local residents (eastern terrace lane) are trying to leave;
- Access will be virtually impossible for large lorries with building materials if the entrance is from Beacon Hill Road;
- Loss of privacy through overlooking;
- Imposing impact on Lindum Mews through height of proposed terrace (plot 9) given the 1m difference in land levels and 2m distance to the boundary;
- Plot number 13 will have its gable end right up to the boundary fence which will cause reduction in light to bedroom and sitting room windows of existing house and garden;
- Loss of light to southern boundary of Lindum Mews would dramatically reduce the amount of available light to the front of Lindum Mews (rear accessible only for maintenance);
- Direct loss of sunlight to the front of Lindum Mews would equate to circa 60%;
- The development is too intense, particularly given existing new developments in the area - there has been in excess of 100 houses built within a matter of 300yds within recent years without local amenities being addressed;
- Surface water drainage concerns - Historically, the level of water gathering along the Northern edge of the site has been problematic to the point of flowing in to the adjoining

gardens when the drainage has failed. Drains haven't been able to cope and needs to be addressed;

- May be a more suitable option of a lower property (bungalow) and/or lower number of units which would not impede neighbouring amenity.

### **Comments of the Business Manager**

The Council is of the view that it has and can robustly demonstrate a 5 year housing land supply which has been confirmed by a number of recent appeal decisions including the dismissal of the Farnsfield appeal (at Public Inquiry) by the Secretary of State in April 2018. I do not intend to rehearse this in full other than to say that the policies of the Development Plan are considered up to date for the purposes of decision making and thus carry significant weight in an overall planning balance.

### **Principal of Development (including loss of a Community Facility)**

The existing site was last used as a working men's club. Therefore the starting point is to consider whether the loss of what is effectively a leisure/community facility is acceptable having regard to Spatial Policy 8 of the Development Plan.

SP8 seeks to protect against the loss of community and leisure facilities unless it can be demonstrated that (1) the continued use as a community facility or service is no longer feasible, having regard to appropriate marketing, the demand for the use of the site or premises, its use ability and the identification of a potential occupier; and (2) that sufficient alternative provision has been made elsewhere which is equally accessible and of the same quality or better, and (3) there is sufficient provision of such facilities in the area. I am mindful however that the Publication Amended Core Strategy which is now well advanced is less onerous with the 'and' being replaced with 'or' which given the stage of Plan Review must carry considerable weight.

The applicant has advised that after 100 years the club ceased trading due to it being no longer a viable commercial concern when it was agreed that the property would be sold. Wood Moore & Co. Ltd have confirmed that they were instructed to market the property in June 2016 but that after extensive marketing no interest was received for the property to be purchased as a working social club nor for activities of a similar nature. In April 2017 the former Working Men's Club Committee agreed to sell the property.

Other than confirmation of this from Wood Moore & Co. Ltd no further evidence of marketing has been provided for the period of up to 10 months that this was marketed by them. However I am mindful that the site is located within Newark where there are other clubs (such as the Newark Town Club on Barnby Gate which is within a short walking distance) and public houses also nearby such that I am minded to conclude that there is adequate provision of such a facility in the area and that its loss should not be fatal to this application, particularly when considering the direction of travel of SP8 through the Plan Review.

The site is located within the built up area of Newark which is defined as a 'Sub Regional Centre' as set out in the Settlement Hierarchy defined by Spatial Policy 1 of the Core Strategy which states that Newark should be the focus for new housing growth in the district.

I am satisfied that the site is located within the main built up area of a sustainable settlement, and as such, there is no objection in principle to the residential development at the site. However, the

impact upon the character of the area including the listed building, residential amenity of neighbouring properties and parking/highway safety will all need to be taken into consideration and are discussed below.

#### Impact on Character (including Design and Heritage)

Core Policy 9 requires that developments achieve a high standard of sustainable design and layout that is capable of being accessible to all and of an appropriate form and scale to its context complementing the existing built and landscape environments and requires developments make the most efficient use of land at a level suitable to local character. Policy DM5 provides that the district's landscape and character of built form should be reflected in the scale, form, mass, layout, design, materials and detailing of proposals. Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance.

The conversion of the listed building to 8 apartments has been very carefully considered by the Council's Conservation Officer. Full details are set out in the consultation section above which I have not repeated. Members will see that the Conservation Officer (CO) is very supportive of the scheme and is keen to secure a viable use for this listed building which has been vacant, under used and poorly maintained for years. The CO believes that this scheme will bring with it significant and tangible heritage benefits which include the removal of the modern extensions which harm the buildings significance, the reinstatement of the blocked windows in the basement, the reinstatement of grand central staircase, the removal of a modern suspended ceiling at ground floor, revealing original coving and the restoration of the tiles to the hallway floor to name of few. The Conservation Officer has worked with the applicants agent to secure amendments and clarity where needed such that there would now be no harm to the listed building and all of these benefits including improvements to the grand central staircase could be secured through condition. I concur with the CO that there would be heritage benefits in an approval situation.

With regards the development in the grounds, in order to facilitate this, the ugly flat roof modern extension to the listed building would be removed which in my view would bring about enhancements to the listed building. The design, scale, layout, use of materials and detailing of the proposed new build has been sensitively designed following detailed pre-application advice. All of the detailing could be controlled via condition if the application were to be approved. I share the views of the CO in that the scheme would not have a harmful impact on the setting of the listed building nor the wider character of the area. The CO succinctly summarises the view that we share below:

*“Units 14-16 have been designed and placed to equate to the kind of ancillary outbuildings a building of this status may once of have had, and their location at the end of the drive would have been similar to other historic arrangements of stables and coach houses etc. Their overall scale is modest and traditional and does not rival the host building. They have a general sense of traditional detailing, in the window proportions, segmental arches, gable stacks etc., but have simple details which avoid the pastiche. They are not located on a part of the site which specifically contributes to its setting and will not affect any significant views. I have no objection to these new units and they may even enhance the setting of the building, enclosing its curtilage and blocking out the residential developments beyond.*

*The current design of units 9-13 is the result of extensive pre-application discussions, which began initially in creating a new build extension to replace the existing flat roofed units. However, due to*

*the large floor to ceiling heights of the host building, along with its high status and imposing appearance, we were unable to create an extension which respected the architectural features of the host building, deferred to its dominance but also provided a level of accommodation desired by the applicant. While accepting that the total removal of the existing extensions and no commensurate extensions or new build would be the ideal situation, weight must be given to the starting point of these modern flat roofed extensions being a reality and a fall-back position. I am therefore happy that the best way forward is to effectively shift the bulk of extensions and new build away from the main building and create detached structures. Again, I note the overall modest and traditional form and detail of these units, which I do not think will look out of place in this general context. Given the historic removal of the formal setting and grounds of this building and the current impact of the flat roofed extension I think the new build here as proposed this will cause no net harm over the existing arrangement. I do also feel the re-formation of the hall and a small sense of formal grounds around it, even with the new build as proposed, will overall enhance the setting of the hall."*

For these reasons I consider that the proposals accord with the relevant policies of the Development Plan and bring about heritage gains which will need to be weighed in the planning balance.

#### Cross Subsidy

Throughout the course of the planning application, the viability of the development has been considered in respect of the schemes ability to contribute towards developer contributions which is discussed later in this report. The developer has also put forward a case that the new build dwellings are necessary in order to fund the conversion of the listed building.

Additional viability reports have been submitted upon request which have been independently reviewed. The conclusions of our consultants review are summarised below:

- The conversion of just the listed building into 8 apartments makes an overall 'loss' of approximately £140,000. The listed building appraisal includes the entire site cost at £222,000 which is considered reasonable and fair given its size and location;
- The new build appraisal, which has no cost in for land, makes a profit beyond the base 17.5% allowance, of £95,000;
- The additional profit of £95,000 for the proposed new build houses does not make up the overall loss of £140,000 for bringing the listed building back into residential use (i.e. there is still a £45,000 deficit). As such there is no 'tipping point' as the entire new build development proposed still does not create a minimum developer return of 17.5%. The developer would in effect have to accept a reduced profit of 13.5% on the new build element to make the overall subsidy balance.

It therefore appears to me that mothballing the site is not an attractive option given the site is vulnerable and is already suffering from security issues from squatters (according to the applicants) and there will be a cost of doing this without any revenue to set against this.

The figures show that the conversion of the listed building is highly unlikely to happen without any new build as this alone would make a developer loss giving no incentive to deliver the scheme.

Officers have sought to understand the minimum level of new build development required to bring about the conversion/restoration of the listed building. Based on the applicant's submissions and the independent advice we have taken, it has been concluded that even a scheme for 8 new dwellings would not deliver the usual minimum of 20% profit that a developer would expect in order to provide the incentive to progress. Nevertheless the developer (who has successfully implemented similar heritage schemes previously within the District) has expressed a willingness to accept a lower profit margin of 13.5% and I am satisfied that the new build dwellings are necessary in order to render the overall scheme financially viable insofar as a developer is willing to accept a reduced profit in this case. This must carry weight and the matter will be considered further in the planning balance section.

### Housing Density, Mix and Need

Core Policy 3 provides that development densities should normally be no lower than 30 dwellings per hectare net. Average densities of between 30-50 dwellings per hectare have been set for the 3 strategic sites in the Newark Urban Area.

Excluding the proposed apartments and the land upon which these are sited, the scheme of 8 new build dwellings on 0.2 hectares equates to 40 dwellings per hectare, which is within the range expected in urban areas such as this, subject to other considerations.

Paragraph 50 of the NPPF states that "To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should,

- plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes)
- identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand..."

The Development Plan (in terms of the policies identified below) reflects and is compliant with the NPPF. The Council has sought to plan for a mix for communities and has identified the size, type and range of housing that is required taking into account local demand as is reflected in the following policies.

Core Policy 3 states that the LPA will seek to secure new housing which adequately addressed the local housing need of the district, including the elderly and disabled population. It says that mix will be dependent on the site location (in terms of settlement), local circumstances, viability and any local housing need information. The Publication Amended Core Strategy has, based on more up to date evidence, named that the greatest need for the District as being smaller houses of 2 bedrooms or less and housing for the elderly or disabled population.

This proposal would provide 14 x 2 bedroom dwellings and 2 x 3 bedroom dwellings. Whilst there is a limited mix in terms of the number of bedrooms, I am satisfied that the scheme would deliver a mix of units (with a range of living space options) that meet the most up to date identified needs for the district in a highly sustainable location. The accommodation comprises a mix of two storey terrace/mews dwellings, apartments and contains 3 units that have ground floor accommodation only that would potentially be suitable for the elderly or disabled population. I therefore conclude

that the scheme meets with the policy aspirations of CP3 and is acceptable in terms of density, need and mix.

### Impact on Highways Network

Policy DM5 is explicit in stating that provision should be made for safe and inclusive access to new development and appropriate parking. Spatial Policy 7 encourages proposals which place an emphasis on non-car modes as a means of access to services and facilities. It also seeks to minimise the need for travel through measures such as travel plans, provide safe convenient and attractive accesses for all and provide links to the network of footways etc. to maximise their use, be appropriate for the highway network in terms of volume and ensure the safety, convenience and free flow of traffic are not adversely affected, provide appropriate and effective parking provision and ensure that the traffic generated from a proposal does not create new or exacerbate existing on street parking problems.

Members will note that the Highways Authority have consistently objected (details are contained within the consultation section of the report) to the scheme from the outset. Despite attempts by the applicant to address and persuade the Highways Authority, they remain resolute that the scheme is unacceptable and should be refused.

In order to ensure the scheme is financially viable, 16 units is the minimum number of dwellings required in order to render the scheme financially viable (see Cross Subsidy Section above) so there is no scope from the developers perspective to reduce the number of dwellings.

Access to the site is from Beacon Hill Road between no. 1 The Close and no. 11 Beacon hill Road which is bounded by a wall on each side with fencing along the side of the drive.



The thrust of the NCC objection relates to the inadequacy of the width of the access (which should be 5.8m) and drive for the number of units which would result in vehicles turning in to the drive, encountering a car have then having to reverse back onto Beacon Hill Road to wait for clear passage increasing the likelihood of vehicular/pedestrian conflict. They have commented that

there are no footways or lighting along the length of the driveway and conclude that it is unsuitable for pedestrian activity; the provision of such would further reduce the width of the drive. They have also raised concerns that the 16 parking spaces is insufficient and would further increase on street parking in the area.

In response the agent has sought to address the concerns through the submission of a revised plan and acquiring garages to the south-west (north of no. 1 The Close) which increases the number of parking spaces to 19 as well as including a pedestrian access link from the north-western part of the site (via a passageway adjacent to Plot 16) to Lindum Street to the north. There is no further land available to allow for the widening of the access and drive (so whatever the use the access will likely be substandard). The applicant's agent has also provided a short statement which I have set out in full below:

*"I would be obliged if you would consider the following statement in respect of the propose conversion of the existing commercial premises to 8 apartments together with a further 8 enabling houses, proposed to generate sufficient commercial viability to facilitate the full restoration of this important listed building.*

#### Former Use

*The premises have been a long-standing commercial enterprise consisting of a fully licensed club which attracted significant numbers of people in its heyday. The commercial use not only generated substantial traffic movements in terms of the private car but also required regular deliveries by larger lorry and van movements. The premises provided for a maximum number of 57 car parking spaces which all utilised the existing drive.*

*Since closure of the club, approaches were made for the use of the vacant car park as town centre and college related car parking. This was permitted on a short-term licence arrangement but has now ceased. However, without the ability to secure the planning permission for restoration of the listed building, the re-use of the car park for such purposes will have to be considered in order to generate some income stream.*

#### Proposed Use

*The listed building is in a poor state of repair and it is proposed that conversion to residential apartments will permit its full restoration, together with the reinstatement of features which have been removed over various years. It should also be noted that the building is now beginning to suffer vandalism and illegal occupation, which is further damaging and putting at risk the fabric of the building. An urgent solution to its future use is required.*

*From a highway point of view, it is fully accepted that the access serving the property is below ideal modern day standards and is therefore compromised. However, when the existing lawful use is compared to the traffic generated by the proposed use, there will be a highway betterment in terms of traffic movement out onto the adjacent roads. The situation can further be improved as the acquisition of a double garage block has been agreed and is now proceeding through legals. The three car parking spaces associated with these garages can be removed, thereby further reducing the lawful vehicular use of the existing driveway. The submitted plans also ensure access can be achieved for refuse and emergency vehicles, with onsite turning facilities.*



*Furthermore there is the opportunity to seek additional improvements in the use of the existing driveway by ensuring the installation of traffic calming measures, appropriate signage, lighting and utilisation of the maximum width of the available driveway. All of these matters would create betterment over the existing situation and given the reduction in traffic usage, there is good reason to support this proposal in highway terms alone. Notwithstanding this, there is a critical need to ensure the future commercial and viability viable use of the import listed building before further deterioration takes place.*

*In any event, the location of the property is highly sustainable and within walking and cycling distance of the town centre and other public transport facilities. The inclusion of a requirement for a travel plan for future residents would further incentivise the reduction in dependency on the private car.*

### Conclusion

*The existing commercial use and alternative use of the existing carpark can be demonstrated to have a greater impact on highway concerns in the locality than the proposed modest redevelopment for residential use. Given the thrust of National policy to provide more housing, the sustainable site location and the ability to secure highway access improvements, the balance should be such that a wider strategic view be taken to support or at least raise no objection to the proposal which will ensure the viable future for an important listed building.”*

The amendments and above Statement have not overcome NCC Highways concerns with them stating that the pedestrian access is not the shortest desire line to the town centre and their reiteration of previous concerns.

I note the new pedestrian route is not the most convenient for the town centre but it would likely be attractive for residents using the convenience store on Sleaford Road and the Northgate Railway Station.

The agent makes an argument that the fallback position is such that it could have a worse impact upon highway safety than the proposal and its use as an interim car park (bearing in mind there is currently space for over 50 cars) has the potential to attract cars at peak times, not unlike a residential use. This would not require planning permission so it is realistic. This fallback position causes me some difficulty in balancing the highway view against matters which could arise in any event. On this basis NCC have been explicitly asked whether on this basis they are still confident to object and whether they would defend their position in an appeal situation. Their response (14/06/2018) is as follows:

*“The access arrangement is both wrong for the scale/type of proposed development AND as use as a car park. Therefore I am of the opinion that using the site as a car park does not make it any more right (in this case) to approve the residential development where residents will have no choice but to use a risky access. I am uncertain as to how attractive a public car park will be here in any case. I stand by our recommendation and would be happy to support an appeal if necessary.”*

You will note that that NCC Highways Authority are resolute that the scheme would be harmful to highway and pedestrian safety even taking into account the fallback position. It is fully accepted

even by the applicants that the access is inadequate in terms of its width but there is no land available to allow for this to be widened and the reality is that whatever the use of the site in future, the access would likely be sub-standard. Whilst I do feel that the NCC stance is challengeable at appeal (especially when fallback is considered alongside heritage matters) I note that NCC remain resolute, and are the statutory consultee and highway experts in this instance. Accordingly I do give great weight to their objection given the potential harm to highway safety and pedestrian and vehicular conflict.

Despite attempts to find a solution, this has not been possible. From NCC Highways perspective the fewer number of units the safer the development would be. Given the site is within walking distance of the town and thus is a highly sustainable location I have explored with NCC whether there is any scope for a scheme to provide no parking (or a more limited number of parking) given its location within Newark. The NCC reply was that this would lead to on-street parking which they would also object to.

### Impact Upon Residential Amenity

Policy DM5 requires development to be acceptable in terms of not having a detrimental impact on residential amenity both in terms of existing and future occupiers. Indeed 'always seeking to secure a good standard of amenity for existing and future occupants of land and buildings' is one of the 12 core planning principles set out in the NPPF.

Careful consideration has been given to the impacts of the scheme and I consider these further below.

#### *Plots 1 to 8 (proposed apartments within the existing building)*

The external alterations to the listed building are relatively minimal and the applicant has sought to utilise existing fenestration openings limiting the impact upon neighbouring in terms of overlooking.

Four small roof lights are proposed to be inserted on the front elevation serving bedrooms of the apartments within the attic space; these are situated c14.8m from the boundary with dwellings to the west, albeit these are off-set to the north and south. Given the distance and orientation, I do not consider that these would cause an unacceptable impact in terms of loss of privacy.

At the rear of the listed building, 4 roof windows are proposed facing east towards the front elevation of new build plots 9 to 13. Whilst the distance between the listed building and the proposed dwellings is c12.5m away, I am mindful that this is an acceptable arrangement in the case of many dwellings facing one another with a highway in-between and thus I do not consider it to be detrimental.

There are no new upper floor windows to the building that would impact upon the privacy of existing dwellings.

#### *Plots 9 to 13*

A row of 5 two storey terraces would be located broadly parallel with the eastern site boundary. The rear of the proposed terraces would be located between 5.6m and 6.4m from the eastern boundary which consists of the blank (single storey) rendered wall of the adjacent funeral

outbuilding for much of the boundary. There would therefore be no unacceptable overlooking towards the east.

The northern side gable end is located c2m from the northern boundary. No. 1 Lindum Mews, part of a one and a half storey row of Mews dwellings lies approximately 1.5m from the boundary and the proposal would therefore be c3.5m away. I note the presence of a side window at first floor level (to the west of the ridge) within No. 1 Lindum Mews. This is clear glazed and may serve a bedroom. Plot 13 (the end terrace) has been sited such that this is staggered slightly away from the western elevation of No. 1 by 1.4m and projects out by 1.2m beyond its eastern elevation where the private gardens appear to be located. There are no openings proposed within the northern side boundary and consequently there would no overlooking to the north. Given that the existing window to No. 1 is off-set and the end terrace is also off set, I consider that the impact upon the occupier will be minimal. The occupier of No. 1 would have a view of terrace frontages grounds and overbearing impacts would be diminished even taking into account the ridge height of 7.37m and the slightly lower land levels of the existing Mews. Finished floor levels could be controlled by condition to ensure that this remains acceptable if the application were to be approved.

The southern side gable of this terrace block (Plot 9) again proposes no openings to avoid overlooking. This would be located c13.6m from the rear elevation of No. 7 The Close to the south and c15.3m from the rear elevation of No. 6 The Close. I consider that these distances together with the positioning (whereby the gable would straddle the boundary between the existing dwellings) is adequate in order to avoid an unacceptable impact from overbearing and loss of light.

The distance from the first floor windows of the terraces to No. 21 Lindum Street is c22m and is slightly oblique such that I consider it would be acceptable to avoid any unacceptable loss of residential amenity.

#### *Plots 14 to 16*

There are 3 dwellings proposed to the north-western corner of the site arranged in a corner L plan form.

Plot 14 is single storey and would be sited between c4.6m and c5.2m from the northern boundary. The dwelling immediately adjacent to the northern boundary here is No. 21 Lindum Street, a two storey Victorian terrace that has its blank side gable facing the application site. Given this dwelling is single storey, I consider that the impacts on the neighbour are acceptable in terms of overshadowing and loss of privacy etc. I do consider however that if minded to approve a condition should be imposed to remove permitted development rights in respect of alterations to the roof to safeguard the amenity of the neighbour.

Plot 15 is two storey and is located c6.2m from the northern boundary with No.21. The majority of Plot 15 would face the blank gable of no. 21, however c2.8m of it would project beyond the main rear elevation wall and be located c7.6m from the blank elevation of its two storey rear offshoot. Having carefully considered the relationship, I am satisfied that this is acceptable and would not amount to an unacceptable loss of amenity through overbearing and loss of light. The internal layout has been amended to remove one of the bedroom windows that would have directly overlooked the yard of the adjacent neighbour such that a bathroom window (which could be obscure glazed and non-opening controlled via condition) now replaces it which negates any loss of privacy.

Plot 16 is proposed to have a blank side elevation facing west towards No. 26 Lindum Street (a bungalow) in order to avoid direct overlooking. I do not consider that this would cause any unacceptable impacts such as overbearing upon the adjacent properties given its orientation and distances to existing dwellings. The northern (rear) elevation of the proposed plot would face partly onto the blank gable of No. 21 Lindum Street and the street itself. Whilst oblique views from the first floor bedrooms would be possible of a small part of the parking area and access of No. 26, this is not the private amenity space that the bungalow currently enjoys. Likewise oblique views may be possible of the frontage of No. 24 Lindum Street but I find that the relationship is not dissimilar existing ones (for example No. 21 and 24 which front either side of Lindum Street). Consequently I do not consider there would be any adverse impacts upon the amenity of neighbours that could sustain a reason for refusal.

Having carefully considered the impacts upon amenity arising from this development I find that the proposal is satisfactory and in accordance with DM5 of the Development Plan.

### Flood Risk

Core Policy 9 (Sustainable Design) provides that development should 'through its design, proactively manage surface water, where feasible, the use of Sustainable Drainage Systems.' CP10 seeks to mitigate the impacts of climate change whilst Policy DM5 also seeks to ensure development is safe for the intended users without increasing flood risk elsewhere. This broadly reflects the advice in the NPPF.

The site lies in Flood Zone 1 which is at lowest risk of flooding but is within an area prone to surface water flooding. The application is accompanied by some Flood Information showing the site is at low risk of surface water flooding. No flooding is shown on the site during the high or medium risk events, only the low risk event (which is actually low probability and not low risk) and there is no development proposed within this area of the site, and the proposals are not likely to impact on the surface water flooding shown to the surrounding areas. The Lead Local Flood Authority have stated they do not wish to make comments given its low risk of flooding. I note that representations from local residents have raised surface water drainage as an area of concern. However I am satisfied that in the event of an approval a condition could be imposed to deal with surface water disposal. Subject to this, I consider the proposal would accord with CP9, CP10 and DM5 of the Development Plan.

### Impacts on Ecology

Core Policy 12 and Policy DM7 promote the conservation and enhancement of the District's biodiversity assets. The NPPF also seeks to minimise impacts on biodiversity and provide net gains where possible.

The application has been accompanied by a Protected Species Survey which has surveyed the existing building and its extensions for bats and nesting birds. This concludes that whilst the main building has a number of features of potential interest to bats, given its location, only light tolerant species such as Pipistrelle are likely to be regularly foraging around this location and as such it is considered to have 'low roost potential'. There was no evidence of bat activity found either within the building or outside. The extensions (which are to be demolished has a 'negligible roost potential'. The emergence survey confirmed that Pipistrelle bats observed are unlikely to have emerged from a roosting point in close proximity to the survey area.

The Survey suggests that if permission is granted, that the works to repair the soffits of the main building should ideally take place outside of the bat activity season as a purely precautionary measure. It also suggests that if such work does have to take place during the 2018 bat activity season it is recommended, once again as a purely precautionary measure, that the soffits should be inspected by a licensed person who can use an endoscope to inspect any deep areas within the remaining soffits once scaffolding has been erected. I am satisfied that these recommendations along with ecological enhancements could be secured by condition. Subject to these I consider that the proposal would accord with the Development Plan with regards ecology impacts.

### Developer Contributions and Viability

Spatial Policy 6, Policy DM2 and Policy DM3 set out the approach for delivering the infrastructure necessary to support growth. This states that infrastructure will be provided through a combination of the Community Infrastructure Levy, developer contributions and planning obligations and where appropriate funding assistance from the District Council. The Developer Contributions and Planning Obligations SPD provides the methodology for the delivery of appropriate infrastructure.

In terms of the starting point, the contributions that would ordinarily be sought as are follows:

#### *Affordable Housing*

Core Policy 1 provides that for schemes of 11 or more dwellings, on-site affordable housing should be provided with a tenure mix of 60% social rented and 40% intermediate housing. This is reaffirmed within the Council's SPD on Developer Contributions. A scheme for 16 dwellings would require 4 affordable houses on-site to meet the 30%.

In Newark there is need for 2 bedroom affordable dwellings as well as one bedroom affordable units. Given the nature of the development it is unclear as to whether a registered provider would take units on the site and an off-site contribution was likely to have been sought, albeit the viability issues (discussed shortly) means that this has not been progressed. No affordable units are being offered as part of this proposal.

#### *Provision for children and young people*

As a development of 16 dwellings, this application would normally need to make provision for public open space at 18m<sup>2</sup> per dwelling (288m<sup>2</sup>) as set out in the Developer Contributions SPD. As none is shown on the layout nor indeed would it be appropriate to, it would be expected that a financial contribution should be provided in lieu of this which would be spent to upgrade the existing parks in the area, the nearest of which is a short walk away to the south-west. This is based on £927.26 per dwelling based on 2016 indexation equating to £14,836.16.

#### *Community facilities*

Community facilities are defined as including Community Halls, Village Halls, Indoor areas for sport, physical activity, leisure and cultural activity and Halls related to places of worship. The Council's SPD provides where existing infrastructure exists or where small scale developments do not warrant new infrastructure, a contribution may be appropriate to support the existing infrastructure such as a village or community hall or other community asset. It goes on to say that

'it is further recognised that some community facilities are not fulfilling their potential to meet the needs of residents and thus may appear to be underused. In such circumstances qualitative improvements to such facilities would increase their ability to make a positive contribution to meeting the needs of the community.'

The site itself is too small to provide community facilities on it and therefore any additional pressure upon community facilities that this scheme would place upon the community should be met off-site by way of a financial contribution. The Community Projects Manager has advised that such a contribution should go towards the Sherwood Avenue Pavilion in order to help with widening the appeal of this building (through creating a kitchen facility and possible extension) during the daytime and outside of the bowling season for social purposes and refreshments. I consider that this is justified and is apt given that it would go towards sustaining a facility that could fill any void that the loss of the former working men's club may have left. A financial contribution toward community facilities which is based on £1,384.07 (figure from SPD but indexed at 2016) per dwelling equating to a maximum of £22,145.12.

### *Education*

The Developer Contributions and Planning Obligations SPD indicates that development which generates a need for additional primary school places will be secured via a legal agreement. Nottinghamshire County Council has reviewed the proposals and have confirmed that a development of 16 dwellings would yield an additional 4 primary places. Each primary school place costs £11,455 based on their methodology which is set out in the SPD and thus a primary education contribution of £45,820 would be required to accommodate the additional pupils projected to arise from the proposed development. In terms of secondary education the development would be covered under CIL regulations.

### *Libraries*

The trigger for library contributions has now been raised and would not be applicable to this scheme.

<b>CONTRIBUTION</b>	<b>Policy Requirement</b>
<b>Affordable Housing</b>	<b>30% on-site provision (equating to 4 x 2 bedroom units)</b>
<b>Children's Play Area</b>	<b>Provision either on-site (at a rate of 18m<sup>2</sup> per dwelling) or by financial contribution based on £927.26 (indexation 2016) equating to £14,836.16</b>
<b>Primary Education</b>	<b>£45,820 to provide 4 additional primary places (at £11,455 per place)</b>
<b>Community Facilities</b>	<b>Financial contribution based on £1,384.07 per dwelling (2016 indexation) equating to</b>

<b>CONTRIBUTION</b>	<b>Policy Requirement</b>
	<b>£22,145.12</b>
<b>TOTAL</b>	<b>4 x affordable houses on site plus £82,801.28</b>

### *Viability*

The National Planning Policy Framework says that plans should be deliverable and that the sites and scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. The NPPG makes clear that this policy on viability also applies for decision taking and makes clear that decisions must be underpinned by an understanding of viability, ensuring realistic decisions are made to support development and promote economic growth. Where the viability of a development is in question, local planning authorities should look to be flexible in applying policy requirements wherever possible.

A Viability Case has been submitted that seeks to demonstrate that the scheme cannot afford to contribute to any of the normal expected developer contributions as doing so would render the scheme unviable. The Council has commissioned an independent expert to provide independent advice to the Council in respect of viability. Their advice to the Council is contained within the consultation section of this report.

Members will note that our Independent Viability Assessment concluded that the development cannot not afford to pay any of the requested developer contributions. It is noted that a nominal positive margin of £4,784 exists. This could not deliver any of the infrastructure needs of the development albeit it could be put towards off-site affordable housing in the Newark area given that this contribution can be pooled and spent through the Councils own programme of works in delivering affordable housing. The applicant has stated they are willing to offer this and has instructed solicitors to prepare a Unilateral Undertaking to enable this contribution to be secured. On the basis of the advice received I am satisfied that the applicant has demonstrated that the scheme is unviable if contributions above £4,784 are sought.

### **Other Matters**

#### *Bin Store/Collection Area*

The applicant was asked to consider the refuge/bin collection arrangements that could come forward with their scheme at pre-application stage. The layout plan shows the provision of a bin storage area (for the apartments) adjacent to the garage court of The Close. Whilst this does not appear to be sufficient to accommodate potentially 16 bins associated with the apartments, I am satisfied that there is sufficient space to enable a scheme to be provided for, which could be controlled via condition. Storage of bins for the new build properties would be within their own plot curtilage.

The applicant has advised that the bins for the dwellings would need to be taken to the roadside on bin collection days as there is insufficient turning space to allow a refuse lorry to manoeuvre within the site. There are now two potential roadsides where the bins could be taken (Lindum

Street through the new pedestrian access and Beacon Hill Road) thus dispersing the number of bins that would be on the roadside on collection day. I am therefore satisfied that a suitable solution for this could be found in the event of an approval.

### Planning Balance and Conclusion

Members will note from the appraisal above that in this particular case there are many material planning considerations to balance in coming to a final view. This site is located in a very sustainable location being on the fringe of the town centre and within the Newark Urban Area. The building forms a Grade II listed building which is of significance nationally by the very nature of its designation which is currently vacant and in a vulnerable state.

The proposal would bring back into active use of this heritage asset and bring about a number of heritage benefits through being able to secure restoration of lost features within the building and improve the setting the building through the demolition of inappropriate, ugly extensions and their replacement with more appropriately designed new dwellings which better complement the building and its setting. I am also satisfied that the level of new build development is the minimum required through cross subsidy in order for the scheme to be financially viable with the developer accepting a reduced profit in order to bring forward the proposals. Clearly as professional officers, we would want to see the listed building restored and retained with a viable and long term used in place.

However these heritage benefits need to be carefully balanced against the highway concerns and the fact that this scheme cannot afford to pay the necessary and appropriate contributions towards primary education, affordable housing, community facilities or children's open space. I take the view that the heritage benefits and the need to secure a viable future use of the listed building should take priority in this particular instance over the inability of the scheme to pay towards the infrastructure impacts of the proposal, albeit I say that with some caution with respect to education and affordable provision (I consider there is sufficient provision within Newark to largely absorb the impact of the scheme for community facilities and open space).

In terms of the highway safety harm, Members will note the firm view of NCC that the scheme would be harmful to highway and pedestrian safety even taking into account the fallback position through the increased use of what is accepted is a sub-standard access. However it should also be noted that a new use must be found for this building in order to retain this valuable heritage asset and that any such use would likely have issues with its access, albeit it is an access that has been used previously for years without incident for greater activity than is now proposed.

Notwithstanding my concern that the highway refusal reason is debatable in an overall planning balance, as highway experts I do give great weight to NCC's objection. On a very fine balance, I conclude that this just amounts to a determinative material consideration. On this basis I recommend refusal.

### RECOMMENDATION

**That planning permission is refused for the following reason:**



01

In accordance with the current Highway Design Guide (6C's), for this number of dwellings an access is required to have a minimum width of 5.8m (4.8m minimum width with 1m added as the access is bounded on each side). The existing/proposed access is considerably less than this. This would result in the situation where a vehicle would turn into the driveway to meet an egressing vehicle. This would lead to reversing/manoeuvring from the access driveway onto Beacon Hill Road to wait for a clear passage along the driveway, increasing the likelihood of vehicular/pedestrian conflict and danger. There are no footways or lighting along the length of the driveway and as such is unsuitable for pedestrian activity and to provide these would further reduce the already sub-standard access. Furthermore there is also concern that the scheme would not provide for sufficient on-site parking. Consequently the development would likely further increase on street parking in the vicinity resulting in an increase in the likelihood of danger to other users of the highway due to the likelihood of vehicles being parked on the public highway. In the opinion of the Local Planning Authority the proposal is therefore contrary to Spatial Policy 7 (Sustainable Transport), Core Policy 9 (Sustainable Design) of the adopted Newark and Sherwood Core Strategy Adopted March 2011 and Policy DM5 (Design) of the Allocations and Development Management DPD Adopted July 2013 which together form the Development Plan. There are no material planning considerations that outweigh the harm identified.

### **Informative**

01

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. However the District Planning Authority has worked positively and proactively with the applicant to make some revisions to the proposal. Whilst not all problems arising can be overcome, several potential reasons for refusal have been negated.

02

You are advised that as of 1st December 2011, the Newark and Sherwood Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date. Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

### **Background Papers**

Application Case File

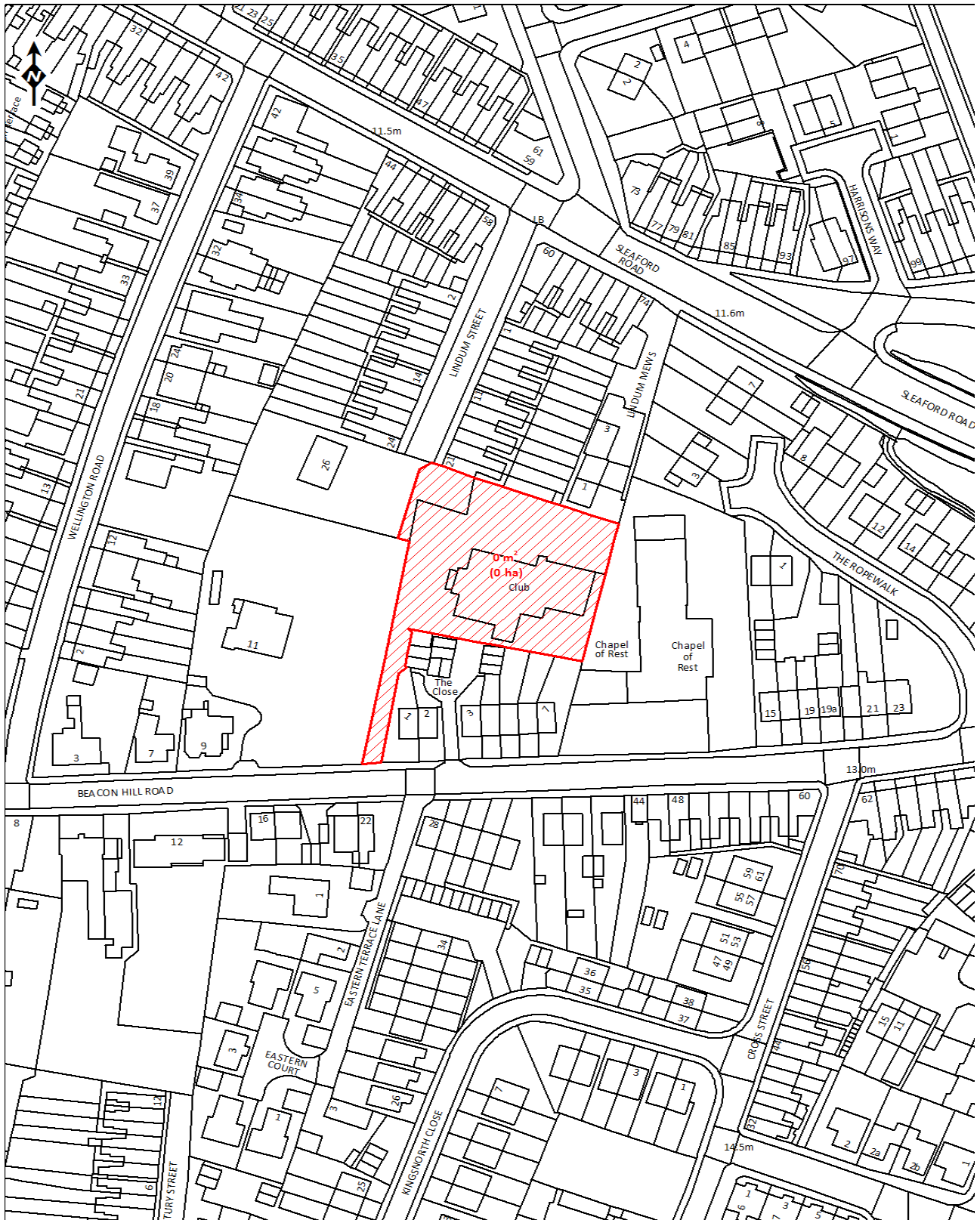
For further information, please contact **Clare Walker** on ext **5834**.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

Matt Lamb

Business Manager for Growth and Regeneration

Committee Plan - 18/00125/FULM



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## PLANNING COMMITTEE – 3 JULY 2018

<b>Application No:</b>	<b>18/00126/LBC</b>	
<b>Proposal:</b>	<b>Proposed conversion of Hatton House (formerly Newark Working Mens Club) Beacon Hill Road Newark, to form 8 apartments. Remainder of building to be demolished. To include erection of 8 new cottages and associated access and landscaping works.</b>	
<b>Location:</b>	<b>Newark Working Men’s Club, 13 Beacon Hill Road, Newark On Trent</b>	
<b>Applicant:</b>	<b>Northgate Lettings</b>	
<b>Registered:</b>	<b>19 January 2018</b>	<b>Target Date: 16 March 2018</b>

**This application is before the Planning Committee as it is linked to the full major scheme also on the agenda.**

### The Site

The site lies on the northern side of Beacon Hill Road in Newark and contains a Grade II listed building that was formerly the Newark Workings Men’s Club. The list description states:

*“Formerly known as: Hatton House School BEACON HILL ROAD. House, now working men’s club. Mid C19, with mid and late C20 alterations. Stucco with hipped slate roof and 4 coped external gable stacks, each pair with a shaped gable between them. Chamfered quoins, dentillated eaves. 2 storeys plus garrets; 3 window range. Projecting hipped central bay with central French window and fanlight, flanked by plain sashes and resembling a Venetian window. On either side, a tripartite plain sash. Tetrastyle Doric portico with dentillated cornice, covering a pilastered doorcase with multiple keystones and 2-leaf fielded panelled door, flanked by single plain sashes. Single small sashes in each return angle. Beyond, single C20 French windows with sidelights. In each gable, a round headed margin light sash and above, a paired sash to the garrets. Interior altered late C20.”*

The building is set amongst hardstanding which was last used for car parking and can, according to the applicants accommodate c54 cars. The building is currently vacant and in a relatively poor state of repair.

Vehicular access to the site is located from Beacon Hill Road between No. 11 Beacon Hill Road and No. 1 The Close. The driveway is defined on either side by walls/fencing. There is an existing mono pitch garage (at the northern end of the drive) which appears to take its access from the driveway but which isn’t the application site.

The application site also includes a small part of the garden of a property to the west which was erected under a permission granted in 1993 (FUL/93/0905) and is known as 26 Lindum Street. This part of the site until recently accommodated a single storey modern outbuilding which appears to have been demolished. This part of the site is bound by weathered fencing.

To the north of the site is the blank gable end of the two storey Victorian terraces of Lindum Street. No. 21 (the end terrace) takes its rear access via a passageway further along the row of the terraces albeit its garden bounds the site. Also to the north is the side elevation of Lindum Mews (a two storey mews terrace) which sits approximately 1 metre from the boundary (comprising relatively new timber fencing with laurel bushes planted in front of these). No. 1 Lindum Mews, (planning ref. 86/0217) which is the nearest dwelling, has a window at first floor level which appears to serve a bedroom.

To the south of the listed building are two storey modern dwellings known as numbers 1 to 7 The Close. These dwellings front the highway but vehicular access to these dwellings is between numbers 2 and 3 (which provides a view of the listed building from the roadside) and leads to its parking/garage court.

A Chapel of Rest/Funeral Directors has its buildings forming part of the eastern boundary with its single storey blank elevation facing the application site.

The site lies within the 'Newark Urban Area' as defined within the Allocations and Development Management DPD. The site also lies within an area that is prone to surface water run off according to the Environment Agency Maps.

#### Relevant Planning History

18/00125/FULM - Proposed conversion of Hatton House (formerly Newark Working Men's Club) Beacon Hill Road Newark, to form 8 apartments. Remainder of building to be demolished. To include erection of 8 new cottages and associated access and landscaping works.' This application was submitted concurrently with this listed building consent and is pending consideration.

PREAPP/00199/17 – Pre-application advice was sought for the conversion of the existing listed building to residential use and its extension by way of the erection of a new apartment block and some new dwellings; totalling 17 dwellings. Advice was offered in November 2017.

#### The Proposal

Listed building consent is sought for the demolition of existing extensions to the listed building and its conversion to 8 residential apartments together with the associated internal alterations.

Two apartments would be created on each level (basement, ground, first and second floors) of the listed building.

Within the Basement, Unit 1 would have an open plan kitchen, diner and lounge which would gain natural light from a lightwell, a master bedroom with shower room and a second bedroom also gaining light from a second lightwell. Also within the Basement Unit 2 has its dining/lounge area and separate kitchen arranged to benefit from a lightwell. The main bedroom also benefits from a further lightwell, whilst the second bedroom proposes a high level window in an existing opening to serve it. A separate shower room and toilet are also proposed.

At ground floor level Units 3 & 4 would have an open plan kitchen, diner and lounge, two double bedrooms (one with en-suite) and bathroom.

At first floor both Units 5 & 6 are accessed off grand central staircase and would have an open plan kitchen, diner and lounge, two double bedrooms (one with en-suite) and shower room.

At second floor Units 7 & 8 would be accessed off a secondary, rear staircase. Each would have an open plan kitchen, diner and lounge, two double bedrooms and a shower room.

The following plans and documents accompany the application.

- 17.3410 - Site Location Plan
- 17.3410.01 Existing Details Sheet 1 of 8 (Ground Floor Plan of existing building)
- 17.3410.02 Existing Details Sheet 2 of 8 (First Floor Plan of existing building)
- 17.3410.03 Existing Details Sheet 3 of 8 (Basement Floor Plan of existing building)
- 17.3410.04 Existing Details Sheet 4 of 8 (Section AA through existing building)
- 17.3410.05 Existing Details Sheet 5 of 8 (Section BB through existing building)
- 17.3410.06 Existing Details Sheet 6 of 8 (Section CC through existing building)
- 17.3410.07 Existing Details Sheet 7 of 8 (Existing Front & Side Elevations)
- 17.3410.08 Existing Details Sheet 8 of 8 (Existing Rear & Side Elevations)
- 17.3410.16D - Detailed Planning Sheet 1 of 8 (Proposed Block Plan, Site & Roof Plans) received 01/06/2018
- 17.3410.17B - Detailed Planning Sheet 2 of 8 (Proposed Elevations for Plots 1 to 8)
- 17.3410.18B - Detailed Planning Sheet 3 of 8 (Proposed Floor (Basement & Ground) Plans for Plots 1 to 8)
- 17.3410.19B - Detailed Planning Sheet 4 of 8 (Proposed Floor (First & Second) Plans for Plots 1 to 8)
- 17.3410.25 – 3D Visualisations Sheet 1 of 2
- 17.3410.25 – 3D Visualisations Sheet 2 of 2
- OTH/MSE/3698 – Topographical Survey
- Heritage Impact Assessment, Grover Lewis Association, January 2018
- Design & Access Statement

#### Departure/Public Advertisement Procedure

Twenty neighbours were individually notified and the application has been advertised in the local press and 3 site notices have also been displayed at the site and in the vicinity of the site. Re-consultation has been carried out in respect of amendments where appropriate.

#### Relevant Planning Policies

The Courts have accepted that Section 54A of the Town and Country Planning Act 1990 does not apply to decisions on applications for Listed Building Consents, since in those cases there is no statutory requirement to have regard to the provisions of the development plan. However, Local Planning Authorities are required to be mindful of their duty under the legal framework in determining such matters, i.e. Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and take into account the following other material considerations:

- *National Planning Policy Framework (NPPF) Adopted March 2012*
- *Planning Policy Guidance (PPG) published April 2014*
- *Historic England's Good Practice Advice Note 2 – Managing Significance in Decision Taking in the Historic Environment*
- *Historic England Advice Note 2 – Making Changes to Heritage Assets*

- Core Policy 14 – Historic Environment from the adopted Newark and Sherwood Core Strategy Adopted March 2011
- Policy DM9 - Protecting and Enhancing the Historic Environment from the adopted *Allocations and Development Management DPD Adopted July 2013*

## Consultations

### **Newark Town Council – Object:**

02/02/2018:

“18/00125/FULM & 18/00136/LBC – Newark Working Men’s Club, 13 Beacon Hill Road, Newark

The above applications were considered at Newark Town Council’s Planning Meeting on 31st January 2018 and Objection was raised on the grounds that the proposed development was over intensive and the access/egress onto Beacon Hill Road could cause further traffic congestion on an already busy road. Please note the additional comments made below:

‘Members felt that this application could have a significant impact on the local community beyond the immediate neighbouring properties, particularly with respect to the traffic impact arising from such a large number of additional properties being proposed on such a small site. It was AGREED therefore, that the District Council be asked to undertake a wider direct consultation than would normally be the case to include, but not exclusively, the Ropewalk and properties on Beacon Hill Road that are close to the site’.

**NSDC Conservation – have made the following comments during the lifetime of the scheme (in response to various amendments and clarification. They now support the scheme:**

**08/03/2018** – “Further to the submission of this email and the revised plans sent by Mark Smalley 1st March 2018 I am now happy with this scheme.

I am happy, in this case, that the cellar be tanked, as there are no features that would be lost or obscured by doing so. The system they have described also has the capacity to drain water potentially trapped between the dry lining and outer wall away, particularly important as I doubt the existing render on the outside is very breathable. If this is combined with the re-laying of the cellar brick pavers, consolidated into the main room in each basement flat, this addresses my concerns about the cellar.

In terms of sound insulation the scheme now protects the first floor, which is the principal floor in terms of surviving architectural features, as well as the hall stairs and landing. The scheme for the attic, which also survives well but is lower status in terms of architectural features, can hopefully be achieved by sound insulation between floor joists, which is acceptable. I note the annotation on the attic floor plans also says floor will be overlaid if needed – I am happy that this stays on the plans, but would rather the use of this only if necessary, secured by condition if we can.

I also note the confirmation of the use of downstands where walls are to be removed, which is now acceptable.

I now believe this addresses all my Conservation concerns and, subject to condition, have no objection to this scheme.”

**28/02/18** – “Thank you for this. However, as I understood it the plan was that the 1st floor would be left untouched in terms of its floors and ceilings, especially as it has decorative fireplaces. The plan I discussed with Kevin was to under-draw the ceilings to the ground floor as this floor is most altered (and the re-fix covings, which in any event may not be original), though not undrawn any area of the stairs and hallway (which shouldn’t be necessary in any event I presume) and then lay a floor over that the attic level, which would require skirtings and one less decorative fire place to be lifted, as well as doors (where they survive in the attic) to be minorly trimmed. This would therefore avoid altering the highest status floor.

Please can you confirm that this is the understanding with the client and amend plans accordingly? I am happy that the cellar brick pavers in the rooms they survive will be lifted and re-laid over insulation and dpc. I note the alteration of the rooflights to conservation rooflights, which is better, thank you.

Other queries still not answered:

Is the cellar to be tanked?

Can a downstand be left where walls are to be removed pleased?”

**16/02/18** – “I am managed to have a look through these plans and I believe they cover nearly all my requests for amendments. I am grateful for these amendments having been taken on board – this has made this a much improved scheme, especially so with the main central staircase and treatment of plan form.

What I have not had time to do is check them for new or different amendments and perhaps the agent could confirm the amendments only relate to my comments as requested?

The item which remains unaltered in elevation is the rooflights – which are still shown as being of different designs. I note the plan annotation speaks of conservation rooflights but I still think these would look better in a consistent design.

My comments also included a number of queries about whether the cellar was to be tanked, what was to happen to the brick paver floors, details of sound insulation, the potential for keeping downstands above wall removal etc. - all of which are still crucial to getting an acceptable scheme. Could agent now look through my comments and follow up on the questions posed please?”

**09/02/18:** “Further to the submission of plans to convert the Newark Working Men’s Club and associated new build in the grounds I have the following comments. (Please note that comments underlined require amendments with potential conditions are in **bold** and a number of queries are in *italics*)

This submission follows extensive pre-application discussions under PREAPP/00199/17.

### **Site description**

The building is a Grade II listed building, formerly called Lindum House and built in the mid-1860s for a wealthy local businessman and former mayor of Newark. The building is built in the Victorian Classical style, using plain and margin light sashes, rusticated quoins, large moulded eaves and a portico porch.

When first built the building was set in extensive grounds with gate lodges, formal gardens and glass houses. The building also once had full width glass house/orangery to the rear, stepped

entrance down into the basement with Regency style awnings over the ground floor windows either side of the porch.



1885 OS Map showing original extent of grounds

By 1882 Lindum House was renamed Hatton House and used as a boys' boarding school, creating a new block to the north of the building (now lost). In 1913 the building became used for Newark Working Men's Club. The building was then requisitioned during WWI for billeted soldiers and as a military hospital. When leased back to the Working Men's Club in the 1920s the curtilage was significantly reduced. From 1900 onwards there was a piecemeal and progressive contraction of the building's land and the consequent residential development around it. The setting of the building today has been significantly impacted by this reduction and development of its curtilage, with no trace of formal gardens now surviving.

In the late 1960s and 1970 large flat roofed extensions were added to the building, taking out the rear wall at ground floor and infilling most of the remaining rear land, again significantly and negatively impacting upon the significance of the building. These extensions are particularly harmful as they overlap the footprint of the building, making them visible in all directions. At some point in its history the grand, central staircase was removed from ground to first floor, leaving legible but much altered vestiges at first floor and an attractive tiled floor to the former hallway at ground floor. The former hallway became a bar area with a suspended ceiling (recently removed to reveal overall good survival of the decorative coving).

The building's plan form is essentially four rooms off the central hallway/staircase, but this plan form has been significantly altered over time and while legible in a plan based exercise survives only in part on the ground floor and somewhat better at first floor. The attic is generally better preserved, having a number of rooms off a central corridor. The attic doors, where they survive, still retain a notation about the number of men allocated to each room – a survival presumably from its military days. The attic did previously have a bank of rooflights, the glass from which has been smashed in and the lights roofed over.



In terms of architectural detail - survival is varied. Of note is the tiled floor in the hallway (covered in screed in places but hopefully mostly capable of repair), decorative coving to the former hallway and landing (part damaged but again hopefully capable of repair), grand staircase at first floor, a few fireplaces and a few fire baskets, partially legible plan form, good survival at attic level. The basements are a number of rooms with the remains of blocked sash windows. Some brick paver floors survive while others have been lost. There is one set of cold slab shelves in the basement.

### **Statutory framework**

Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') require the Local Planning Authority (LPA) to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess. In this context, the objective of preservation is to cause no harm, and is a matter of paramount concern in the planning process.

Policies CP14 and DM9 of the Council's local plan, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. Key issues to consider in proposals for additions to heritage assets are proportion, height, massing, bulk, use of materials, land-use, relationship with adjacent assets, alignment and treatment of setting.

The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 12 of the National Planning Policy Framework (NPPF). Paragraph 132 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 7).

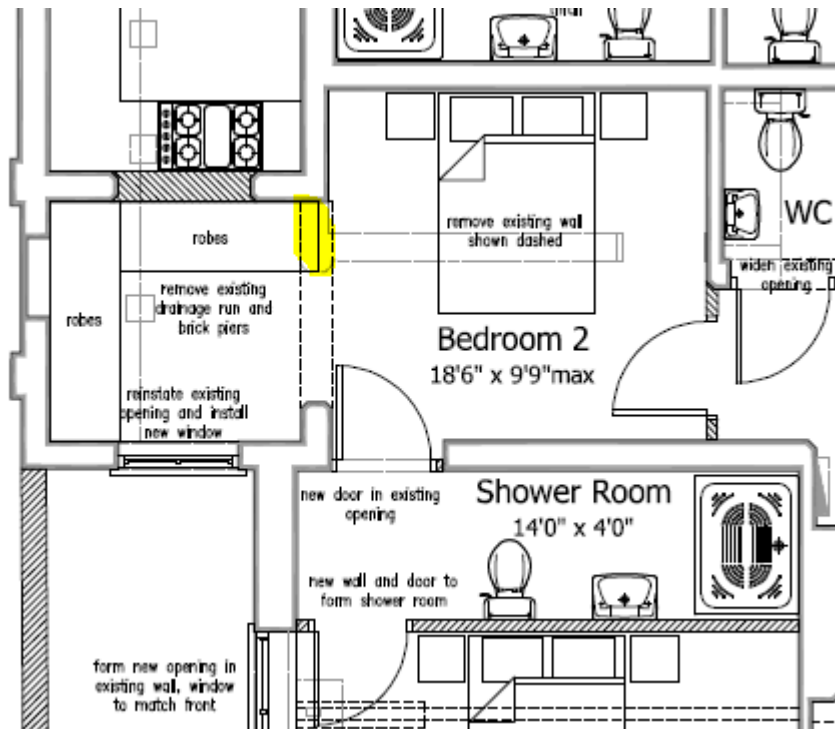
### **Comments on proposed scheme**

#### **Basement**

One of the main changes to the basement is the reinstatement of the windows here, which can be seen surviving, albeit in a derelict and blocked in form. These were reasonably formal sash windows and show that the basement was used as living accommodation in some form. Their reinstatement and the better use of the cellar will be a positive heritage gain for the building. I do note, however, that for some reason the new cellar windows have been drawn as almost full height but are not currently. I can see no reason why the existing pattern (which survives well enough to be copied) could not be re-used. I would be grateful if you could pursue this amendment please. I understand from the owner that some hidden steel supports will be required behind these window architraves but I have no objection to this. **All repairs and structural interventions required should be conditioned.**

In terms of plan form, the overall existing layout is actually quite well preserved in the proposed plans. I note one of the small store rooms is being removed to create a larger room, but appreciate the re-use of the adjacent store room as a shower and another as a kitchen.

There is one small area, see plan extract below, where an attractive rounded arch is being removed to create a wider entrance to a wardrobe area. Given the use of this space there is no need for this removal of fabric and the arch should be retained.



It is a shame to lose the shelving with the cold slabs, though I do accept they could be hard to re-use within the flats conversion. Overall I think the reinstatement of the windows and an active use here makes for an acceptable balance and I have no objection.

I note in the proposed sections one area of cellar floor will be raised – this is where it has been reduced in height previously and I have no objection to this.

**Ideally the brick pavers, where they exist, should be retained, which should be conditioned.**

*Is there a proposal to tank the cellar?* It does not actually seem to smell or feel damp so I am not sure this is necessary, though do accept that there are no architectural features which would otherwise be covered or compromised (other than the floor covering – see above) if it were tanked (especially as the windows will be reinstatements).

### **Ground floor**

The main alteration here is the reinstatement of the grand, staircase down from the first floor level. This will be a significant heritage gain and improvement to the aesthetic significance of the building as well as making the plan form more legible. I understand new decorative metal stair rods would be cast to match, though this detail should be conditioned. Now that the suspended ceiling over the bar has been removed the decorative coving is now revealed and while it will **need repair (to be conditioned)** it is relatively well preserved and mostly capable of repair. **The treatment of the tiles in the hallway, as well as the spec for coving repair, should also be conditioned.** This should secure a significant heritage gain for this building.



My main issue with this first floor layout is the way the reinstatement of the grand staircase will be compromised by bringing forward rooms right up the banister, removing the landing, as marked with the blue zigzag line and number 1. This will crowd the staircase and undermine the ostentatious sense of space (and circulation) that it was designed to bring. I have spoken to the owner about this specifically and accept there needs to be some form of easement to keep access across the landing to the flats, but that this can be achieved by a chamfered corner, as marked number 2 above, leaving most of the original landing open. This will complete the positive impact of reinstating the grand staircase.

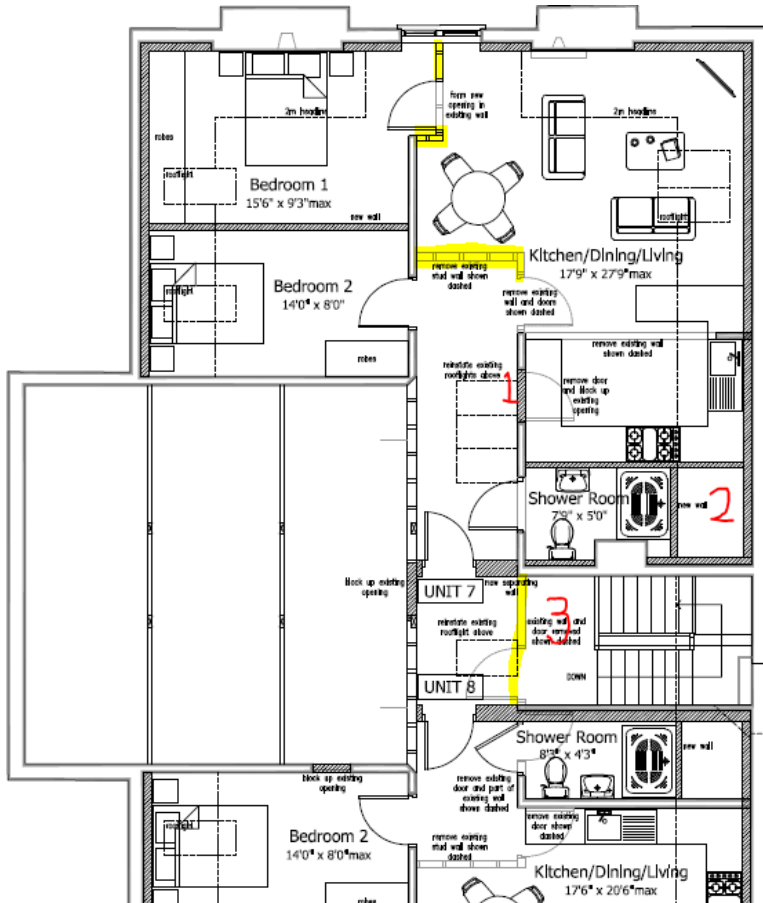
I am also not happy at the proposed ensuite across a fireplace (marked number 3 above). I do appreciate an existing inappropriate stud wall here, but the removal of this and reinstatement of the fireplace as a proper feature will be a positive enhancement which could be achieved here. The compromise is the need to achieve bathroom space and I feel this is best achieved by creating a 'Jack and Jill' style arrangement as marked number 4 above. Overall, I think this will be a better arrangement than is currently at the building and a reasonable compromise moving forward. What we didn't discuss on site, but which could be looked at, is whether the floor to ceiling height is such that this ensuite could be formed more as a pod, sitting under the original ceiling height allowing the original layout of the room to be read. The other option, which was used at St Pancras Station Hotel and put forward in the recent Kelham Hall application, is to create a bespoke bed which has an ensuite behind, almost like a fitted wardrobe, although I appreciate this may be more appropriate for hotels than for residential properties.

I also note there are various areas of internal lining to improve acoustic qualities between separate units. While this is an otherwise unwanted intervention the room proportions are such that this can be achieved with no perceptible alteration but I would ask that the **coving, skirting and picture rails be reformed and secured by condition**. It is a better compromise to have this lining within the living areas, rather than on the staircase and landing, and so overall I have no objection to this intervention. Equally bedroom 2 of unit 5 sees lining either side of the chimney breast, but the reveal is deep enough here to allow for this with no perceptible loss of the chimney breast projection. **I would ask that the annotation marked robes either side of this chimney breast not rise to full ceiling height, allowing the dimensions of the chimney breast to be read, again to be secured by condition.**

## Second floor

The second floor has the best degree of preservation in plan form, although unsurprisingly the least amount of fine architectural detail (as is usual of what would have been servant's quarters). I am disappointed to see a large degree of loss to the planform here, which in most cases does not seem necessary at all. The owner and I discussed potential revisions here and feel a similar and workable layout can be achieved by mostly retaining the existing plan form, as indicated below:

In unit 7:



Fabric marked yellow should be retained and the scheme would work the same with this retained.

This includes the entrance lobby to the second floor (marked by number 3) where the arched opening should be retained, although the door itself can be lost as this is a modern, somewhat flimsy, door.

At my number 1 the historic door (which retains details of the number of billeted soldiers painted onto it) should be retained and fixed shut.

I note there is a bathroom to be formed across a chimney breast but this is the flue only and no sign of having had a fire place opening, so I am happy with this. We discussed not wasting the void at number 4 but incorporating this for a bath, which seem a sensible use of space.

Again, where the wall is to be removed to create the large kitchen/diving/living area I believe there should be space for small downstand to be left?

I believe a bed is shown across a fireplace with fire insert in bedroom 1. While I appreciate this is indicative only the fireplace and fire insert here should be retained.

Generally at second floor:

I believe my annotations for unit 7 also apply to unit 8 which is a symmetrical reflection of this unit, so I would also be seeking similar alterations on this part of the second floor.

I have objection to the proposed division of the large rooms into two double bedrooms. While the rooms have a central fireplace it is very much a functional, rather than decorative, feature and the rooms have no other architectural features that would be harmed by its division. I am therefore sympathetic of the desire to create two double rooms out of this one larger room.

I note again the use of internal acoustic lining. I note this will remove the small projection of the chimney breast, however the existing arrangement is almost flush anyway and the fireplaces are very functional with no grandeur, so I have no objection to this intervention.

I note the reinstatement of the lost rooflights (those closer to the ridge), which I have no objection to. I note these are not shown as 'conservation rooflights', i.e. no central bar is shown – *do we have any evidence they were large sheets of glass as shown? I wonder if there would be more consistency if these were also designed as conservation rooflights with the central bar?* I also note new additional rooflights but do not object to these as they are required to bring a new use to this upper floor, which is lit by minimal natural light at present, and were already a feature historically used at the building. I would rather these were not on the front elevation, but there is no way to sensibly create a second bedroom without them, so provided these are **conditioned to be low profile conservation rooflights** I have no objection.

In terms of acoustic separation between the first and second floor I feel the compromise should occur at the second floor. There is space in the floor void for insulation and I believe a small air gap can be created by over-boarding the second floor floorboards. This would require a minor amendment to the few surviving doors and may require one fire insert to be lifted, but this could be achieved without a visual compromise and leaves the more sensitive first floor preserved. **The exact means of acoustic interventions should be conditioned throughout.**

## **Elevations**

I note the huge improvement to the rear elevation through the demolition of the flat roofed extensions and the re-formation of the rear wall. I also note the use of a matching margin light sash to the new ground floor elevation, bringing consistency back to this elevation. While I had wanted all the new windows to be aligned at the rear elevation, I note this is not possible due to the location of the servant's stairs, so I doubt this arrangement ever was truly symmetrical. **All new windows should be conditioned.**

I also note reinstatement of the enclosures around the basement windows, which will better reveal the original appearance and significance of the building, and should again be conditioned.

I think it is a plan drawing error but the round topped finish to the side elevation windows has been lost between the existing and the proposed plans, though I can see no reason why. Please can this be looked at and hopefully re-drawn?

## **Landscaping**

The demolition of the large flat roofed extensions will enhance the setting of the building. The creation of a small area of formal garden to the rear of the building in its place will further help enhance the building, as will the small area of formal greenery to the right of the front entrance way.

I note the equivalent space to the left of the entrance is given over to parking, but I would very much like this space removing and relocating, so that a sense of formality could be seen across the whole of the front (see below). Considering how little is now left of the grounds a sense of greenery and formal setting is now extremely important, especially with the proposed new building in the grounds (see comments below)



I note the proposal has close boarded fencing around the perimeter of the site. While this is far from the historic boundary treatment one would have once seen here, I see it is what is already around the site (plus a small area of modern bricks from an adjacent garage). As such I have no objection but perhaps we could **condition this to be a dark brown colour and softened with planting where possible.**

#### **Development in the grounds**

Units 14-16 have been designed and placed to equate to the kind of ancillary outbuildings a building of this status may once of have had, and their location at the end of the drive would have been similar to other historic arrangements of stables and coach houses etc. Their overall scale is modest and traditional and does not rival the host building. They have a general sense of traditional detailing, in the window proportions, segmental arches, gable stacks etc, but have simple details which avoid the pastiche. They are not located on a part of the site which specifically contributes to its setting and will not affect any significant views. I have no objection to these new units and they may even enhance the setting of the building, enclosing its curtilage and blocking out the residential developments beyond.

The current design of units 9-13 is the result of extensive pre-application discussions, which began initially in creating a new build extension to replace the existing flat roofed units. However, due to the large floor to ceiling heights of the host building, along with its high status and imposing appearance, we were unable to create an extension which respected the architectural features of the host building, deferred to its dominance but also provided a level of accommodation desired by the applicant. While accepting that the total removal of the existing extensions and no commensurate extensions or new build would be the ideal situation, weight must be given to the starting point of these modern flat roofed extensions being a reality and a fall-back position. I am therefore happy that the best way forward is to effectively shift the bulk of extensions and new build away from the main building and create detached structures. Again, I note the overall modest and traditional form and detail of these units, which I do not think will look out of place in this general context. Given the historic removal of the formal setting and grounds of this building and the current impact of the flat roofed extension I think the new build here as proposed this will cause no net harm over the existing arrangement. I do also feel the re-formation of the hall and a

small sense of formal grounds around it, even with the new build as proposed, will overall enhance the setting of the hall.

As such I have no objection to these new-build elements **subject to conditions for high quality materials and details.**

### **Conclusions**

Overall I am supportive of this application and am keen to find a viable new use for this listed building which is currently vacant and has been under-used and poorly maintained for many years. Given the building's size but limited grounds I have considered the unlikely event of it being bought as a single residential unit and feel its use as flats is a pragmatic way forward. While there are some inevitable compromises required to divide this building up into smaller units, the scheme also brings with it significant and tangible heritage benefits which, on balance, make for a positive scheme.

There are various elements of detail which I feel need altering to ensure this is not a harmful scheme, especially as in these cases the harm cannot be justified as there are sensible and workable revisions which overcome this harm. I therefore do want to see this scheme improved by negotiation.

If recommended for approval there are various specific and detailed conditions which would be necessary (as well as the more standard conditions seen on listed building conversions) which I have tried to highlight above but am happy to work through prior to determination.

I trust these comments are helpful for now."

**Four neighbours/interested parties** have made comments/raised concerns (in respect of non-listed building matters) which are summarised as follows:

- This development could involve the parking of at least 16 cars and possibly 32 – has this been taken into account?
- Access onto Beacon Hill Road is poor due to on-street parking every day of the week;
- This level of existing on-street parking already obscures the visibility when local residents (eastern terrace lane) are trying to leave;
- Access will be virtually impossible for large lorries with building materials if the entrance is from Beacon Hill Road;
- Loss of privacy through overlooking;
- Imposing impact on Lindum Mews through height of proposed terrace (plot 9) given the 1m difference in land levels and 2m distance to the boundary;
- Plot number 13 will have its gable end right up to the boundary fence which will cause reduction in light to bedroom and sitting room windows of existing house and garden;
- Loss of light to southern boundary of Lindum Mews would dramatically reduce the amount of available light to the front of Lindum Mews (rear accessible only for maintenance);
- Direct loss of sunlight to the front of Lindum Mews would equate to circa 60%;
- The development is too intense, particularly given existing new developments in the area - there has been in excess of 100 houses built within a matter of 300yds within recent years without local amenities being addressed;
- Surface water drainage concerns - Historically, the level of water gathering along the Northern edge of the site has been problematic to the point of flowing in to the adjoining



gardens when the drainage has failed. Drains haven't been able to cope and needs to be addressed;

- May be a more suitable option of a lower property (bungalow) and/or lower number of units which would not impede neighbouring amenity.

### **Comments of the Business Manager**

Listed building consent is only required for the demolition of the modern extensions the conversion of the listed building to 8 apartments and the associated physical alterations. Listed building consent is not required for the new build dwellings which are considered separately under the full planning application which is running concurrently.

The key consideration is the impact of the proposals upon the listed building.

Section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant listed building consent for any works, the local planning authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Paragraph 132 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification.

The setting of heritage assets is defined in the Glossary of the NPPF which advises that setting is the surroundings in which an asset is experienced. Paragraph 13 of the Conservation section within the Planning Practice Guidance (PPG) advises that a thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it.

The Development Plan is a material planning consideration. Core Policy 9 requires that developments achieve a high standard of sustainable design and layout that is capable of being accessible to all and of an appropriate form and scale to its context complementing the existing built and landscape environments and requires developments make the most efficient use of land at a level suitable to local character. Policy DM5 provides that the district's landscape and character of built form should be reflected in the scale, form, mass, layout, design, materials and detailing of proposals. Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance.

The proposal seeks to demolish flat roof modern extensions to the listed building. In my view these extensions are ugly and detract from the significance of the building. As such this element of the scheme would bring about enhancements to the listed building and better reveal the buildings significance. The demolition of these elements is therefore welcomed by both the Conservation Officer and myself.

The conversion of the listed building to 8 apartments has been very carefully considered by the Council's Conservation Officer. Full details are set out in the consultation section above which I have not repeated. Members will see that the Conservation Officer (CO) is very supportive of the scheme and is keen to secure a viable use for this listed building which has been vacant, under

used and poorly maintained for years. The CO believes that this scheme will bring with it significant and tangible heritage benefits and has worked with the applicants agent to secure amendments and clarity where needed such that there would now be no harm to the listed building and all of these benefits including improvements to the grand central staircase could be secured through condition.

Comments from neighbours and the Town Council are noted but these do not relate to listed building considerations and have been therefore considered against the full planning application instead.

In conclusion the proposal for listed building consent is acceptable and there is no reason to withhold consent.

### **RECOMMENDATION**

**That listed building consent is approved subject to the following conditions:**

01

The works hereby permitted shall begin within a period of three years from the date of this consent.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

02

No works shall be commenced in respect of the use of any of the following new materials until samples of the materials identified below have been submitted to and approved in writing by the local planning authority. Works shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

- Facing materials
- Bricks
- Roofing tiles
- New stair treads (internal and external)
- Render (colour and finish and specification)

Reason: In order to safeguard the special architectural or historical appearance of the listed building.

03

No works shall be commenced in respect of the features identified below, until details of the design, specification, fixing and finish in the form of drawings and sections at a scale of not less than 1:10 have been submitted to and approved in writing by the local planning authority. Works shall thereafter be undertaken in accordance with the approved details and retained in situ unless otherwise agreed in writing by the local planning authority.

- All windows including roof windows, doors and their immediate surroundings, including details of glazing and glazing bars;
- Treatment of window and door heads and cills;
- Rainwater goods;
- Plinths;
- Extractor vents;
- Flues;
- Meter boxes;
- Airbricks;
- Soil and vent pipes;
- Enclosures around basement windows;
- Retention of a downstand where historic walls are to be widened out;
- The specification for the tanking of the cellar (which shall follow the broad details as set out in the agent's email of 1<sup>st</sup> March 2018);
- Height specification of 'robes' at first floor as shown on drawing no. 17.3410.19A;
- External lighting;
- Letter boxes;
- Any new fireplaces and surrounds;
- All architectural details of the reinstated staircase from ground to first floor including, but not limited to, the decorative metal stair rods, the risers, hand rail etc;

Reason: In order to safeguard the special architectural or historical appearance of the listed building.

04

No works of repair (including structural interventions to achieve a repair) shall be commenced until the extent and methodology for undertaking repair works has been submitted to and approved in writing by the local planning authority. This shall include a full schedule of works which address the following and any unforeseen repairs that may arise:

- Chimneys
- Render

- Areas of rot/of where there has been insect decay

Works shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning application.

Reason: To safeguard the special architectural and historic interest of the building.

05

No works shall be commenced in respect of the features identified below until a scheme of restoration and repair has been submitted to and been approved in writing by the Local Planning Authority in respect of the following:

- All internal joinery and plasterwork including but not limited to decorative coving, moulding to the ceiling, skirting boards, picture rails, treatment of floor tiles including any replacement or new within the hallway at ground floor and brick pavers in basement.
- Retained Fireplaces

Where new materials are identified as being necessary their specification shall be fully detailed. The approved scheme of restoration and repair shall be implemented in full on site prior to first occupation.

Reason: In order to safeguard the special architectural and historic interest of the building.

06

Notwithstanding the details shown on drawing number 17.3410.19A the features marked 'robes' on the first floor plan shall not be full floor to ceiling height and their specifications shall be agreed through condition 3 of this consent.

Reason: In order to safeguard the special architectural and historic interest of the building.

07

Any works for the upgrading of thermal and sound insulation between floors shall be agreed in writing by the Local Planning Authority following the submission of a detailed specification. The approved specification shall be implemented in full.

Reason: In order to safeguard the special architectural and historic interest of the building.

08

The numbers painted on the internal attic doors shall be retained unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to safeguard the special architectural and historic interest of the building.

09

The works hereby permitted shall not be carried out except in complete accordance with the following approved plans, reference

- 17.3410.16D - Detailed Planning Sheet 1 of 8 (Proposed Block Plan, Site & Roof Plans) received 01/06/2018
- 17.3410.17B - Detailed Planning Sheet 2 of 8 (Proposed Elevations for Plots 1 to 8)

- 17.3410.18B - Detailed Planning Sheet 3 of 8 (Proposed Floor (Basement & Ground) Plans for Plots 1 to 8)
- 17.3410.19B - Detailed Planning Sheet 4 of 8 (Proposed Floor (First & Second) Plans for Plots 1 to 8)

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this consent.

### **Informative**

01

For the avoidance of doubt, the applicant is reminded that the use of the building for 8 apartments also requires planning permission and this listed building consent does not grant permission for the use, rather it grants consent for only the demolition of the extensions and the physical alterations to the listed building.

02

This application has been the subject of discussions during the application process to ensure that the proposal is acceptable. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

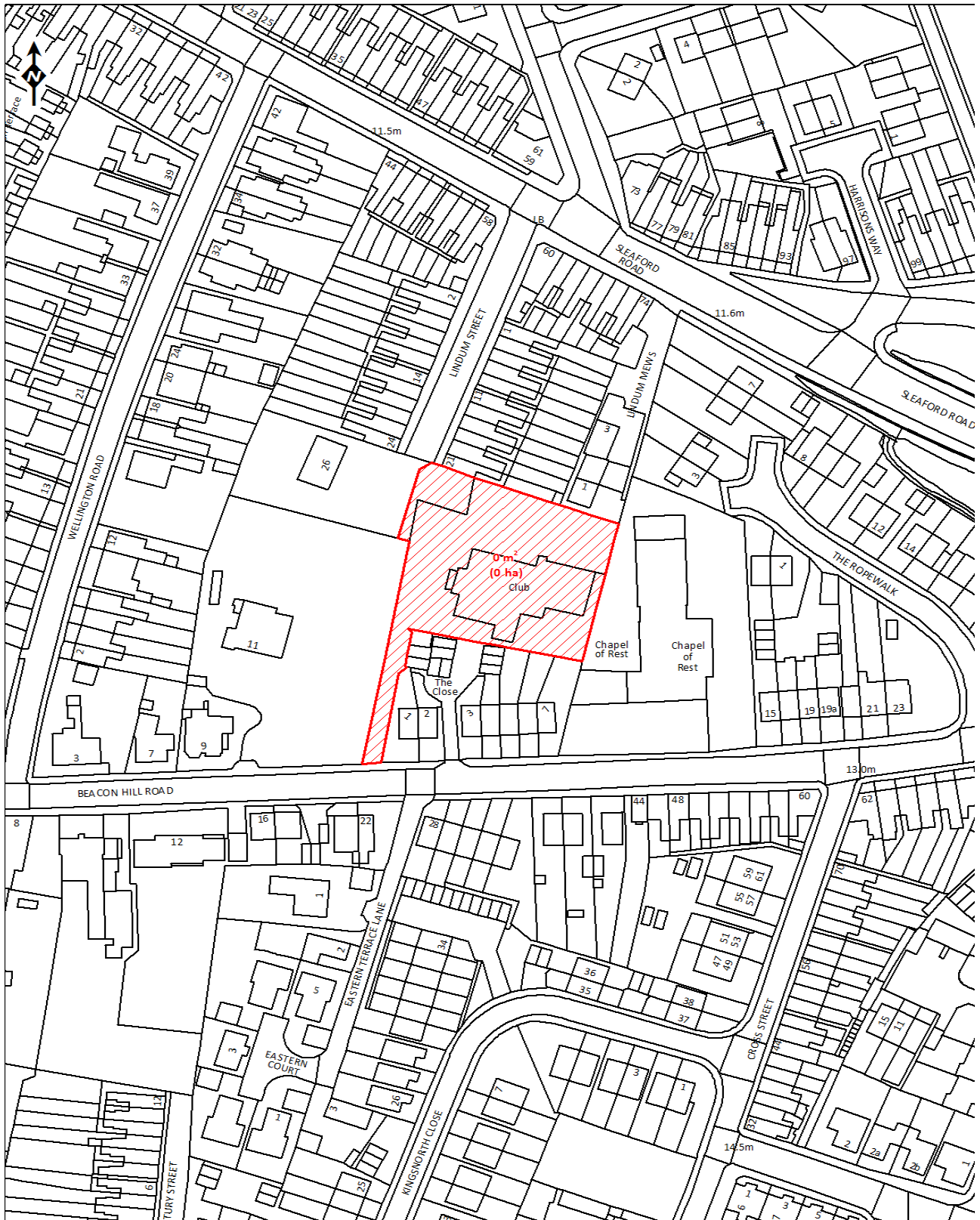
### **Background Papers**

Application Case File

For further information, please contact **Clare Walker** on Ext **5834**.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

Matt Lamb  
Business Manager for Growth and Regeneration



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## PLANNING COMMITTEE - 3 JULY 2018

<b>Application No:</b>	<b>18/00817/FUL</b>	
<b>Proposal:</b>	<b>Resubmission of 5 new dwellings on existing site.</b>	
<b>Location:</b>	<b>40 Winthorpe Road, Newark On Trent, Nottinghamshire, NG24 2AB</b>	
<b>Applicant:</b>	<b>Shoby Investments Ltd - Mr S Shelton</b>	
<b>Registered:</b>	<b>18<sup>th</sup> May 2018</b>	<b>Target Date: 27<sup>th</sup> June 2018</b>

**This application is before Members for determination as the officer recommendation differs from the views of Newark Town Council.**

### The Site

The site lies within a suburban area of Newark. The site consists of a two-storey, detached residential dwelling and associated curtilage. This existing property is an attractive dwelling with central forward and rear projecting gables roof and chimney stack to its rear. The dwelling is white render with grey concrete roof tiles. Two flat roof garages adjoin the dwelling to the northern boundary whilst an open car port is attached to its south side which leads to its rear garden.

Boundary treatments to the front of the plot and southern side of the plot consists of a mature hedgerow with 2m high close boarded fencing to the rear. Along the northern side of the plot is a hedgerow, a 1.8 metre close boarded fence and the side wall of the neighbouring property.

Vehicular access into the site is from Winthorpe Road to the south-western corner of the site.

Neighbouring properties are residential. Properties on this side of Winthorpe Road are a mix of house styles and plot sizes but primarily are two storey in scale. Properties on the opposite side of Winthorpe Road are of a more uniform design predominantly comprising semi-detached dwellings. The rear of the site consists of a newer housing development (a cul-de-sac of 19 dwellings known as Spire Gardens) consisting of semi-detached and terraced properties at a higher density than the properties on Winthorpe Road. This was granted permission in August 2006 (06/00858/FULM) and has its access road between numbers 34 and 38 Winthorpe Road.

### Relevant Planning History

**17/01396/FUL** - Erection of 5 new dwellings. Refused 22<sup>nd</sup> September 2017 for the following reason:

*In the opinion of the Local Planning Authority (LPA) the proposal by virtue of its siting and design constitutes over intensive development for the site by dominating the width of the plot with a solid wall of two storey development without visual relief that would be at odds with the character and appearance of the area. Additionally, the design is considered to be out of keeping with the area with the introduction of a building that has a vertical emphasis and the use of flat roof frontage*

*projections in brick against the render are considered alien features resulting in a building that would deliver a poor design for its context. Furthermore, in order to make the scheme acceptable, ten parking spaces would need to be provided off street which would result in an over engineered and overly car dominated frontage to the detriment of the character and appearance of the area which cannot be fully mitigated. The proposal is therefore considered to be contrary to the Development Plan, specifically Policy Core Policy 9 (Sustainable Design) of the adopted Newark and Sherwood Core Strategy and DM5 (Design) of the adopted Allocations and Development Management DPD as well as the NPPF a material planning consideration.*

**10/01216/FUL** – Demolition of existing single storey dwelling and replacement with 2 no. 4 bedroom detached properties. Approved as recommended by the Planning Committee on 11<sup>th</sup> November 2010.

**07/01127/FUL** – Demolition of existing detached dwelling and erection of 2 no. detached dwellings. Approved under delegated powers on 24<sup>th</sup> October 2007.

### The Proposal

Full planning permission is sought for the demolition of the existing dwelling and the erection of a building comprising 5 market dwellings. This mix of dwellings is for 2 x 1 bedroom dwellings (the two end dwellings), 2 x 2 bedroom dwellings and centrally 1 x 3 bedroom dwelling.

For all dwellings at ground floor the accommodation would provide for an entrance hall with stairs off, cloakroom, open plan kitchen, lounge and dining area. At first floor of the central 3 dwellings are two double bedrooms with separate bathroom whilst the two end dwellings have a single double bedroom with en-suite. The most central dwelling also has a bedroom with en-suite within the roof space.

The building, which would be finished in white render, has a staggered front building line through siting the single storey elements slightly set back and the use of a central forward projecting section. The building presents itself as primarily two storey (c13.4m wide) with single storey elements at either side giving an overall width of 21.9m spanning across the plot. The depth of the main part of the building is 9m. The height of the building is c4.99m to eaves and 7.95 to pitched roof ridge-line which would be finished in grey concrete tiles. The single storey elements at either side of the building are 5.13m to ridge and each have roof lights facing the frontage and rear.

The building is proposed to sit back approximately in line with the properties either side; c0.9m from the side elevation of no. 42 Winthorpe Road to the north-east and c1m to the boundary with no. 38 Winthorpe Road to the south-west.

Vehicular access would be taken off Winthorpe Road at two points; the northern most access would be the new exit created with the existing southern-most access being widened to provide the entrance. Parking would be provided in front of each dwelling and the (revised) plans now show the provision of 8 spaces in total.

The application comprises the following plans:

- Existing block plan, drawing no. exblplanA
- Existing elevations, drawing no. exelev
- Proposed Block Plan, drawing no. blplanGF Rev C



- Proposed elevations, drawing no. propel Rev A
- Proposed street elevations, drawing no. str el Rev A
- Proposed ground floor, drawing no. propgfplan Rev C
- Proposed first floor plan, drawing no. propffplan Rev A
- Proposed second floor plan, drawing no. propffplan Rev A
- Site location plan, drawing no. locplan Rev A
- Design and Access Statement

### Public Advertisement Procedure

Occupiers of 10 properties have been individually notified by letter with a consultation expiry date of 8<sup>th</sup> June 2018.

### Planning Policy Framework

#### The Development Plan

#### **Newark and Sherwood District Council Core Strategy DPD (adopted March 2011)**

Spatial Policy 1 - Settlement hierarchy  
 Spatial Policy 2 - Spatial distribution of growth  
 Spatial Policy 6 - Infrastructure for Growth  
 Spatial Policy 7 - Sustainable Transport  
 Core Policy 3 - Housing Mix, Type and Density  
 Core Policy 9 – Sustainable design  
 Core Policy 10 - Climate Change  
 Core Policy 12 - Biodiversity and Green Infrastructure  
 NAP1 – Newark Urban Area

#### **Allocations & Development Management DPD**

DM1 – Development within settlements central to delivering the spatial strategy  
 DM3 - Developer Contributions  
 DM5 – Design  
 DM7 - Biodiversity and Green Infrastructure  
 DM12 – Presumption in Favour of Sustainable Development

#### Other Material Planning Considerations

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014
- Publication Amended Core Strategy

### Consultations

**Newark Town Council** – 31/05/2018 “This application was originally considered by this Committee on 30.8.17 when it was agreed to raise no objection. However, since then, additional new information has come forward about the views of local residents who are opposed to the development. Further, when it was first considered, the local Ward Town Councillor wasn't able to attend the meeting to represent the views of the community.

With Members now being aware of these new factors, it was decided to OBJECT to this application on the grounds that it was over intensive for the site and not in keeping with the surrounding streetscape and the local character of houses nearby. Members also felt that there was insufficient car parking provision for five new dwellings. It was also feared that if this application was to be permitted, it would set a precedent for other similar applications in the same area.”

**NCC Highways Authority** – Standing Advice applies.

**Trent Valley Internal Drainage Board** – ‘The site lies outside of the Trent Valley Internal Drainage Board’s catchment.

There are no Board maintained watercourses in close proximity to the site.

Surface water run-off rates to receiving watercourses must not be increased as a result of the development.

The design, operation and future maintenance of the site drainage systems must be agreed with the Lead Local Flood Authority and the Local Planning Authority.’

**One representation has been received** from a neighbour raising objections on the following summarized grounds:

- 5 dwellings is over-intensive and would look out of place;
- Loss of light to adjacent dwelling via velux windows, being so close to boundary and loss of evening sunlight;
- This would spoil the view;
- Loss of privacy and garden would be overlooked;
- Concern regarding the amount of cars (as most families have 2 cars) and parking/traffic issues if residents parked on the road or verge, as there is a bus stop outside number 44 and could put children at risk crossing the road. This will add even more traffic to the Lincoln Road which is heavily congested every evening;
- Out of keeping with the rest of the houses on the road, as all the houses are set well away from each other;
- Would affect the value of properties;
- If approved request that existing hedgerows are retained for security and privacy.

#### Comments from the Business Manager

The starting point for development management decision making is S.38(6) of the Planning and Compulsory Purchase Act 2004, which states that determination of planning applications must be made in accordance with the development plan unless (emphasis added) material considerations indicate otherwise.

Notwithstanding the current process of Plan Review, at the current time the Adopted Development Plan for the District is the Core Strategy DPD (2011) and the Allocations and Development Management Policies DPD (2013). The Council is of the view that it has and can robustly demonstrate a 5 year housing land supply. This was confirmed by the Secretary of State in dismissing the appeals for the housing developments at Farnsfield (heard through a Public Inquiry

which sat in November 2017) in April 2018. The policies of the Development Plan are therefore considered up to date for the purposes of decision making.

### Principle of Development

The site is located within the built up area of Newark which is defined as a 'Sub Regional Centre' as set out in the Settlement Hierarchy defined by Spatial Policy 1 of the Core Strategy which states that Newark should be the focus for new housing growth in the district.

The proposal involves the demolition of the existing dwelling in order to facilitate the redevelopment of the site for 5 units. There is no objection to the principle of demolition. The house whilst attractive is of no special architectural interest and indeed I note the Local Planning Authority has previously agreed to the demolition by approving two schemes for redevelopment in the last 11 years.

I am satisfied that the site is located within the main built up area of a sustainable settlement, and as such, there is no objection in principle to the residential development at the site. However, the impact upon the character of the area, residential amenity of neighbouring properties and parking/highway safety will all need to be taken into consideration and are discussed below.

### Impact on the Character of the Area

Core Policy 9 states that new development should achieve a high standard of sustainable design and layout that is of an appropriate form and scale to its context complementing the existing built and landscape environments. Policy DM5 of the DPD states that local distinctiveness should be reflected in the scale, form, mass, layout, design and materials in new development. The NPPF 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.

Winthorpe Road is a residential road that has wide grass verges on both sides of the highway and front boundary treatments tend to be low brick walls or hedgerows with dwellings in spacious plots giving it a somewhat Arcadian, sub-urban character. Along the eastern side of the road the dwellings are generally two storey in a mix of styles and designs, some of which have been extended all in relatively generous plot sizes.

The existing dwelling sits centrally within the plot. Whilst in plan form the dwelling appears to span the width of the plot, in reality the single storey garages and car port provide visual relief to the two storey elements when viewing from the street. This is similar for many of the plots in the area.

The existing dwelling would be demolished and replaced with a two storey dwelling. Whilst in plan form this would span almost the entire width of the plot, it would read visually as a two storey building with single storey additions to each side not unlike the existing dwelling. The use of these single storey elements to each side adds visual relief to the street-scene and allows spacing between the two storey elements. This was previously of concern on the refused scheme where the solid wall of two storey development was considered to be harmful.

The building now proposed is acceptable in terms of its design. Since the refused scheme (which sought to utilize alien flat roof frontage projections in brick against the render giving the building a vertical emphasis) I note the applicant has sought to design a building that replicates the character

and appearance of the area. The two storey part of the building comprises 3 bays with the single storey elements being subservient which is acceptable. The proposed materials palette being render and concrete grey roof tiles are acceptable and reflect the mixture of materials in the area. Overall I consider that the design is now acceptable.

Concern was previously raised (in respect of the refused scheme) that in order to make the scheme acceptable to the highways authority, two parking spaces per dwelling would need to be provided in front of each dwelling thus requiring 10 parking spaces to be created. In the case of this revised application, I consider that 8 parking spaces need to be provided based on best practice and standing advice. In order to facilitate the space for the parking spaces and associated maneuvering space, there would be little room left for additional soft landscaping. This would result in frontage that is somewhat car dominated. However it is now proposed that the frontage hedge would be retained; apart from where the new access would be formed and the existing one widened. This in my view would largely mitigate the visual harm from having 8 cars parked in the frontage. I also note that the adjacent property (at no. 42 Winthorpe Road) has its entire frontage block paved and this also retains a hedgerow to the frontage which successfully softens its appearance. Whilst more cars would be present in the case of this site, I consider that on balance, providing the hedgerow was retained its harmful effect would be minimal. Conditions 4 and 8 would ensure the frontage of the site was acceptable.

#### Highway and Parking Impacts

Policy DM5 is explicit in stating that provision should be made for safe and inclusive access to new development whilst Spatial Policy 7 reflects this, requiring developments to ensure that the safety, convenience and free flow of traffic are not adversely affected.

Standing advice now applies for this scheme and no bespoke highways comments have been sought. The proposal has been assessed against the Standing Advice as follows:

The proposed block plan previously indicated that 6 parking spaces would be provided in front of the 5 dwellings. This has been increased to 8 spaces upon request. Whilst 1 space for the two one bedroom units is acceptable and 2 spaces are acceptable for the 3 bedroom unit, one space for a two bedroom unit is not sufficient as two spaces should be provided. This is consistent with the advice previously given. Based on the amended plans, I am satisfied that the proposal now provides adequate off-street parking and can be controlled by condition in the event that Members are minded to approve this application.

It is also noted that in respect of the previously refused scheme the Highways Authority raised no fundamental objections to the proposals to have an entrance and exit point as is also proposed on this resubmitted scheme.

To conclude highway and parking matters are not a reason that should constitute a reason for refusal in this instance in my view. A number of parking and highway conditions (see conditions 2, 9 & 10) are recommended to ensure the development is acceptable.

#### Impact on Residential Amenity

Policy DM5 of the DPD states that the layout of development within sites and separation distances from neighbouring development should be sufficient to ensure that neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy. The

NPPF seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.

The windows proposed to be located along the front elevations of the properties will look directly onto the site frontage and will not overlook the properties on the opposite side of the road as they are located in excess of 38 metres from the proposed properties. Likewise the distance between the rear elevation of properties on Spire Gardens and the proposed rear elevation is in excess of 27m which is sufficient to meet the needs of privacy.

The property to the north is an extended two storey dwelling with its blank gable facing the site and this is sited up to the boundary. No. 38 to the south is also two storey and sits close to the shared boundary and again doesn't appear to have any windows facing the site. Given that the depth of the proposed dwelling would be sited against the blank side walls of the neighbouring properties, its orientation and design I do not consider there would be loss of privacy, overshadowing or overbearing impact.

The proposal would amount to the site serving an additional 4 dwelling units (i.e. 5 proposed units following demolition of 1). I have carefully considered whether the increased residential activity within the site would create harmful amenity impacts in terms of an increased activity and disturbance. However I am conscious that the site is situated within a relatively dense residential area. I therefore do not consider that the additional units would be perceivable in respect to the existing movements and disturbance established by the residential characteristics of the area.

I note the neighbours concerns but find no reason to resist the application on the grounds of loss of amenity. The proposal accords with DM5 and the NPPF in my view.

## **Other Matters**

### *Drainage*

The site lies within an area highlighted on the Environment Agency's mapping system as being within an area which is prone to surface water run-off in the form of superficial deposits. Given the scale of the development and the relatively low risk from flooding this is not a matter that the Lead Local Flood Risk Authority would offer comments upon. However I consider that a condition to provide details of surface water discharge disposal could be imposed if members minded to approve the scheme.

## **Planning Balance and Conclusion**

In conclusion the principle of demolition and its redevelopment is acceptable. It is acknowledged that the scheme would create 5 dwellings. However previous concerns relates to the impact upon the character and appearance of the area through its design have been addressed through the design of a building that reads visually as a two storey dwelling with single storey elements to each side. The provision of 8 off-street parking spaces is now considered sufficient for the scheme. Whilst the frontage could be somewhat car dominated, this would be largely mitigated through the retention of the existing hedgerow which is important and can be controlled by condition. Impact on amenity is assessed as being acceptable. Therefore whilst this proposal would result in some minor harm, overall it is not considered so harmful as to warrant a reason for refusal. The proposal would bring about a good mix of housing in a sustainable area and the recommendation of approval is offered.

## **RECOMMENDATION**

**That full planning permission is approved subject to the following conditions:**

### **Conditions**

#### 01 (Time)

The development hereby permitted shall not begin later than three years from the date of this permission

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

#### 02 (Parking)

No part of the development hereby permitted shall be brought into use until the parking areas are provided in accordance with the approved plan drawing number blplan GF rev C. The parking areas shall not be used for any purpose other than the parking of vehicles.

Reason: In the interests of highway safety and to ensure that sufficient on-site parking is available for the development.

#### 03 (Protection of fence during construction phase)

No development shall be commenced until the frontage (western) hedgerow shown to be retained on drawing reference 'proposed str el Rev A' has been protected by the erection of a chestnut pale or similar fence not less than 1.2 metres high at either the outer extremity of the hedgerow canopy or at a distance from any tree or hedge in accordance with details to be submitted to and approved in writing by the local planning authority. The protection measures shall be retained during the development of the site, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that the existing hedgerow to be retained is protected, in the interests of visual amenity and nature conservation.

#### 04 (Continued retention of hedgerow at 2m in height)

The hedgerow along the frontage (western) boundary shall be retained at a minimum height of 2 metres for the lifetime of the development for its extent shown on approved drawing 'proposed str el Rev A) unless otherwise agreed in writing by the local planning authority. Any trees or shrubs which die are removed or are seriously damaged or diseased shall be replaced by trees or shrubs of a similar size and species to those replaced, or otherwise first approved in writing by the local planning authority.

Reason: In the interests of residential and visual amenity.

#### 05 (Drainage)

No development, except for site clearance, shall commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well

as reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

#### 06 (Materials)

The development hereby permitted shall be constructed entirely of the materials details submitted as part of the planning application unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual amenity.

#### 07 (Boundary treatments)

No part of the development shall be brought into use until details of all the boundary treatments proposed for the site including types, height, design and materials, have been submitted to and approved in writing by the local planning authority. The approved boundary treatment for each individual plot on site shall be implemented prior to the occupation of each individual dwelling and shall then be retained in full for a minimum period of 5 years unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential and visual amenity.

#### 08 (Hard surfacing to the site frontage)

Prior to first occupation of any of the dwellings hereby approved, details of the hard surfacing materials to the site frontage shall be submitted to and be approved in writing by the local planning authority and these works shall be carried out as approved.

Reason: In the interests of visual amenity.

#### 09 (Provision of the two accesses)

No part of the development hereby permitted shall be brought into use until the two accesses to the site have been completed and surfaced in a bound material to be first agreed in writing with the Local Planning Authority for a minimum distance of 5m behind the highway boundary in accordance with drawing number drawing reference blplanGF Rev C . The accesses as approved shall be retained for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

#### 010 (Provision of dropped curb)

No part of the development hereby permitted shall be brought into use until a dropped vehicular footway crossing is available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety.

## **Note to Applicant**

01

The development makes it necessary to construct/alter/improve (delete as appropriate) a vehicular crossing over a footway/verge of the public highway. You are therefore required to contact the County Council's Highways Area Office tel. 0300 500 80 80 to arrange for these works to be carried out.

02

The applicant is advised that in respect of Condition 2, 1 parking space is expected for one bedroom dwellings and for 2 and 3 bedroom dwellings 2 parking spaces are expected.

03

This application has been the subject of pre-application discussions and has been approved in accordance with that advice. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

04

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk)

The proposed development has been assessed and it is the Council's view that CIL IS PAYABLE on the development hereby approved as is detailed below. Full details about the CIL Charge including, amount and process for payment will be set out in the Regulation 65 Liability Notice which will be sent to you as soon as possible after this decision notice has been issued. If the development hereby approved is for a self-build dwelling, residential extension or residential annex you may be able to apply for relief from CIL. Further details about CIL are available on the Council's website: [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/) or from the Planning Portal: [www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil](http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil)

### Background Papers

Application Case File

For further information, please contact Clare Walker on ext 5834.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**

**Business Manager Growth & Regeneration**





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## PLANNING COMMITTEE - 3 JULY 2018

Application No:	18/00501/FUL	
Proposal:	Erection of a new detached dwelling and detached garage	
Location:	Land Adjacent Lime Tree House, Halam Hill, Halam	
Applicant:	Mr & Mrs Stuart And Christine Butler	
Registered:	09.03.2018	Target Date: 04.05.2018 Extension agreed to 07.06.2018

This application is being referred to the Planning Committee for determination as the Officer recommendation is contrary to that of the Parish Council.

*Members at June Planning Committee agreed to defer the application pending further consideration and negotiation to reduce the height of the proposed dwelling and the submission of streetscenes to include Radley Terrace.*

*For ease of reference additions to the original report are in bold italicised print.*

### The Site

The site comprises a parcel of land to the south of Halam Hill. To the east is a substantial two storey dwelling, Lime Tree House with Radley Terrace to the north-west, a row of two storey dwellings with pedestrian accesses and yards to the rear. To the south is a large open space which, together with the application site, comprises part of the rear garden of Barn Cottage, which is a Grade II Listed Building. The grade I listed church is also south of the application site, across the open garden area of Barn Cottage. The site is a rectangular piece of land with a frontage onto Halam Hill.

### Relevant Planning History

97/50859 approved a dwelling.

16/01897/FUL - Proposed erection of 1no. dwelling – Permitted 21.02.2017 for an 18 month period only.

### The Proposal

The application seeks consent for the erection of a new two-storey dwelling. The main body of the proposed dwelling would have footprint of c.14.4 m by 13.3 m with an additional ~~5 m x 4.5 m~~ single storey conservatory to the rear (SW) and a 4.3 m x 3.5 m single storey extension to the side (NW). The dwelling is proposed to be ~~8.8 m to the ridge and 4.9 m to the eaves with a front facing gable to the NE (c.8 m to the ridge, c.5 m to the eaves).~~ **Amended plans have been deposited which show a reduction in ridge height of the proposed dwelling from 8.8m to 7.2 m to the ridge and 4.9m to 2.6 m to the eaves with a front facing gable to the NE with a ridge height reduced from c.8m to c.6.2 m to the ridge, c. 4.9m to c.2.6 m to the eaves.**

The application also seeks approval for a detached double bay garage c. 6 m by 6.7 m with a ridge height of approx. ~~6.3 m and eaves of 2.7 m~~ **5.7 m and eaves of 2.8 m**. The garage is proposed to be positioned towards the NW of the site with the dwelling orientated with its principal elevation fronting the highway to the NE positioned towards the SE common boundary with Lime Tree House. The principal elevation will project approx. 3 m further forward within the plot than Lime Tree House directly to the SE.

The accommodation at ground floor would provide a hall, kitchen and family room/day room, lounge, one bedroom and bathroom ~~a conservatory~~ **and a utility room associated with the kitchen. At first floor there are three bedrooms two bedrooms proposed with two shared en-suite bathrooms and a study two en-suite bathrooms and a sitting area.**

**Materials** – Facing brick with stone cills and flat brick arches to heads of all openings. Clay pantile roof and timber painted or coloured uPVC windows, all subject to confirmation by condition.

**Comparison with 16/01897/FUL** - ~~the current application seeks to amend the level of accommodation proposed within the dwelling, increasing from 3 beds to 4. The current application maintains the level of accommodation as approved in 2016 – 3 bedrooms~~ and seeks to introduce a garage (which the 2016 approval does not have), re-position the footprint and adjust the red line boundary of the application site to increase the curtilage.

Access is to be taken from the NE boundary of the site on to Halam Hill Road – the access remains the same as that approved under 16/01897/FUL – minimum 2.75 m wide with 0.5 m clearance either side. Any gates are to be set back 5 m from the highway boundary and visibility splays are 2.4 m x 43 m.

The dwelling permitted in 2016 had two floors with accommodation in the roof; ridge height was 6.1 m with 2.6 m eaves. **(The dwelling now proposed by this current application is ~~8.8 m~~ 7.2 m to the ridge and ~~4.9 m~~ 2.6 m to the eaves).**

**Diagram A shows a comparison between the block plan approved in 2016 and the currently proposed block plan.**

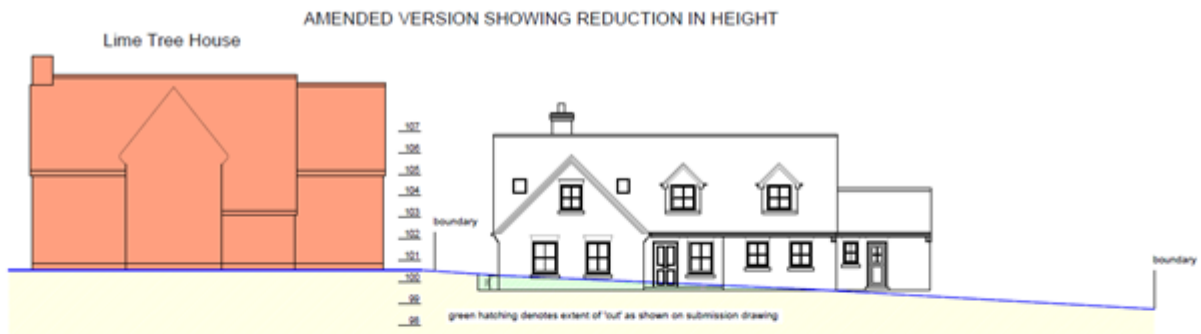


Block Plan **Approved** under 16/01897/FUL

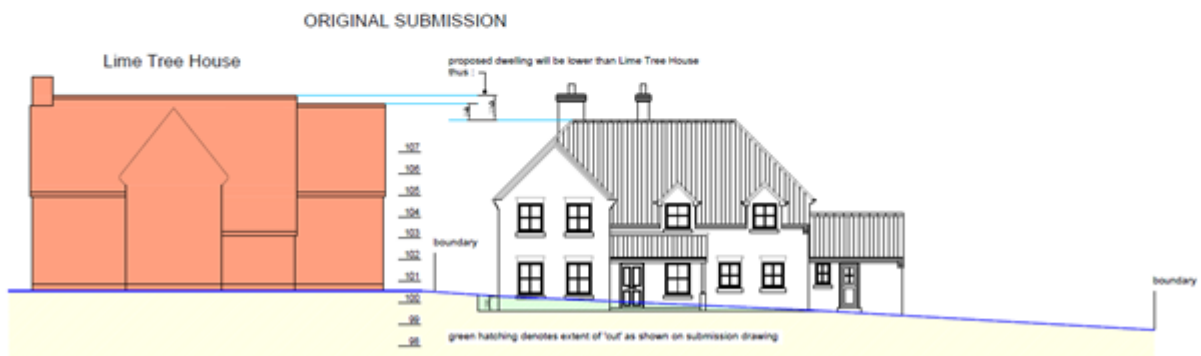


**Proposed** Block Plan 18/00501/FUL

Diagram B below shows a comparison between the original proposal and the revised scheme with the reduced ridge height together with the streetscene drawing to include details as requested by members at the June Planning committee.



elevation facing Halam Hill (north east ) at 1:100 showing relationship with adjacent property, 'Lime Tree House'



elevation facing Halam Hill (north east ) at 1:100 showing relationship with adjacent property, 'Lime Tree House'



elevation facing Halam Hill (north east ) at 1:100 showing relationship with adjacent property, Lime Tree House and Radley Terrace

### DIAGRAM B

The applicant has also chosen to revise the height of the proposed detached garage from ridge height of 6.3 m and eaves of 2.7 m to 5.7 m to the ridge and 2.8 m to the eaves.

Departure/Public Advertisement Procedure

13 neighbours have been notified by letter.

Planning Policy Framework

## **The Development Plan**

### **Newark and Sherwood Core Strategy DPD (Adopted March 2011)**

Spatial Policy 1 Settlement Hierarchy  
Spatial Policy 2 Spatial Distribution of Growth  
Spatial Policy 3 Rural Areas  
Spatial Policy 6 Infrastructure For Growth  
Spatial Policy 7 Sustainable Transport  
Core Policy 3 Housing Mix, Type and Density  
Core Policy 9 Sustainable Design  
Core Policy 14 Historic Environment

### **Allocations and Development Management DPD (Adopted July 2013)**

Policy DM5 Design  
Policy DM9 Protecting and Enhancing the Historic Environment  
Policy DM12 Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990  
Newark and Sherwood Amended Core Strategy DPD 2017  
Spatial Policy 3 Guidance Note SPD

### **Consultations**

***Reconsultation has been carried out in relation to the revised plans. The latest dates for additional comment is 26<sup>th</sup> June 2018. Any comments received will be reported to Planning Committee within late items.***

**Halam Parish Council** – Halam Parish Council do not support the application- 5 for, 1 abstention  
*“there were no official objections listed, the cllrs all had different opinions -these were some of the comments from cllrs as they were talking, for some it was too big, too large for the plot, would probably be visible over the terrace and some think there is a 106 agreement on part of the land”.*

**Trent Valley Internal Drainage Board** - *“The site is outside of the Board’s district but within the extended catchment area. There are no Board maintained watercourses in close proximity to the site. Surface water run-off rates to receiving watercourses must not be increased as a result of the development. The design, operation and future maintenance of site drainage systems must be agreed with the Lead Local Flood Authority and Local Planning Authority.”*

**NCC Highways** – *“This proposal is for the erection of a single dwelling on land adjacent Lime Tree House. A new vehicular access onto Halam Hill is to be constructed as part of this application, as shown on the block plan/site plan (dwg. 2017/08/02), and has been previously approved under planning application ref. 16/01897/FUL.*

The block plan/site plan 2017/08/02 states that the details of the proposed access are to remain the same as previously approved under 16/01897/FUL (site layout plan 16/218-03).

Therefore, there are no highway objections to this application subject to the following:

1. No part of the development hereby permitted shall be brought into use until the access to the site has been completed and surfaced in a bound material for a minimum distance of 5m behind the highway boundary in accordance with the approved plan no. 16/218-03. Reason: In the interests of highway safety.
2. No part of the development hereby permitted shall be brought into use until the visibility splays of 2.4m x 43m are provided. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstruction, structures or erections exceeding 0.6m in height.  
Reason: To maintain the visibility splays throughout the life of the development and in the interests of general highway safety.
3. No part of the development hereby permitted shall be brought into use until the parking/turning areas are provided in accordance with the approved plan. The parking/turning areas shall not be used for any purpose other than the parking/turning of vehicles. Reason: In the interests of highway safety.

#### Note to Applicant

The development makes it necessary to construct a vehicular crossing over a footway of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact VIA, in partnership with NCC, tel: 0300 500 8080 to arrange for these works to be carried out.

A lighting column and a utility pole may require relocating as part of the access works. It should be noted that this will be at the applicant's expense."

Confirmation from Highways received 04/05/2018 – "The current plan, ref. Drawing no. 2017/08/02 is acceptable."

**Cadent Gas** – "Should you be minded to approve this application please can the following notes be included an informative note for the Applicant

#### Considerations in relation to gas pipeline/s identified on site:

Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance.

If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. The Applicant should contact Cadent's Plant Protection Team at the earliest opportunity to discuss proposed diversions of apparatus to avoid any unnecessary delays.

If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent's Plant Protection Team to see if any protection measures are required.

All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to.

Email: plantprotection@cadentgas.com Tel: 0800 688 588”

**NSDC, Access Officer** – “As part of the developer’s considerations of inclusive access and facilities for all, with particular reference to disabled people, it is recommended that their attention be drawn to Approved Document M of the Building Regulations, which contain useful standards in respect of visitable, accessible and adaptable, and wheelchair user dwellings. The requirements of a dwelling’s occupants can change as a result of illness, accident such as sports injury for example, disability or ageing giving rise to reduced mobility or increasing sensory loss. In order to meet these changing requirements, homes need to be accessible to residents and visitors’ alike as well as meeting residents’ changing needs, both temporary and longer term. Similarly, inclusive access improves general manoeuvrability for all including access for those with push chairs and baby buggies as well as disabled people etc.

It is recommended that disabled persons and wheelchair users’ access to, into and around the new dwelling be carefully examined. External pathways to and around the site should be carefully considered and designed to accepted standards with reference to the topography of the site to ensure that they provide suitable clear unobstructed inclusive access to the proposal. In particular, ‘step-free’ access to and into the dwelling is an important consideration and an obstacle free suitably surfaced firm level and smooth ‘traffic free’ accessible route clear of parked vehicles is important to and into the dwelling from facilities such as car parking and from the site boundary. It is recommended that inclusive step free access be considered to garden areas, amenity spaces and external features.

Carefully designed ‘step-free’ approach, ramps, level flush thresholds, generous doorways, corridors etc. all carefully designed to facilitate easy access and manoeuvre throughout are important considerations. Switches and sockets should be located at suitable heights and design to assist those whose reach is limited to use the dwelling together with suitable accessible WC and sanitary provision etc.

It is recommended that the developer make separate enquiry regarding Building Regulations matters.”

**NSDC, Legal Service: The following comments were received regarding the 16/01897/FUL application from the NSDC Legal department which have been subsequently reaffirmed within this application** – “I have looked at the original plan on the Agreement dated 9<sup>th</sup> September 1998 and the red line to the North West of Lime Tree House does appear to include the latest 16/01987 application site so the terms of that 1998 Agreement are relevant. Freeths are right in saying that if the LPA were to grant permission under the new application, this would not breach the 1998 Agreement. This is however, not at all unusual and in no sense can it be said that the Council has failed here. The last three lines (“... and in particular etc.”) are bespoke to this Agreement but the rest of it is a standard term in most 106s. Owners of land are allowed to apply after 5 years to vary 106s and can appeal any refusal so it would be totally wrong for the Council to try to stop any future development which is subject to due consideration in the course of a new application.”

**NSDC Conservation** – “The current proposal is an evolution of an approval for a new dwelling here under 16/01897/FUL and then preapp advice with regards to re-siting it given under PREAPP/00188/17. I had no objection to the principle of a new dwelling in this approximate site and my comments can be found on 16/01897/FUL.

With regards to the repositioning of the house and a revised footprint I repeat here my pre-app comments:

I have no objection to this revised red line and overall new footprint for the new build already approved at this site on Halam Hill.

The area is not a Conservation Area, but Halam is an attractive historic village. In addition the proposed site is next to the Grade II listed Barn Cottage and could also affect the setting of the listed parish church.

From Halam Hill the tall laurel hedge along this stretch prevents any clear vistas to the church that could otherwise be blocked or affected by creating a wider building frontage here. In views from the church the main open area around it would still remain open and this new build would be read against, and absorbed into, existing residential development along Halam Hill. As such the setting of the church would be preserved by this alteration.

In size the revised footprint of the new build would still remain similar to its modern neighbours at Lime Tree House and The Bramley so wouldn't be out of character in terms of townscape. In footprint the proposed detached garage has been reduced to more in line with that at Lime Tree House and would hold a similar position to that at Lime Tree House.

In terms of impact on the listed building at Barn Cottage I am aware that the proposed new building would now encroach into land to its north east which is currently part of the garden area around it. The wing which faces this garden area is mostly modern, with the core of the historic building having aspects to the south east and south west. The garden area around the building is attractive, but its strongest contribution is the area to the south between the historic part of the cottage and the church, which together with the open space between forms a very attractive and in some ways unchanged composition. The view from the later wing to the north east takes in the rear of the adjacent terraced row and has a more suburbanised character than the views to the south.

Given the later age of the wing most affected, the more suburban character of the aspect this wing and the fact that there is still a good degree of 'breathing space' around this wing, I think on balance the revised footprint would retain the significance of the setting of this listed building.

Since the pre-app advice was given revised elevations have now been submitted. What is now proposed is a substantially more significant house, not just in footprint but in height and also in overall status.

However, when I found the principle of a new house here acceptable in 2016 this did not rely on this being a small bungalow as approved. I note that the design of what is submitted now is not dissimilar to the house adjacent at Lime Tree House (although it would be good to compare heights or see a street scape), and so I feel it can be accommodated here without harm to the overall townscape. Maintaining a consistent wall and hedge boundary to the front will help in assimilating this proposed new build.

Given that the proposed new build here will not stand out in townscape terms (noting first my desire to confirm similar overall heights to Lime Tree House), and given the comments about the impact of repositioning the building, given above, I do not think the enlarged elevations or detached garage will have any negative impact upon the setting of the nearby listed buildings.

Subject to confirming comparable heights to Lime Tree House I have no objection to this revised application which I believe will not harm historic Halam and will meet the test of causing no harm



to the setting of the listed buildings, as laid out in S66 of the Planning (Listed Building and Conservation Areas) Act 1990.”

*Having seen the plans provided detailing the height comparison between the proposed dwelling and Lime Tree House the conservation officer has confirmed that they are happy with the comparable height which is not considered to unduly impact the character and appearance of Halam or the setting of the listed buildings.*

***NSDC Conservation Comments on the revised proposal (15/6/18) – “***

***Thank you for sending through the revised elevation and street scene.***

***There would be no conservation objection to these revised plans.***

***By dropping the height the building has become a little ‘top heavy’ in pure design terms, but not so much that, given the appearance of the buildings in the immediate surroundings, it is noticeably incongruous.***

***The real heritage test here (as this is not a Conservation Area) is the impact on the setting of the nearby listed building. The revised design, while it would better if were less top heavy, is not in itself harmful to the setting of the nearby listed buildings, and I have already explained why the principle of development here is acceptable in terms of the setting of the listed buildings. I still remain of this view given the revised design.”***

**Representations have been received from 1 local resident/interested party to the scheme and can be summarised as follows:**

- Nature and scale of the new proposed dwelling is significantly different from that approved under 16/01897/FUL but the Design & Access Statement are the same and refer to the previous justification.
- Disingenuous statements made in the D&A statement, previous dwelling was single storey to cater for the applicants’ deteriorating health needs but now the proposal is for a two storey 5 bedroom dwelling.
- Proposed dwelling is close to the existing dwelling on the land.
- Overbearing scale and position relative to Barn cottage and the surrounding environment. Proposal will impact the amenity of future residents of Barn Cottage.
- Site levels differ on the site and surrounding land which will impact neighbouring amenity and dominate Barn Cottage.

***Any additional comments received will be reported to Planning Committee within late items.***

Comments of the Business Manager

Five Year Land Supply of Housing

The Council’s position is that it can demonstrate a 5 year housing supply. Following the allowed appeal at Farnsfield in 2016 where one Inspector concluded we did not have a five year housing supply, in order to address its housing requirement the Council, as it is required to do under the NPPF for both objectively assessed need (OAN) and under the Duty to Cooperate, produced a Strategic Housing Market Assessment (SHMA). The SHMA has produced an OAN for NSDC of 454 dwellings per annum (using 2013 as a base date). Moreover, this

Review DPD Examined (EIP). It is acknowledged that the OAN and consequently housing target for the District cannot attract full weight until after examination of the Development Plan. However, the OAN and issues around delivery have moved on considerably, with the EIP Inspector not raising any additional matters. This position has also been confirmed by a recent (August 2017) appeal hearing decision which has accepted that this Council has a 5 year housing land supply against a target of both 454 and 500 dwellings per annum. Even on a 550 OAN the Inspector in that case concluded that any shortfall would most likely be made up by windfall schemes. More recent appeal decisions have also confirmed that this Council has a 5 year land supply.

Given this position the Council considers that limited weight should now be attached to the Farnsfield Inspector's decision from 2016. To the contrary the OAN of 454 remains robust and against this it is considered that there is a 5 year housing land supply. Consequently, the policies of the Development Plan are up-to-date (also having regard to the PAS review of the Core Strategy Policies and in attaching weight to the fact that the Allocation and Development Management DPD Policies were independently examined and found sound post NPPF adoption) for the purpose of decision making.

### Principle of Residential Development

#### *Extant Permission*

I note that in the site history for this application site that there is an extant permission for the erection of a dwelling (16/01897/FUL). ~~this application seeks to amend the level of accommodation proposed within the dwelling, include a garage~~ ***In response to the comments made by Members at the June Planning Committee the current application has been amended to reduce the height of the proposed dwelling and retain the level of accommodation as approved in 2016, seeking consent for a 3 bedroom dwelling with amendments to the original scheme such as the inclusion of a garage*** (which the 2016 approval does not have), re-position the footprint and adjust the red line boundary of the application site to increase the curtilage. The extant permission has a similar and overlapping position on the site to that proposed within this application. I note that a reference has been made in the D&A to revoking this application if consent is granted for the revised location. I note that the 16/01987 application was granted on 21.02.2017 with an 18 month time period for implementation, meaning that the permission expires 21.08.2018, given the positioning of the dwelling within this application overlaps that approved under 16/01987 it is not necessary for the revocation of this permission given both permissions would not be able to be implemented simultaneously.

The National Planning Policy Framework promotes the principle of a presumption in favour of sustainable development and recognises that it is a duty under the Planning Acts for planning applications to be determined in accordance with the development plan. Where proposals accord with the Development Plan they will be approved without delay unless material considerations indicate otherwise. The NPPF also refers to the presumption in favour of sustainable development being at the heart of the NPPF and sees sustainable development as a golden thread running through both plan making and decision taking. This is reflected at the development plan level under Policy DM12 of the Allocations and Development Management DPD.

The adopted Core Strategy details the settlement hierarchy which will help deliver sustainable growth and development in the District. The intentions of this hierarchy are to direct new residential development to the sub-regional centre, service centres and principal villages, which are well served in terms of infrastructure and services.

The Core Strategy outlines the intended delivery of growth within the District including in terms of

housing. Spatial Policy 1 sets out a hierarchy which directs development toward the Sub-regional Centre, Service Centres and Principal Villages before confirming at the bottom of the hierarchy that within 'other villages' in the District, development will be considered against the sustainability criteria set out in Spatial Policy 3 (Rural Areas).

The proposal site is located within the built settlement of Halam which is located within the Rural Area and therefore Spatial Policy 3 applies. Spatial Policy 3 of the Adopted Core Strategy states that an application for new housing would be considered against the 5 criteria - Location, Scale, Need, Impact, Character.

I am mindful of the proposed changes to SP3 as part of the on-going plan review, some of which can now be afforded weight in the decision making process. The Amended Core Strategy and evidence base documents were submitted to the Secretary of State on 29th September 2017, with the examination undertaken in February 2018. For the purposes of paragraph 216 of the NPPF (stage of preparation, extent of unresolved objection and degree of consistency with national policy), it is considered that those areas of the emerging SP3 content not identified in the Inspector's post-hearing notes, satisfy the tests to the extent that 1) it is at an advanced stage, with the Examination taken place in February 2018 with only the modifications to be finalised and consulted upon and 2) there are no unresolved objections to aspects of the policy relevant to this proposal. Accordingly for the purposes of this proposal, I consider that weight can be attached to the emerging policy in the overall planning balance.

Both the extant and emerging Core Strategy confirm that the District Council will support and promote local services and facilities in rural communities. Proposals for new development will be considered against the above five outlined criteria. The outlined criteria relate in many respects to matters which will be considered in further detail below.

The assessment of the proposal against the criteria of SP3 in this case is as follows.

#### *Location*

The site is considered to be within the built up part of Halam. Furthermore, although classed as an "other village" Halam has some local facilities including a pub and primary school, village hall, church and two hairdressers. Halam is also in relatively close proximity to Southwell which provides many services and facilities and the Principal Village of Farnsfield with an hourly bus service to these settlements and to Nottingham and Mansfield.

In taking all of the above points into consideration I find that Halam is a sustainable location where a new dwelling could be supported on a locational basis under SP3 and is in line with paragraph 55 of the NPPF as an additional dwelling which would enhance or maintain the vitality of the rural community. As such it is concluded the proposal complies with the locational criterion of Policy SP3.

#### *Scale*

The guidance to accompany SP3 referred to above confirms the scale criterion relates to both the amount of development and its physical characteristics, the latter of which is discussed further in the Character section below. One additional dwelling is considered small scale in numerical terms and as such is unlikely to detrimentally affect local infrastructure such as drainage and sewerage systems. It is also considered one additional dwelling is unlikely to materially affect the transport network in terms of increased traffic levels in volume. Given the size of Halam and the fact the

proposal relates to a single dwelling the proposal is considered small scale and therefore appropriate for this settlement.

### *Impact/Access*

These are discussed further below. However, for the reasons set out below it is considered the impact of the proposal on neighbouring properties is acceptable, the scheme is visually acceptable and adequate access could be provided. Impact on character is considered further below.

### *Need*

Policy SP3 provides that new housing will be supported where it helps to meet identified local need. In support of the application the Design & Access statement states that “In their retirement, and due to poor health, the Applicants require bedroom accommodation at ground floor level. This cannot be achieved in their longstanding family home (Barn Cottage – west of the application site). The proposal will allow the applicants to move into more suitable accommodation without leaving their local community, by providing a dwelling with all primary accommodation at ground floor level, but with additional bedrooms at first floor level, to enhance the overall standard of accommodation. It is intended that one of the bedroom suites will have the flexibility to provide occasional accommodation for an overnight carer if and as required in the future.” I note the concern raised from a local resident that the D&A makes disingenuous statements, stating how the previous dwelling was supposed to be single storey to cater for the applicants’ deteriorating health needs but now the proposal is for a two storey 5 bedroom dwelling. ~~Whilst I appreciate these comments I note that the proposed new dwelling is a four bedroom property, an increase in one bedroom from the approved 2016 proposal.~~ ***Whilst I appreciate these comments I note that the proposed new dwelling was originally for a four bedroom property, an increase in one bedroom from that approved in the 2016 proposal but which now has been revised to 3 bedrooms which is the same as originally approved in 2016.***

The D&A Statement goes on to state “Not only will the proposal meet the applicants’ own current and future accommodation requirements and contribute to addressing the Council’s five-year housing land supply, it will also result in the release of a good quality, family-sized home back into the District’s rural housing stock. This will offer the opportunity for a new family to move into the village to help sustain and enhance local services and facilities in Halam and surrounding villages, and represents a much more efficient use of the District’s rural housing stock in line with the Government’s most recent housing agenda and initiatives.

By its very nature (allowing longstanding elderly residents to remain in the village by providing more suitable accommodation), the proposal also aligns with the Halam Housing Needs Survey 2012. In addition, the proposal will also contribute to the Council’s annual requirement for self-build dwellings, a sector which the Government is actively seeking to encourage and support. The proposal will also bring local employment opportunities to the area during the period of construction.”

In this statement the Agent alludes to the 2012 Halam Housing Needs Survey which relates to the provision of enabling long term residents to remain in the village. The property would also be a self-build project.

I am however mindful of the proposed changes to Policy SP3 as part of the plan review which given its recent examination can be afforded some weight (as set out in the principle of development section above). This states that new housing will be encouraged where it helps to

support community facilities and local services. Supporting text to this revised policy states that this policy requires applicants to demonstrate the services it will support and the housing need within the area.

I consider the proposed dwelling likely to support community services and facilities including the pub and primary school, village hall, church, two hairdressers and the local bus services. I am therefore satisfied in this instance that the proposal would accord with the need element of policy SP3 when attaching weight to the emerging Spatial Policy 3.

#### Impact on Visual Amenity and Character of the Area

Core Policy 9 requires a high standard of sustainable design that protects and enhances the natural environment and contributes to the distinctiveness of the locality and requires development that is appropriate in form and scale to the context. Policy DM5 mirrors this.

The proposal seeks to erect a dwelling adjacent to the side elevation of Lime Tree House (c.6 m). The dwelling would provide accommodation over two floors and has been revised to a modest height and proportions with a gable to the front and ridge line running through. There is a mix of buildings in the locality and no one defining style of dwelling. It is considered the proposal would be visually acceptable on the site. It is noted the dwelling would fill the majority of the width of the site but the massing of the property would reduce the visual impact, there is sufficient land around the dwelling to provide adequate amenity space and the proposal would not result in a cramped form of development.

The proposal would be located close to a grade II Listed Building, Barn Cottage. The grade I Listed church is also south of the application site, across the open garden area of Barn Cottage. The proposal has the potential to affect the setting of the listed cottage and potentially also the church.

In relation to the potential impact on the setting of the church the proposed dwelling would be sited some distance from the church (80 m NE). The proposal would not obstruct any of the principal views of the church, and the visual and spatial relationship of the church within the wider street scene would be retained, where it would continue to be seen as a local landmark within the general confines of the village and surrounding area. The proposed new house would not encroach upon the pleasant open areas immediately around the church but would be seen in the context of the general domestic scale development of the wider village. It is not considered the dwelling would be intrusive or out of character and with the distance between would be considered to preserve the setting of the listed church.

To the east of the application site is Barn Cottage, which dates back to the C17. The building is predominantly vernacular in character. While it currently enjoys a very large plot the historic curtilage was much smaller and the surrounding land includes former orchards which have latterly been incorporated into the domestic curtilage of Barn Cottage.

As a vernacular dwelling within the village core it would not be out of character to see other properties within the vicinity of the listed building. The former orchard setting has now been altered and two new houses have already been built adjacent to the application site on Halam Hill. The overall density and scale of the new building reflects that of the surrounding area and the proposed dwelling would preserve the setting of the listed Barn Cottage.

In size, the revised footprint of the new dwelling would still remain similar to its modern neighbours at Lime Tree House and The Bramley so wouldn't be out of character in terms of townscape. In footprint, the proposed detached garage has been reduced to more in line with that

at Lime Tree House and would hold a similar position to that at Lime Tree House. Plans submitted also detail the comparative height of the new dwelling with Lime Tree House **and the properties on Radley Terrace (as indicated in diagram B above)** showing that in relation to the topography of the area, the proposed dwelling would sit lower than Lime Tree House **and only marginally higher than the dwellings on Radley Terrace (c. 1.2 m higher)** and is considered to be acceptable in this context.

***The dwellings on Radley Terrace are positioned on approx. 1.5 m lower ground level than the application site and given the reduction in scale of the proposed dwelling in comparison to the original submission and the accommodation at first floor being provided in the roof the dwelling is considered to respect the townscape of the area. In addition the Conservation officer has confirmed that there would be no conservation objection to these revised plans.***

***I am also mindful that revised plans have been received which revise the height of the detached garage from ridge height of 6.3 m and eaves of 2.7 m to 5.7 m to the ridge and 2.8 m to the eaves.***

The Conservation Officer had **originally** advised that in terms of impact on the listed building at Barn Cottage (W) “the proposed new building would now encroach into land to its north east which is currently part of the garden area around it. The wing which faces this garden area is mostly modern, with the core of the historic building having aspects to the south east and south west. The garden area around the building is attractive, but its strongest contribution is the area to the south between the historic part of the cottage and the church, which together with the open space between forms a very attractive and in some ways unchanged composition. The view from the later wing to the north east takes in the rear of the adjacent terraced row and has a more suburbanised character than the views to the south.

Given the later age of the wing most affected, the more suburban character of the aspect this wing and the fact that there is still a good degree of ‘breathing space’ around this wing, I think on balance the revised footprint would retain the significance of the setting of this listed building.”

The design of what is submitted now is not dissimilar to the house adjacent at Lime Tree House, and so it is considered that the propose dwelling can be accommodated here without harm to the overall townscape. The Conservation officer has advised that maintaining a consistent wall and hedge boundary to the front will help in assimilating this proposed new build, this can be controlled by a suitably worded landscaping condition.

Given that the proposed new build here will not stand out in townscape terms (noting the desire for respecting the overall height of Lime Tree House), and given the comments about the impact of repositioning the building, given above, I am of the view that the enlarged elevations and detached garage in comparison to that approved in 2016 will not have any negative impact upon the setting of the nearby listed buildings. In addition, to the NW of the proposed dwelling is a row of terrace properties on Radley Terrace that have projecting linear form towards the SE in the direction of the application site (20 m separation distance). This row of terraces fronts on to Radley Road/Church Lane where the urban grain is tighter knit than on Halam Hill which is generally characterized by larger dwellings within substantial plots, particularly to the SE. Whilst I appreciate this proposed dwelling would be closer to the Radley Terrace properties, the dwelling would assimilate well within the street scene on Halam Hill. In any case, Radley Terrace presents its rear elevation to the propose dwelling site and is separated by an approx. 2 m leylandii hedgerow that further distinguishes the change in urban form here. ***In addition the dwelling has been revised to be substantially lower than originally presented and the ridge height of the***

***proposed garage has been reduced which, in terms of visual amenity, is considered to ensure that the development respects the form of the dwellings in this location and enables it to assimilate without appearing as an obvious and incongruous addition.***

In conclusion I believe the proposed dwelling will not harm historic Halam and will meet the test of causing no harm to the setting of the listed buildings, as laid out in S66 of the Planning (Listed Building and Conservation Areas) Act 1990.

The design of the proposed new house is acceptable in scale and form. It also includes some sympathetic architectural detailing, being a nod to local architectural features. Subject to the use of good quality materials this house is acceptable and can be absorbed into the historic grain of Halam, preserving the setting of the adjacent listed Barn Cottage and nearby Church.

Having regard to Policies DM5, DM9 and CP14 and the NPPF it is considered the proposed dwellings would be visually acceptable at this location in terms of the pattern of development and the visual appearance of the dwellings is also acceptable. There would also be no harm to the setting of the adjacent and nearby listed buildings in accordance with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### Impact on Residential Amenity

Policy DM5 requires development to be acceptable in terms of not having a detrimental impact on residential amenity both in terms of existing and future occupiers.

There are no dwellings to the northern side of Halam Hill. To the east is Lime Tree House which has a side elevation adjacent to the proposed dwelling. Although the side elevation of the proposed dwelling would run along this boundary the dwelling is considered to be of an acceptable height with only one window above first floor level on this elevation to serve an ensuite, of which could be conditioned to be obscurely glazed to maintain privacy. The dwelling would project beyond the front elevation of Lime Tree House by approx. 3 m, but not to the point where there would be an overbearing impact. Furthermore, adequate space would remain between the buildings.

To the south and west the rear boundary of the proposed garden would border the remaining garden to serve Barn Cottage with Sedgebrook House a significant distance away. To the west the dwelling would be separated from Barn Cottage by a significant distance and there would be no windows above ground floor level. Although the site is on higher land it is not considered the proposal would have an undue adverse impact on this property.

Also to the west are the rear elevations of Radley Terrace, a number of properties which would be separated by another part of the remaining rear garden of Barn Cottage. The application site is on higher ground than these properties but the combination of separation distance, the reduction in height to 7.2 m to the ridge, the absence of first floor windows in the proposed side elevation, apart from two roof lights in the NW roof slope, and the scale of the property would result in a satisfactory relationship.

The proposed first floor windows are limited to the front and rear elevations to serve a bedroom on each elevation. Although this would increase the amount of overlooking to Lime Tree House the impact would be limited and similar to many other relationships in the locality. No other property would be affected.

Taking into account the above considerations it is considered the proposal would not conflict with the amenity criteria under Policy DM5.

### Highway Safety

Policy DM5 seeks to ensure adequate access and parking is provided for development and Spatial Policy 7 relates to sustainable transport.

A new vehicular access would be created onto Halam Hill and the Highway Authority raise no objection. Adequate visibility splays can be achieved and the level of additional traffic generated would be limited. Off street parking and turning can be achieved to an adequate standard within the site given the proposal includes the provision of a two-bay detached garage. Subject to appropriate conditions, the proposal would not result in any highway safety impact and accords with Spatial Policy 7 and Policy DM5.

### History and S106

Reference 97/50859 approved the erection of a dwelling but was subject to a s.106 agreement. This restricted development within the site to a single dwelling with the adjacent area to remain as undeveloped open space. The site the subject of the current application falls within the area restricting development to a single dwelling; Lime Tree House, an existing dwelling, has already been erected within this site.

From assessing the plan contained within the legal agreement and the proposed site plan it is concluded the proposed dwelling would fall within the area covered by the s.106. Legal opinion has been sought and has confirmed the original plan on the Agreement dated 9<sup>th</sup> September 1998 and the red line to the North West of Lime Tree House does appear to include the approved 16/01987 and current 18/00501 application site. As such the terms of that 1998 Agreement are relevant. The applicant has supplied a legal view through Freeths who are considered correct in concluding that if the Local Planning Authority were to grant permission under the new application, this would not breach the 1998 Agreement. The Council's Legal Officer has reaffirmed their statement made in 2016 that this situation is not at all unusual and in no sense can it be said that the Council has failed. The last three lines ("... and in particular etc.") are bespoke to this Agreement but the rest of it is a standard term in most 106s. Owners of land are allowed to apply after 5 years to vary 106s and can appeal any refusal so it would be totally wrong for the Council to try to stop any future development which is subject to due consideration in the course of a new application.

As such it is not considered the development could be soundly or reasonably refused planning permission on the grounds of the legal agreement.

### Planning Balance and Conclusion

There is an existing extant permission for a dwelling on this site which affords great positive weight to the principle of a new dwelling on this site.

The application has been carefully assessed against Spatial Policy 3 Rural Areas of the Development Plan along with the proposed changes to Policy SP3 as part of the plan review which given its recent examination can be afforded some weight, and the NPPF. The dwelling is considered to be sustainably located, small scale, would not result in negative impacts, including highway safety, subject to conditions, the revised scheme *remains to be considered* appropriately



designed, scaled and sited so as not to detrimentally impact upon the character and appearance of the area or setting of listed buildings or visual amenities of the streetscene, and would support existing facilities within the village.

Turning to residential amenity, it is considered that the site is capable of accommodating a single dwelling without causing adverse impacts including upon the occupiers of neighbouring properties.

A case for local need has been made as part of this application but in any event this now affords less weight in the planning balance when taking into account the emerging SP3 policy on need where new development is acceptable provided it supports existing facilities within the village.

For the reasons stated above, and given the extant permission on the site which is a fall-back position, must be afforded great weight, the principal of development in this location is considered to comply with relevant local and national planning policy and is considered acceptable. I therefore recommend that planning permission be granted subject to appropriate conditions.

### **RECOMMENDATION**

**That full planning permission is approved subject to the following conditions.**

#### **Conditions**

01

The development hereby permitted shall not begin later than three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

02

The development hereby permitted shall not be carried out except in complete accordance with the following approved plan references

- Site Location Plan
- ~~Proposed Dwelling Details – 2018/08/01~~
- ~~Proposed Block Plan and Site Plan – 2017/08/02~~
- **Proposed Dwelling Details as amended – 2017/08/03 deposited on the 19th June 2018**
- **Revised Proposed Block Plan and Site Plan – 2017/08/03 deposited on the 19<sup>th</sup> June 2018**
- **Elevation facing Halam Hill (north east) at 1:100 deposited on the 19<sup>th</sup> June 2018**
- **Revised Streetscene elevations (north east) at 1:100**

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission.

03

No development shall be commenced until details of the external materials to be used in the construction of the dwelling hereby approved shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with these approved details.

Reason: In the interests of visual amenity.

04

No development shall be commenced until details of the boundary treatments to be used in the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with these approved details.

Reason: In the interests of visual and residential amenity.

05

No part of the development hereby permitted shall be brought into use until the access to the site has been completed and surfaced in a bound material for a minimum distance of 5m behind the highway boundary in accordance with the approved plan no. 2017/08/03.

Reason: In the interests of highway safety.

06

No part of the development hereby permitted shall be brought into use until the visibility splays of 2.4m x 43m are provided. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstruction, structures or erections exceeding 0.6m in height.

Reason: To maintain the visibility splays throughout the life of the development and in the interests of general highway safety.

07

No part of the development hereby permitted shall be brought into use until the parking/turning areas are provided in accordance with the approved plan. The parking/turning areas shall not be used for any purpose other than the parking/turning of vehicles.

Reason: In the interests of highway safety.

08

No development shall be commenced until details of the drainage, to include sustainable surface water drainage, to be used in the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with these approved details and shall thereafter be so retained for the lifetime of the development.

Reason: To ensure the drainage is appropriate for the site and in the interests of residential amenity and the environment.

09

No development shall be commenced until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:

An implementation and phasing plan;

a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting

species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species.

Reason: In the interests of visual amenity and biodiversity.

10

All hard and soft landscape works shall be carried out in accordance with an approved implementation and phasing plan. The works shall be carried out before any part of the development is occupied or in accordance with any approved phasing programme agreed in writing with the Local Planning Authority as part of condition 9.

Reason: To ensure the work is carried out within a reasonable period and thereafter properly maintained, in the interests of visual amenity and biodiversity.

11

No part of the development shall be commenced until details of the existing and proposed ground and finished floor levels of the site and approved building have been submitted to and approved in writing by the local planning authority. The development shall be carried out thereafter in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential and visual amenity.

12

The first floor window opening on the south-east side elevation shall be obscured glazed to level 3 or higher on the Pilkington scale of privacy or equivalent and shall be non-opening up to a minimum height of 1.7m above the internal floor level of the room in which it is installed. This specification shall be complied with before the development is occupied and thereafter be retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard against overlooking and loss of privacy in the interests of amenity of occupiers of neighbouring properties

### **Note to Applicant**

01

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk)

The proposed development has been assessed and it is the Council's view that CIL IS PAYABLE on the development hereby approved as is detailed below. Full details about the CIL Charge including, amount and process for payment will be set out in the Regulation 65 Liability Notice which will be sent to you as soon as possible after this decision notice has been issued. If the development hereby approved is for a self-build dwelling, residential extension or residential annex you may be able to apply for relief from CIL. Further details about CIL are available on the Council's website: [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/) or from the Planning Portal: [www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil02](http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil02)

02

The application as submitted is acceptable. In granting permission without unnecessary delay the District Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

03

As part of the considerations of inclusive access and facilities for all, with particular reference to disabled people, it is recommended that the developer's attention be drawn to Approved Document M of the Building Regulations, which contain useful standards in respect of access and facilities for disabled people together with visitable, accessible and adaptable, and wheelchair user dwellings. Occupants requirements can change as a result of illness, accident such as sports injury for example, disability or ageing giving rise to reduced mobility or increasing sensory loss. In order to meet these changing requirements, homes need to be accessible to residents and visitors' alike as well as meeting residents' changing needs, both temporary and longer term. Similarly, inclusive access improves general manoeuvrability for all including access for those with push chairs and baby buggies as well as disabled people etc.

It is recommended that disabled persons and wheelchair users' access to, into and around the proposal be carefully examined. External pathways to and around the site should be carefully considered and designed to accepted standards to ensure that they provide suitable clear unobstructed access to the proposal. Depending upon the site topography and practicality to achieve, step-free access to and into the proposal is important and a suitably surfaced firm obstacle-free level and smooth traffic free accessible route is essential to and into the proposal from facilities such as car parking and from the site boundary. Any loose laid materials such as gravel or similar, can cause difficulty for any wheelchair users, baby buggies or similar and should be avoided. It is recommended that inclusive step free access be considered to garden areas, amenity spaces and external features.

Carefully designed 'step-free' approach, ramps, level flush thresholds, generous doorways, all carefully designed to facilitate easy access and manoeuvre on all floors are important considerations. Switches and sockets should be located at suitable heights and design to assist those whose reach is limited to use the proposal together with suitable accessible WC and sanitary provision etc. It is recommended that the developer make separate enquiry regarding Building Regulation matters.

04

The development makes it necessary to construct a vehicular crossing over a footway of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact Via, in partnership with NCC, tel: 0300 500 8080 to arrange for these works to be carried out.

A lighting column and a utility pole may require relocating as part of the access works. It should be noted that this will be at the applicant's expense.

#### Background Papers

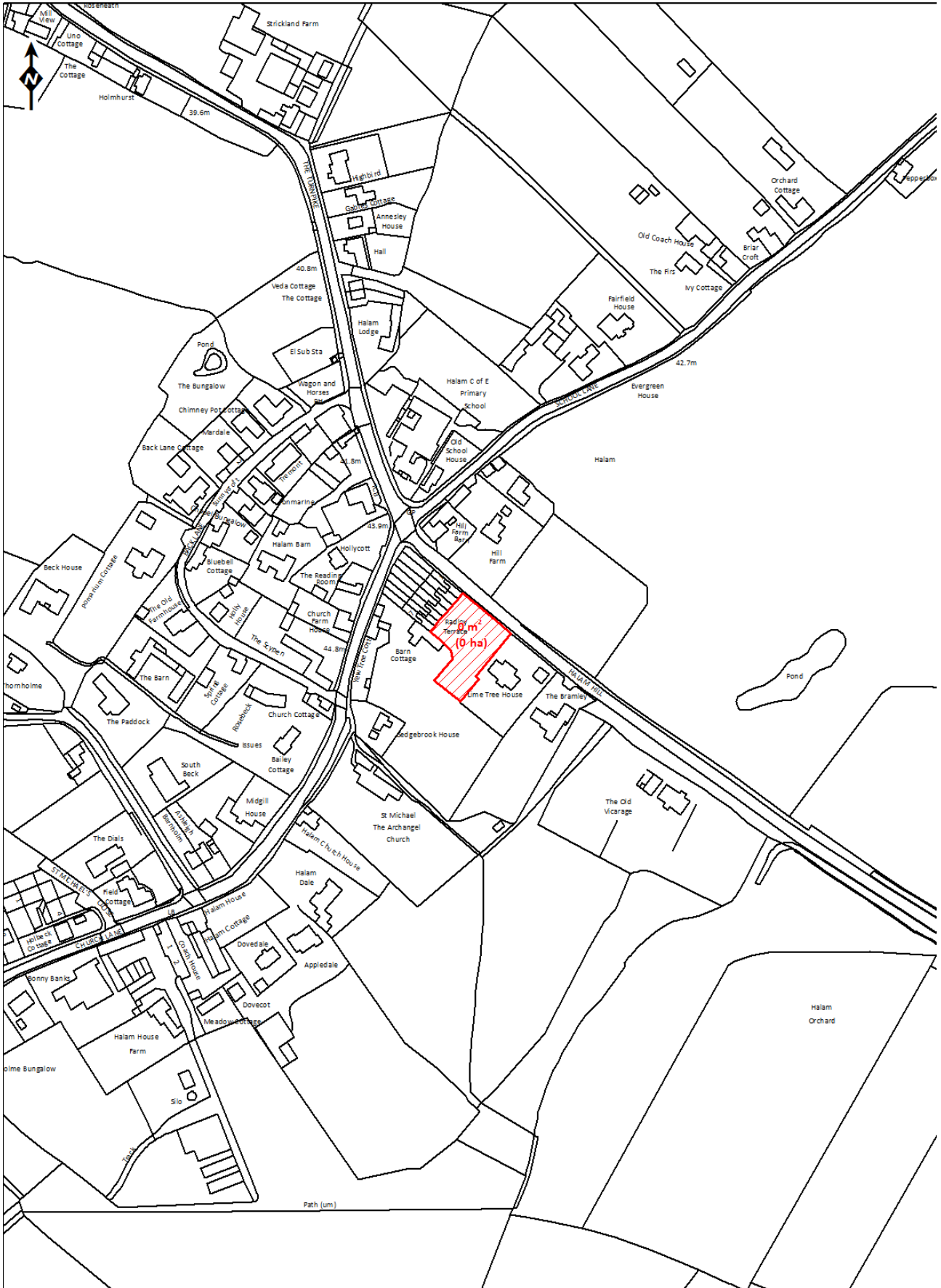
Application Case File

For further information, please contact Honor Whitfield on ext. 5827.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**  
**Business Manager Growth & Regeneration**

Committee Plan - 18/00501/FUL



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## PLANNING COMMITTEE – 3 JULY 2018

<b>Application No:</b>	<b>18/00832/FUL</b>	
<b>Proposal:</b>	<b>Development of 1 No. 3-bed bungalow and 3 No. 1-bed bungalows</b>	
<b>Location:</b>	<b>Land Off Westgate Southwell Nottinghamshire</b>	
<b>Applicant:</b>	<b>Newark and Sherwood District Council</b>	
<b>Registered:</b>	<b>03.05.2018</b>	<b>Target Date: 28.06.2018</b>
		<b>Extension of Time Agreed: 06.07.2018</b>

This application is one of several schemes currently being considered by the Council for the residential development of land owned by the Council. The need for affordable housing position remains high in the Council's agenda, as indeed it does nationally. The developments are being put forward as part of a five year building programme by Newark and Sherwood Homes (NASH) to deliver approximately 360 new affordable dwellings across the District to directly meet affordable housing need. Under the Council's constitution, schemes submitted specifically as part of this 5 year affordable housing programme need to be determined by the Planning Committee where the officer recommendation differs from that of the host Parish or Town Council.

### The Site

The site lies to the south west of the centre of Southwell and within the main built up area. The site is not within the Southwell conservation area but the boundary for the area bounds the southern edge of the site. The site is composed of an access road which serves a handful of properties with grass verges and trees either side. The proposed development site is a mix of grassed verge and part of an existing garden which serves No. 8 Westhorpe. Properties in the vicinity of the site are a mix of private and Newark and Sherwood Homes ownership and predominantly single storey semi-detached red brick red roof tiled dwellings. Further to the north are two storey properties one of which is the vicarage. Footpaths are situated to the east and west of the access road in front of dwellings. The grassed verges either side of the road contain a number of trees with the most prominent in the south eastern corner and beyond the development site. A brick and timber clad bus shelter is situated on the south eastern corner of the site.

The site is designated as being within Flood Zone 1 in accordance with Environment Agency mapping.

### Relevant Planning History

**No relevant site history**

## The Proposal

The plans (40860/ID151/008J) seeks to provide 1 x 3 bed single storey bungalow and 3 x 1 bed single storey properties. The properties are detailed on the application form to be social rented dwellings.

The site layout of the proposal has been marginally altered during the lifetime of the application to improve the parking and access arrangements.

The approximate measurements of the buildings are:

2 x type C6 detached properties (dwellings 1&2): 6.40m deep, 9.66m wide and 4.81m high

1 x type F detached property (dwelling 3): 7.53m deep, 11.53m wide and 5.5m high

1 x type A3 detached property (dwelling 4): 8.32m deep, 7.6m wide and 4.95m high

1 parking space would be provided for each of the units with the exception of the 3 bed F type unit where 2 spaces would be provided.

It is proposed that all dwellings be constructed from a mix of Cadeby red multi bricks, Welford buff, off white through colour render and Russell Grampian cottage red & slate grey tiles.

## Public Advertisement Procedure

Occupiers of 13 properties have been individually notified by letter.

Earliest decision date 20.06.2018

## Planning Policy Framework

### The Development Plan

#### **Southwell Neighbourhood Plan 2016**

Policy SD1: Delivering Sustainable Development  
Policy E1: Flood Risk Assessments and Mitigation  
Policy E2: Flood Resilient Design  
Policy E3: Green Infrastructure and Biodiversity  
Policy DH1: Sense of Place  
Policy DH2: Public Realm  
Policy TA4: Parking Standards  
Policy HE1: Housing Type and Density

#### **Newark and Sherwood District Council Core Strategy DPD (adopted March 2011)**

Spatial Policy 1 - Settlement hierarchy  
Spatial Policy 2 - Spatial distribution of growth  
Spatial Policy 6 - Infrastructure for Growth  
Spatial Policy 7 - Sustainable transport  
Core Policy 1 - Affordable Housing Provision  
Core Policy 3 - Housing Mix, Type and Density



Core Policy 9 – Sustainable design  
Core Policy 10 - Climate Change  
Core Policy 12 - Biodiversity and Green Infrastructure

### **Allocations & Development Management DPD**

DM1 – Development within settlements central to delivering the spatial strategy  
DM5 – Design  
DM7 - Biodiversity and Green Infrastructure  
DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014

### **Consultations (comments based on plans currently being considered)**

#### **Southwell Town Council – Object**

Southwell Town Council considered application 18/00832/FUL Land Off Westhorpe and agreed unanimously to object to the application and have asked that Cllr Bruce Laughton call in this application for the following reasons:

The layout of the two bungalows C6 are on opposite sides of the road which completely reduces of open space aspect of the area. The committee recommend that both bungalows are built on the west side of the access road to maintain a more open aspect

#### **Southwell Civic Society – Object**

We welcome the proposal to develop these small bungalows for social housing. This type of dwelling was identified as an urgent need in the Southwell Neighbourhood Plan.

We have, however, concerns with the proposed layout of the two type C4 properties either side of the access road. The carriageway is only some 4.5 metres wide and the proposed distance between the houses only 6 metres. This will create a very narrow tunnel effect in contrast to the existing wide open space.

The current layout has the living area of plot 002 looking straight into the brick wall of plot 001. We would suggest that the road be moved to the west and the houses put side by side. Alternatively the stagger be increased moving the house on plot 001 further north.

We appreciate moving the road will add to the cost of the scheme. Nevertheless, it is important that short term cost cutting does not prejudice a scheme which could easily be there in well over a hundred year's time. It is noted that baths are proposed. Experience shows that with increasing age a bath becomes harder to access and a walk in shower may be more appropriate.

#### **NCC Highways Authority – No objection subject to condition**

Further to comments dated 1 June 2018 revised drawing 40860/ID151/008J has been

submitted to address the issues previously raised.

The scheme involves the stopping up of part of the public highway. It should be noted that in such circumstances the land reverts to the owner of the subsoil or successor in title. It is assumed that this will be pursued through Section 247 of the T&CP act 1990. Suitable arrangements may be required with any service providers within that part of the highway.

Notwithstanding the above, no objections are raised subject to the following conditions:

The development hereby approved must comply with drawing 40860/ID151/008J.

Reason: For the sake of clarity.

No part of the development hereby permitted shall be occupied until all drives and any parking or turning areas are surfaced in a hard bound material (not loose gravel) for a minimum of 5 metres behind the highway boundary. The surfaced drives and any parking or turning areas shall then be maintained in such hard bound material for the life of the development.

Reason: To reduce the possibility of deleterious material being deposited on the public highway (loose stones etc.)

No part of the development hereby permitted shall be occupied until appropriate dropped vehicular crossings are available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.

Reason: To protect the structural integrity of the highway and to allow for future maintenance.

No part of the development hereby permitted shall be occupied until the drives/parking areas are constructed with provision to prevent the unregulated discharge of surface water from the drives/parking areas to the public highway in accordance with details first submitted to and approved in writing by the LPA.

The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.

Reason: To ensure surface water from the site is not deposited on the public highway causing dangers to road users.

No part of the development hereby permitted shall be commenced until the required Highway Stopping Up Order under S247 of the Town & Country Planning Act 1990 has been confirmed in writing.

Reason: To protect the interests of highway users and the Highway Authority.

No part of the development hereby permitted shall be commenced until a review of the highway street lighting has taken place and conclusions agreed with the Highway Authority in writing. If such conclusions require additional street lighting to be installed, such lighting will be required to meet the Highway Authority's standards and specification, and; be installed prior to occupation of any part of the permitted development.

Reason: In the interests of highway safety.

**Notes to Applicant:**

The development makes it necessary to construct/alter vehicular crossings on part of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact the County Council's Agent, Via East Midlands tel. 0115 977 2275 to arrange for these works to be carried out.

**NSDC Conservation Officer – No objection**

Legal and policy considerations Section 72 requires the LPA to pay special attention to the desirability of preserving or enhancing the character and appearance of the CA. In this context, the objective of preservation is to cause no harm. The courts have said that these statutory requirements operate as a paramount consideration, 'the first consideration for a decision maker'. Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 12 of the National Planning Policy Framework (NPPF).

Paragraph 132 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 7).

Paragraph 135 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3). In addition, 'Historic England Advice Note 2: making changes to heritage assets' advises that it would not normally be good practice for new work to dominate the original asset or its setting in either scale, material or as a result of its siting. Assessment of an asset's significance and its relationship to its setting will usually suggest the forms of development that might be appropriate. The junction between new development and the historic environment needs particular attention, both for its impact on the significance of the existing asset and the impact on the contribution of its setting.

*Significance of heritage asset(s)*

The land off Westgate is located immediately outside the boundary of the Southwell Conservation Area, first designated in 1970, and most recently reappraised in 2005. The area of Westhorpe is described in the CAA as follows: '*Westgate is the road that links Southwell with the former hamlet of Westhorpe and is essentially a ribbon of residential development. The conservation area boundary is drawn relatively tightly along the road, particularly on the north side, to exclude the swathe of C20 suburban housing immediately behind it.*'

The application site relates directly to the adjacent range of late C20 bungalows, as referenced in the above extract of the Southwell CAA, located on either side of the cul-de-sac which serves the properties. The cul-de-sac features wide grass verges that amount to the potential development

land that is the subject of this application. The conservation area boundary terminates on the north side of Westgate, although extends in a narrow loop northwards next to the application site to accommodate for the Old Vicarage, which is recognised as a local interest building.

There are further local interest buildings located in close proximity to the application site, on the south side of Westgate within the West Conservation Area boundary. These include The Bumbles (public house) and The Cottage. The Bumbles is a two storey pub with a twin gabled frontage that has been extended in an unsympathetic style and has been rendered with a mock timber framed façade. Further eastwards, The Cottage is a traditional farmhouse in red brick with a pantiled roof with an attached barn range. The application site makes an overall neutral contribution to the setting of these local interest buildings and the wider character of the conservation area.

### *Assessment of proposal*

Conservation does not object to the proposal to build 4 new bungalows in this location. The wide grass verges that form the basis of the layout are suitable for the new built form, and the new dwellings would relate to the surrounding properties. The scale, form and massing of the new bungalows will respect the character of the conservation area, they have a low profile and will not affect the adjacent Old Vicarage or the aforementioned local interest buildings on the south side of Westgate. The access into the site is also considered to preserve the neutral contribution of the cul-de-sac, there are no detached garages proposed and the parking spaces are suitably located. In this context, the proposal is not considered to cause harm to the character of the conservation area. The proposal therefore is in accordance with the objective of preservation set out under sections 72, part II of the 1990 Listed Building and Conservation Areas Act, and complies with heritage policies and advice contained within the Council's LDF DPDs and section 12 of the NPPF.

**NSDC Archaeologist** – No objection

**Trent Valley Internal Drainage Board** – No objection

Surface water run-off rates to receiving watercourses must not be increased as a result of the development.

**NSDC Environmental Health Officer** – No objection subject to condition

I have now had the opportunity to review the Phase I Desktop Study and Phase II Site Investigation Reports submitted by Collins Hall Green in support of the above planning application. The desktop includes a brief description of the site, consideration of the site history and includes an Environmental Screening report.

Following this work, three samples were taken as part of the intrusive investigation, the results from which were all below the respective screening criteria.

The phase 2 report concludes by recommending that a minimum of 300mm clean topsoil placed on top of the natural strata. Environmental Health requires that any clean material imported to site complies the current YALPAG Verification Requirements for Cover Systems document.

I would therefore suggest that a planning condition is imposed in order to ensure that this material is effectively verified:

*The applicant is required validate that any imported material is suitable for use in garden areas. This should be done in accordance with the YALPAG guidance document Verification Requirements for Cover Systems (ver 3.3), to the satisfaction of Environmental Health.*

If you wish to discuss my comments above, please contact me on 01636 655430.

## **NSDC Access Officer - Observations**

### Representations

Seven letters of correspondence have been received with 2 supporting, 2 neither supporting nor objecting and 3 objecting. The following points have been raised:

#### Objection

- There is confusion as to whether the site is Westhope or Westgate
- No need for a 3 bed bungalow
- 4 properties on the proposed site will be overcrowded and result in a loss of green, pleasant land and ridge & furrow cultivation within the garden area of No. 8
- The 2 cherry trees proposed to be felled enhance the area and should be retained
- Concern regarding parking for residents & lack of visitor parking with visitors likely needing to park on the main road, which could result in visibility issues for dwellings leaving the site
- Concern regarding drainage on the site, particularly given 1 residents experienced recent problems with a tree root blocking pipes
- There is a need to keep the access to the vicarage open; will there be sufficient space for vehicles to turn?
- All residents in the area are elderly and I wonder about the appropriateness of introducing a family home into the area
- The existing plans show only 2 disabled spaces, when there are 4 blue badge holders on the close
- Overspill parking often occurs, particularly when there is an event at the hotel next door, could allocated parking/bollards/resident only signs be considered?
- Concern about access to existing dwellings during construction
- Concern about dwellings blocking views and impacting on value of property

#### Support

- I support the provision of additional bungalows to enable families to continue to support their relatives
- The community on Westgate is wonderful and additional homes and occupants will be warmly welcomed

### Comments of the Business Manager

There seems to be some confusion about the correct address for the site with the land being situated off Westgate but the properties surrounding the site being deemed as being off Westhorpe. For consistency the site shall be referred to as being land off Westgate within the report.

### *Principle of development*

The NPPG acknowledges that Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area, thus providing a powerful set of tools for local people to ensure that they get the right types of development for their community where the ambition of the neighbourhood is aligned with the strategic needs and priorities of the wider local area.

Following public consultation and independent examination, at its council meeting on 10<sup>th</sup> October 2017 Newark and Sherwood District Council adopted the Southwell Neighbourhood Plan. The Neighbourhood Plan now forms part of the development plan for the district and its policies are a material consideration alongside other policies in the development plan and carry weight in the determination of planning applications in Southwell. In this instance the most relevant policies in the Neighbourhood Plan are listed above and are considered against the relevant aspects of the proposal in the assessment below.

Southwell is defined as a Service Centre with a good range of local facilities, good public transport and local employment, as set out in the Settlement Hierarchy defined by Spatial Policy 1 of the Core Strategy. New housing is therefore supported in principle within Service Centres where services are focused to provide for a large local population and a rural hinterland.

Policy So/HN/1 seeks to secure, subject to local site circumstances and the viability of development, the majority of new housing on allocated or windfall sites as one or two bedroom units in line with identified housing need. This drive to secure smaller units is a significant material consideration and must remain so given that this policy is just one of two policies of its type in our district whereby it was felt necessary to intervene in the market to secure smaller dwellings. This remains the case with the more up to date district wide Housing Needs Survey which confirms the most needed housing type remains as two bedrooms.

Furthermore, the Southwell Neighbourhood Plan (SNP) seeks for sustainable development that has regard for the town's unique character, historic environment and landscape setting.

I am satisfied that the site is located within the main built up area of a sustainable settlement and as such, there is no objection in principle to the residential development at the site. However, the impact upon the character of the area, residential amenity of neighbouring properties and highway matters will all need to be taken into consideration and are discussed below.

### *Impact upon Character of Area*

Core Policy 9 states that new development should achieve a high standard of sustainable design and layout that is of an appropriate form and scale to its context complementing the existing built and landscape environments. Policy DM5 of the DPD states that local distinctiveness should be reflected in the scale, form, mass, layout, design and materials in new development. The SNP also reflects this. The NPPF 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.

The site rises from Westgate with the properties to the north on slightly elevated land. The site is currently open, grassed, with a number of trees and offers attractive views for passers-by on Westgate. The proposed development would see the introduction of two 1 bed properties either

side of the access road with the retention of the large tree to the south east but the removal of the two cherry trees to the west of the access road. A further 1 bed bungalow would be positioned on the north western boundary of the site with the hedge between the close and the vicarage to the north proposed to be replaced with fencing and the existing telegraph post would be relocated. Finally to the east a 3 bed single storey property is proposed within the existing side garden area of No. 8 Westhorpe.

The loss of trees on the site is regrettable and in particular the cherry tree on the south western corner of the site. A tree survey has been submitted in support of the application which categorises the trees to be removed as C1. Requests have been made for the south western cherry tree to be retained but the applicant has stated that the tree has only shallow roots and the proposed provision of a parking space within the Root Protection Area (RPA) of the tree would destabilize the tree, even if the parking space was hand dug. The application proposes a replacement tree on the frontage of the site, which could be controlled by way of condition to ensure it was suitable for the prominent location it would occupy.

The proposed dwellings have been reviewed by conservation colleagues given the proximity of the Southwell Conservation Area and the scale, form and massing of the dwellings considered appropriate for the proximity of the conservation area. Properties 1 & 2 either side of the access road are detailed as being constructed of red brick with red roofing tiles, which would help assimilate them with surrounding built form. The properties are modestly scaled and would be orientated gable end towards Westgate. I note the objection raised by the Town Council in relation to the siting of these properties, however there would be insufficient space to locate 2 properties on one side of the road as requested. The proposed siting would impact upon the open aspect of the site, however would enable green frontages to be retained which would contribute the existing openness of the area and I consider the proposed stagger of properties to be sufficient to ensure the development would not result in a tunnel effect as feared. No details relating to boundary treatment have been provided, however the applicant has confirmed that close boarded fencing or similar would be provided along the southern boundary of the south eastern property between the side gable and the bus shelter. Full details of the boundary treatment and replacement planting shall be controlled by way of condition.

Property 3 in the north eastern corner would be constructed of materials to match properties 1&2 with property 4 in the north western corner to be finished in a buff brick with slate grey tiles. Given the elevated land in the north eastern corner of the site a street scene has been requested showing the property in relation to the neighbouring No. 8. The view shows that the property would be partially cut in to the land to reduce its mass, with the ridge being only marginally higher than that of the neighbouring property. A hipped roofline may help better integrate the dwelling into the close, however given the location in the north eastern corner of the site and that the dwelling would largely be screened from view by properties to the south I don't consider the inclusion of a hipped roof in the this instance to be strictly necessary.

As detailed by the conservation officer; the proposed layout, scale and massing of the development whilst resulting in the loss of green space is not considered to significantly detrimentally impact upon the character of the surrounding area. Subject to condition the proposal is considered to accord with policy DM5 of the DPD and policies DH1 and DH2 of the SNP.

### *Impact upon Residential Amenity*

Policy DM5 of the DPD states that the layout of development within sites and separation distances from neighbouring development should be sufficient to ensure that neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy. The NPPF seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.

Property 3 would be constructed within the side garden area of No. 8 and aligned with this dwelling. Given the location it is not considered to result in overbearing or loss of light to the property, given that windows within No. 8 are situated on the front and rear. Sufficient garden area is considered to remain to serve No. 8 and the proposed garden area for property 3 is considered to be acceptable. The property to the north; No. 1 The Paddocks, which is on slightly elevated land would be partially aligned with property 3 and the garden area for No. 1 The Paddocks is situated to the front of the dwelling and as such the introduction of property 3 is not considered to result in overbearing or loss of light.

Property 4 is proposed to be located approximately 12m to the front of Nos. 10 & 12 Westhorpe and would be side elevation to these properties. Given the degree of separation and modest ridge height of this property (5m) it is not considered that this dwelling would significantly overbear on these 2 properties. In relation to loss of light; the front garden area of these properties would experience a modest loss of morning light; however the primary private garden area for these dwellings is to the rear and the dwelling given the separation and intervening built form would not impact upon this area. The property would be sited in close proximity to the shared boundary with the vicarage to the north; again given the degree of separation is not considered to significantly impact upon the amenity of this property.

Properties 1 & 2 would be located either side of the access road and be approximately 9m to the side of 16 Westhorpe to the west and 8.5m to the side of 4 Westhorpe to the east. The proposed dwellings would be orientated so that part of their rear elevations would be aligned with the side of the neighbouring dwellings. The remaining parts of the new build units would be aligned with the front garden of 16 Westhorpe to the west and the rear garden of 4 Westhorpe to the east. In relation to No.16 Westhorpe; a modest degree of overbearing and loss of light to the front garden area is likely to occur, however this would not be so significant to warrant refusal. In relation to 4 Westhorpe; again a modest degree of overbearing would occur, however given the separation distance this is not considered to be so significant to warrant refusal. In relation to loss of light; given the proximity of the large tree on the frontage, the introduction of a new dwelling to the west of No. 4 Westhorpe is not considered to result in a significant loss of light.

In relation to overlooking; the frontage of No. 16 is currently open, boundary treatment is proposed to the rear of dwelling 1 which can be controlled by way of condition to ensure no significant degree of overlooking occurs. The rear garden area of No. 4 Westhorpe is currently bound by hedging and again screening to the rear of property 2 will be controlled by condition to ensure no significant overlooking occurs. New garden areas are proposed to the north of both properties 1 & 2 which appear to be appropriately scaled in relation to the proposed dwellings.

In conclusion the introduction of 4 new dwellings is not considered to significantly impact upon amenity of existing residents. The proposed layout appears, subject to condition to provide satisfactory private amenity space for any future residents of the units. The proposal is therefore considered to accord with policy DM5 of the NSDC DPD.



### *Highway Matters*

Policy DM5 is explicit in stating that provision should be made for safe and inclusive access to new development whilst Spatial Policy 7 encourages proposals which place an emphasis on non-car modes as a means of access to services and facilities.

The proposed site layout has been amended a number of times during the lifetime of the application, following discussions between the applicant and colleagues at NCC Highways Authority. The proposed development would provide a parking space each for the new dwellings with property 3 (3 bed property) being provided with 2 parking spaces. Nos. 6, 8, 10 & 12 Westhorpe would be provided with a disabled parking space each, reflecting the needs of the current occupiers. The proposed parking layout is somewhat contrived with a space for property 2 provided to the opposite side of the road to the south of property 1. Spaces for existing units 10 & 12 Westhorpe which currently have unallocated parking but space provided to the front of the units would be moved further to the east and be situated to the front of unit 3. Concerns have been raised regarding the layout by NCC Highways; however no formal objection raised subject to the imposition of a number of conditions.

I note the concerns raised regarding no provision of visiting parking; however parking on the close and Westgate to the south is not restricted by any Traffic Regulation Order and as such there is already no control over the number of existing residents, their visitors or other members of the public who are able to park on street. The road providing access to properties to the north would be widened slightly to allow for vehicle parking and a 6m wide access is proposed which would allow for a two way flow of traffic.

Highways have commented that a stopping up order will be required for the creation the parking area to the front of property 3 which is shown to be a former footpath. From undertaking a site visit, this is currently a grassed bank which does not appear to have been used as a footpath for a number of years. The stopping up of this former section of footpath can be secured by way of a S.247 agreement post decision.

In conclusion it is not considered that the proposed development would significantly detrimentally impact upon highway safety and the proposal is considered to accord with the requirements of policy TA4 of the SNP and policy SP7 of the Core Strategy.

### *Other Matters*

The comments regarding drainage are noted and details of surface and foul water management shall be controlled by way of condition

In relation to the need for a 3 bed dwelling; as Members will be aware, this proposal forms part of a wider capital programme for investment and delivery of affordable housing provisions within this District over the next 5 years. For the avoidance of doubt there is an affordable housing need across the District, which includes Southwell. Comments have been sought from the applicant who has stated that at present within the Newark and Sherwood Homes portfolio of properties there are no 3 bed single storey properties within Southwell. Indeed, there are only a handful of properties of this type in the east of the district. The proposal would provide a better platform to meet a wide range of individual needs in this part of the district. Furthermore, having discussed the matter with the NSDC housing officer reference has been made to the DCA Housing Needs

Survey 2014; which outlines a requirement for 3 bed single storey units. The report at table 12-22 (disabled households) details that 22% of respondents are seeking a 3 bed units (3<sup>rd</sup> highest after 1 & 2 bed units) with 16% of respondents (3<sup>rd</sup> highest after Newark & Balderton) seeking to reside within Southwell.

Whilst I note the comments received in relation to the suitability of proposing a 3 bed unit within an area predominantly resided in by older residents, the overall District need for the provision of a larger single storey unit is considered to outweigh concerns in relation to introducing a larger dwelling in the proposed location.

The comment received regarding the development impacting on emergency services is noted, however given the proposal is for 4 dwellings only it is not considered to result in such a change in traffic volumes to prevent emergency vehicles accessing the area.

### *Conclusion*

Taking the above into account I am of the view that the proposed development would provide affordable single storey housing, when there is a shortfall for such accommodation District wide. The development would have an acceptable impact on the character of the area, neighbouring amenity and highway safety. There are no further material considerations that would warrant refusal of the application.

### **RECOMMENDATION**

**That full planning permission is approved subject to the following conditions:**

#### **Conditions**

01

The development hereby permitted shall not begin later than three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

02

The development hereby permitted shall not be carried out except in complete accordance with the following approved plans

- Proposed site layout opt 2 Dwg No. 40860/ID151/008J
- Proposed plans & elevations type F Dwg No. 40860/ID151/004A
- Proposed plans & elevations type A3 Dwg No. 40860/ID151/010A
- Proposed plans & elevations type C6 Dwg No. 40860/ID151/009C

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission.

03

The development hereby permitted shall be constructed entirely of the materials details submitted as part of the planning application and as detailed on the approved plans unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual amenity.

04

No part of the development shall be brought into use until precise details of all the boundary treatments proposed for the site including types, height, design and materials, have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the occupation of the dwelling and shall then be retained in full for a minimum period of 5 years unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential and visual amenity.

05

No development shall be commenced until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:-

a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species;

hard surfacing materials; and

an implementation and phasing plan

Reason: In the interests of visual amenity and biodiversity.

06

All hard and soft landscape works shall be carried out in accordance with the approved implementation and phasing plan. The works shall be carried out before any part of the development is occupied or in accordance with the programme agreed with the local planning authority.

Reason: To ensure the work is carried out within a reasonable period and thereafter properly maintained, in the interests of visual amenity and biodiversity.

07

Notwithstanding the provisions of the Town and County Planning (General Permitted Development) (England) Order 2015, other than development expressly authorised by this permission, there shall be no development under Schedule 2, Part 1 of the Order in respect of:

Class A - enlargement, improvement or other alteration of a dwellinghouse

Class B - additions etc to the roof of a dwellinghouse

Class C - other alterations to the roof of a dwellinghouse

Class D - porches

Class E - buildings etc incidental to the enjoyment of a dwellinghouse

Reason: In the interest of protecting the character and appearance of the area and neighbouring amenity in accordance with the aims of Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (2013).

08

No part of the development hereby permitted shall be occupied until all drives and any parking or turning areas are surfaced in a hard bound material (not loose gravel) for a minimum of 5 metres behind the highway boundary. The surfaced drives and any parking or turning areas shall then be maintained in such hard bound material for the life of the development.

Reason: To reduce the possibility of deleterious material being deposited on the public highway (loose stones etc.)

09

No part of the development hereby permitted shall be occupied until appropriate dropped vehicular crossings are available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.

Reason: To protect the structural integrity of the highway and to allow for future maintenance.

10

No part of the development hereby permitted shall be occupied until the drives/parking areas are constructed with provision to prevent the unregulated discharge of surface water from the drives/parking areas to the public highway in accordance with details first submitted to and approved in writing by the LPA.

The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.

Reason: To ensure surface water from the site is not deposited on the public highway causing dangers to road users.

11

No part of the development hereby permitted shall be commenced until the required Highway Stopping Up Order under S247 of the Town & Country Planning Act 1990 has been confirmed in writing.

Reason: To protect the interests of highway users and the Highway Authority.

12

No part of the development hereby permitted shall be commenced until a review of the highway street lighting has taken place and conclusions agreed with the Highway Authority in writing. If such conclusions require additional street lighting to be installed, such lighting will be required to meet the Highway Authority's standards and specification, and; be installed prior to occupation of any part of the permitted development.

Reason: In the interests of highway safety.

13

Prior to the first occupation of the dwellings hereby approved details of any imported materials for use in garden areas shall be submitted and agreed in writing. Any soils being brought onto site for use in gardens or soft landscaping areas will require validity testing to be carried out to ensure suitability. Development shall thereafter be undertaken in accordance with the agreed details.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised

### **Notes to Applicant**

01

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

The proposed development has been assessed and it is the Council's understanding that CIL may not be payable on the development hereby approved as the development is made up entirely of Social Housing provided by local housing authority, registered social landlord or registered provider of social housing and shared ownership housing. It is necessary to apply for a formal exemption to confirm this view, which must be made to the Council prior to the commencement of development on CIL 4 form which is also available on the Council's website.

02

This application has been the subject of discussions during the application process to ensure that the proposal is acceptable. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

03

The development makes it necessary to construct/alter vehicular crossings on part of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact the County Council's Agent, Via East Midlands tel. 0115 977 2275 to arrange for these works to be carried out.

### **BACKGROUND PAPERS**

Application case file.

For further information, please contact James Mountain on Ext 5841.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

Matt Lamb  
Business Manager Growth and Regeneration

Committee Plan - 18/00832/FUL



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## PLANNING COMMITTEE – 3 JULY 2018

<b>Application No:</b>	<b>18/00697/OUT</b>		
<b>Proposal:</b>	<b>Erection of a proposed dormer bungalow (all matters reserved except for access)</b>		
<b>Location:</b>	<b>Meadow View, Fiskerton Road, Rolleston, Newark On Trent, Nottinghamshire, NG23 5SH</b>		
<b>Applicant:</b>	<b>Mr &amp; Mrs Reilly</b>		
<b>Registered:</b>	<b>19 April 2018</b>	<b>Target Date: 14 June 2018</b>	<b><i>Extension agreed to: 6.7.18</i></b>

**The application is referred to the planning committee as the officer recommendation is contrary to the view of the Parish Council.**

### The Site

The site is situated within the parish of Rolleston and comprises an approx. 18 m x 44 m parcel of land within the larger approx. 50m x 41m paddock situated to the south-east of 'Meadow View' which is to the south side of the village of Rolleston off Fiskerton Road. Further to the south east of the site is a field which serves the adjacent agricultural unit – across this field is the property known as 'Springfield Lodge'.

To the north and north-east of the site is agricultural land and countryside. There are properties in existence across the highway to the south-west of the site which are set back within their plots and are surrounded by open fields. Some 60 m to the south of the application site there is no development present across the highway and on the north side of Fiskerton Road development terminates at Springfield Lodge until 'New Manor Farm' approx. 200 m to the south-east. The remainder of the area is characterized by rolling open countryside.

The application site is predominantly located within FZ2 as identified by the EA flood mapping with the south west corner of the site identified as FZ1. The wider paddock land is mostly FZ2 with the north-east portion of the paddock within Flood Zone 3 and a drainage dyke to the south-east of the site that runs along the site boundary with a portion of land benefiting from flood defences to the south.

### Relevant Planning History

No relevant planning history.

### The Proposal

Outline planning permission is sought for the erection of a dormer bungalow on the paddock land. The application is in outline form with only access a consideration and matters of Appearance,

Landscaping, Layout and Scale all reserved. The layout as submitted with the application is purely for indicative purposes to show how the dwelling could be arranged on the site however this is not for consideration within this application. The submitted plans do however show the application site is capable of accommodating the proposed dwelling in flood zone 1.

The application seeks outline planning permission for the reconfiguration of existing access arrangements to serve the proposed dwelling. Both dwellings would share the same access.

#### Departure/Public Advertisement Procedure

Occupiers of 6 properties have been individually notified by letter.

#### Planning Policy Framework

##### The Development Plan

##### **Newark and Sherwood Core Strategy DPD (adopted March 2011)**

Spatial Policy 1 – Settlement Hierarchy  
Spatial Policy 2 – Spatial Distribution of Growth  
Spatial Policy 3 – Rural areas  
Spatial Policy 7 – Sustainable Transport  
Core Policy 3 – Housing Mix, Type and Density  
Core Policy 9 – Sustainable Design  
Core Policy 12 – Biodiversity and Green Infrastructure  
Core Policy 13 – Landscape Character

##### **Allocations and Development Management DPD (adopted July 2013)**

Policy DM5 – Design  
Policy DM7 – Biodiversity and Green Infrastructure  
Policy DM8 – Development in the Open Countryside  
Policy DM12 – Presumption in Favour of Sustainable Development

#### Other Material Planning Considerations

National Planning Policy Framework 2012  
Planning Practice Guidance 2014  
Landscape Character Assessment SPD 2014

#### Consultations

**Rolleston Parish Council** – Support the proposal - “The parish council noted that the application is in outline only and would expect to have the opportunity for further consultation when detailed information becomes available, particularly in relation to the property’s siting within the application land in terms of proximity to the road which councilors commented certain concerns”.

**NCC Highways** – “This proposal is for the construction of a new bungalow adjacent Meadow View. The existing access for Meadow View is to be widened and will serve both dwellings.

There are no highway objections to this proposal subject to the following:



1. No part of the development hereby permitted shall be brought into use until the access has been completed, surfaced in a bound material, and have a minimum width of 4.25m for the first 5m rear of the highway boundary in accordance with details to be first submitted to and approved in writing by the Local Planning Authority and thereafter constructed in accordance with the approved details.

Reason: In the interests of highway safety.

2. Pedestrian visibility splays of 2m x 2m shall be provided on each side of the vehicle access. These measurements are taken from and along the highway boundary. The areas of land forward of these splays shall be maintained free of all obstructions over 0.6m above the carriageway level at all times.

Reason: In the interests of pedestrian safety.

3. No part of the development hereby permitted shall be brought into use until the visibility splays of 2.4m x 43m are provided in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The area within the visibility splays referred to in this Condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.6m in height.

Reason: To maintain the visibility splays throughout the life of the development and in the interests of general highway safety.

4. No part of the development hereby permitted shall be brought into use until the parking areas are provided in accordance with drg. no. 340.2018.01. The parking areas shall not be used for any purpose other than the parking of vehicles.

Reason: In the interests of highway safety.

#### Note to applicant

The development makes it necessary to alter a vehicular crossing over a verge of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact VIA, in partnership with NCC, tel: 0300 500 8080 to arrange for these works to be carried out.”

**NSDC Access and Equalities** – “As part of the developer’s considerations of inclusive access and facilities for all, with particular reference to disabled people, it is recommended that their attention be drawn to Approved Document M of the Building Regulations, which contain useful standards in respect of visitable, accessible and adaptable, and wheelchair user dwellings. The requirements of a dwelling’s occupants can change as a result of illness, accident such as sports injury for example, disability or ageing giving rise to reduced mobility or increasing sensory loss. In order to meet these changing requirements, homes need to be accessible to residents and visitors’ alike as well as meeting residents’ changing needs, both temporary and longer term. Similarly, inclusive access improves general maneuverability for all including access for those with push chairs and baby buggies as well as disabled people etc.

It is recommended that disabled persons and wheelchair users’ access to, into and around the new dwelling be carefully examined. External pathways to and around the site should be carefully considered and designed to accepted standards with reference to the topography of the site to ensure that they provide suitable clear unobstructed inclusive access to the proposal. In particular, ‘step-free’ access to and into the dwelling is an important consideration and an obstacle free

suitably surfaced firm level and smooth 'traffic free' accessible route clear of parked vehicles is important to and into the dwelling from facilities such as car parking and from the site boundary. It is recommended that inclusive step free access be considered to garden areas, amenity spaces and external features.

Carefully designed 'step-free' approach, ramps, level flush thresholds, generous doorways, corridors etc. all carefully designed to facilitate easy access and maneuver throughout are important considerations. Switches and sockets should be located at suitable heights and design to assist those whose reach is limited to use the dwelling together with suitable accessible WC and sanitary provision etc.

It is recommended that the developer make separate enquiry regarding Building Regulations matters."

**Trent Valley Internal Drainage Board** – "The site is within the TVIDB district. The Board maintained Rolleston Sewer, an open watercourse, exists in close proximity to the site and to which BYELAWS and the LAND DRAINAGE ACT 1991 applies.

The Board's consent is required to erect any building or structure (including walls and fences), whether temporary or permanent, or plant any tree, shrub, willow or similar growth within 9 m of the top edge of any Board maintained watercourse or the edge of any Board maintained culvert.

The erection or alteration of any mill dam, weir or other obstruction to the flow, or erection or alteration of any culvert, whether temporary or permanent, within the channel of a riparian watercourse will require the Board's prior written consent.

The Board's consent is required for any works that increase the flow or volume of water to any watercourse or culvert within the Board's district (other than directly to a main river for which the consent of the EA will be required).

Surface water run-off rates to receiving watercourses must not be increased as a result of the development."

**LCC Historic Environment Officer - Archeological Advice** – "This site lies within the core of the settlement of Rolleston and immediately to the rear of this site there are possible earthworks of medieval date. Across the road there is a large site that has been identified as a possible Iron Age Roman settlement. This suggests that the proposed development could disturb archaeological finds and features that could inform us regarding either the medieval settlement of Rolleston, or the earlier Iron-Age to Roman use.

Recommendation: Prior to any groundworks the developer should be required to commission a Scheme of Archaeological Works (on the lines of 4.8.1 in the Lincolnshire Archaeological Handbook (2016)) in accordance with a written scheme of investigation submitted to and approved in writing by the local planning authority. This should be secured by an appropriate condition to enable heritage assets within the site to be recorded prior to their destruction.

Initially I envisage that this would involve monitoring of all groundworks, with the ability to stop and fully record archaeological features.

[Local planning authorities] require developers to record and advance understanding of the

significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. Policy 141. National Planning Policy Framework (2012).

A brief will be produced by this department which will lay out the details above, and the specification for the work should be approved by this department prior to the commencement of works. Please ask the developer to contact this office for further details.”

### **Comments of the Business Manager**

The starting point for development management decision making is S.38(6) of the Planning and Compulsory Purchase Act 2004, which states that determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise.

Notwithstanding the current process of Plan Review, at the current time the Adopted Development Plan for the District is the Core Strategy DPD (2011) and the Allocations and Development Management Policies DPD (2013). The Council is of the view that it has and can robustly demonstrate a 5 year housing land supply. This has been rehearsed many times before and as such I do not intend to rehearse this in full other than to say that the policies of the Development Plan are considered up to date for the purposes of decision making. This has been confirmed by an Inspector through recent appeal decisions dated April 2018.

### **Principle of Development**

The settlement hierarchy for the district is set out in Spatial Policy 1, whilst Spatial Policy 2 deals with the distribution of growth for the district. This identifies that the focus of growth will be in the Sub Regional Centre, followed by the Service Centres and Principal Villages. At the bottom of the hierarchy are ‘other villages’ which do not have defined built up areas in terms of village boundaries. Consequently given its location in a rural area, the site falls to be assessed against Spatial Policy 3 (Rural Areas) of the Core Strategy. This provides that local housing need will be addressed by focusing housing in sustainable, accessible villages. It states that ‘Beyond Principal Villages, proposals for new development will be considered against the following criteria’ then lists location, scale, need, impact and character for consideration. It goes on to say that development away from the main built-up areas of villages, in the open countryside will be strictly controlled and restricted to uses which require a rural setting such as agricultural and forestry and directs readers to the Allocations and Development Management DPD for policies that will then apply.

As such Spatial Policy 3 is the relevant starting point for considering the scheme.

The first criterion ‘Location’ states ‘new development should be within built-up areas of villages, which have local services and access to Newark Urban Area, Service Centres or Principal Villages.’ This application site is not, in my view, within the main built up part of Rolleston. In reaching this conclusion I have had regard to the guidance note accompanying SP3 which states that;-

*“Settlements within Rural Areas do not have urban boundaries or village envelopes defined within the development plan and so it is necessary to define the main built up area of the village by reference to the layout of existing development. The justification for the Policy at paragraph 4.8 states that for the purposes of decision making the main built up area would normally refer to the buildings and land which form the core of the village where most housing and community facilities are focused. In villages of a linear form the main built up area will be defined by the outer extent of*

*the main concentration existing development. In such settlements the appropriate location for development would normally be gaps within the existing development. It will not be appropriate to infill large gaps between isolated pockets of housing to extend ribbon development into the countryside."*

The site is situated to the south side of the village of Rolleston off Fiskerton Road and relates to approximately 18m x 44m paddock situated to the south-east of 'Meadow View', further to the south east of the site is a field which serves the adjacent agricultural unit – across this field is the property known as 'Springfield Lodge'. The infilling of paddock land between what is essentially a substantial gap between two houses is an argument that could be repeated too often and an approach as set out in the guidance note (above) is more appropriate.

To the north and north-east of the site is agricultural land and countryside, given the reduction in density of development along this part of Fiskerton Road and to the south-east of the application site I consider this site to be outside of the built up area of the village. Whilst I acknowledge that there are properties in existence across the highway to the south-west of the site I note that these are set back within their plots and are surrounded by open fields. Some 60 m to the south of the application site there is no development present across the highway and on the north side of Fiskerton Road development terminates at Springfield Lodge until 'New Manor Farm' approx. 200 m to the south-east. The remainder of the area is characterised by rolling open countryside. Taking all of this together I conclude that the site cannot be regarded as being within the settlement and is therefore open countryside in planning policy terms.

SP3 goes on to say that *'Development away from the main built up areas of villages, in the open countryside, will be strictly controlled and restricted to uses which required a rural setting such as Agriculture and Forestry...The Allocations and Development Management DPD will set out policies to deal with such applications.'* Given that I have concluded the site is within the countryside, I am of the opinion that SP3 signposts me to Policy DM8 (Development in the Open Countryside) of the A&DM (DPD). The scheme is therefore assessed on this basis and in line with Paragraph 55 of the NPPF. This states that Local planning authorities should avoid new isolated homes in the countryside. This follows the golden thread of the NPPF which is the presumption in favour of sustainable development. Creating a new dwelling in the open countryside outside of the built up area would result in an increase in car based traffic in accessing the dwelling and surrounding services.

Both national and local planning policy restricts new development in the Open Countryside. Policy DM8 of the ADMDPD seeks to strictly control development in the open countryside and limits this to a number of exceptions including for a proven agricultural/forestry worker or where the dwelling is of exceptional quality or innovative design. In this instance the application is not advanced as one for an agricultural worker nor indeed is it advanced as being of an innovative design.

It is noted that the NPPF seeks to avoid isolated dwellings in the countryside. Whilst the site is judged to be countryside, given its located at the edge of Rolleston, it is not necessary considered isolated. However, with reference to access to services and other villages I have the following observations; the site is within relatively close proximity to a bus stop on Fiskerton Road which provides hourly access to the settlements of Southwell & Newark. However facilities in Rolleston are limited to a pub/restaurant, village hall & church. In the inspectors appeal decision in 2008 it was stated that *'although the adequacy of public transport services to the village may be disputed this consideration alone would not make this as sustainable a location as a larger settlement with*

*more services.'*

The Council recognises that an inspector's decision in respect of Land to the South of Bilsthorpe Road in Eakring, dated 23rd January 2018, concluded that policy DM8 of the Allocations and Development Management Plan Document, and Policy SP3 of the Core Strategy, are inconsistent with paragraph 55 of the NPPF and out of date, so that the weight given to any conflict with them should be greatly reduced. The Council respectfully disagrees with the inspector's conclusion, which it considers to be unlawful. It intends to challenge the decision under section 288(1) of the Town and Country Planning Act 1990. Pending the determination of its claim, the Council will proceed on the basis that Policy DM8's approach to controlling development in the countryside for the purpose of promoting a sustainable pattern of development in accordance with CS SP3 is fully consistent with the Framework. Policy DM8 will therefore be accorded full weight.

It is the Council's view that whilst not 'isolated' in a true sense in that would not be very far from the village, the primacy of decision making should be with the Development Plan in a plan led system. Policy DM8 is considered as up to date and should therefore take precedent.

The proposed development site is a grassed paddock devoid of built form and as such is considered as a green field site. The proposed development would result in an extension of the built form of the village in the surrounding countryside. In my view the development is clearly open to view and would be prominent from the highway and across the adjacent fields. I conclude that the proposed development would harm the open and undeveloped character of the surrounding countryside by encroaching into the countryside which would constitute an unsustainable pattern of development. It would also set a precedent that would make similar forms of development difficult to resist the cumulative effect would be to have further harmful encroachment if repeated elsewhere.

#### Impact on Flood Risk

Core Policy 10 requires development to be adequately drained and Policy DM5 relates to flood risk and water management. The NPPF adopts a sequential approach to flood risk advising that development should first be directed towards less vulnerable sites within Flood Zone 1. Where these sites are not available new developments will be required to demonstrate that they pass the exception test by demonstrating that the development provides wider sustainability benefits to the community that outweigh flood risk and that, through a site specific Flood Risk Assessment (FRA), the proposed development can be considered safe for its lifetime and not increase flood risk elsewhere. Both elements of the exception test must be passed for development to be permitted.

Para 102 states that 'if, following application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied if appropriate'

Para.103 of the NPPF states when determining planning applications the Local Planning Authority should ensure flood risk is not increased elsewhere. It is stated that decision makers should only consider development appropriate in areas at risk of flooding where, informed by a site specific flood risk assessment following the sequential test, and if required the Exception Test, it can be demonstrated that development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location and development is appropriately flood resilient and resistant. This includes safe access and escape routes where required and that any residual

risk can be safely managed and it gives priority to sustainable drainage systems.

The application site is predominantly located within FZ2 as identified by the EA flood mapping with the south west corner of the site identified as FZ1. The wider paddock land is mostly FZ2 with the north-east portion of the paddock within Flood Zone 3 and a drainage dyke to the south-east of the site that runs along the site boundary with a portion of land benefiting from flood defences to the south. The layout as submitted with the application is purely for indicative purposes to show how the dwelling could be arranged on the site within FZ1, however after discussions with the applicant they have advised that they wish for the layout to be a matter that is reserved and as a result it is not possible for me to consider the acceptability of specific layout within this appraisal.

The agent has provided further plans during the life of the application in an attempt to address the Parish Council comments on siting but this plan still indicates that a dwelling could be accommodated within the land designated as FZ1 by the EA. It has also been stated in an email received 21.6.18 that they feel a condition could be placed on any approval restricting the siting/layout of a dwelling on the parcel of land within the SLP beyond flood zone 2 which could subsequently be a matter to be assessed as part of a RMA. Whilst I appreciate the comment made regarding imposing a condition that the dwelling be restricted to the land in FZ1 I do not consider that, in accordance with para.206 of the NPPF, a condition of this nature would be reasonable given the agent has reaffirmed that the layout of the dwelling is to be a matter that is reserved for later approval. As I cannot consider the siting of the dwelling in this application, and given the site includes land designated as FZ1 and FZ2 I must apply the aforementioned tests as directed by the NPPF.

At the request of the planning officer, a Flood Risk Assessment has been submitted by the applicant (received 22.06.18) to support the application. Whilst the applicant maintains that the dwelling could be sited in FZ1, given part of the site also includes FZ2 it is important to consider the site as a whole, especially given the layout of the dwelling has been confirmed to be kept as a matter reserved. The FRA states that the dwelling would be located in FZ1 and as a result would be at a low risk of flooding from fluvial, groundwater and existing sewers and therefore the standard raising of finished floor levels a minimum 150mm above the surrounding ground levels would be sufficient mitigation against flooding. Whilst I appreciate that the dwelling could be accommodated within FZ1 and that the FRA demonstrates that in this specific location the proposed development would not be at a significant flood risk, and would not increase flood risk to others (subject to appropriate mitigation), I would reiterate that the applicant has further resisted the consideration of layout within this outline application and wishes for this to be considered at reserved matters stage.

As the applicant has resisted that the layout be confirmed within this application I am left to make a judgement regarding the suitability of a dwelling being located at any point within the site. The FRA does not consider the siting of the dwelling within FZ2 and as a result does not demonstrate that at any location within the site the dwelling would ensure the safety of future occupiers and would not increase the risk of flooding to third parties. As part of the site within the SLP falls within Flood Zone 2, the proposal is subject to the Sequential Test in accordance with national planning policy and the Newark and Sherwood Development Plan.

The D&A Statement states that the applicant wishes to build a new dwelling for their elderly relatives to move into, however in an email received 21.6.18 the agent has stated that the new dwelling is proposed to be constructed to allow the applicants to decant from Meadow View into the proposed, smaller dwelling, which would "free up" a larger property for the local housing

stock. The agent states that the applicant has lived in the village for around 24 years and wishes to remain part the local community. As such, sites beyond Rolleston would not provide a reasonable alternative for this purpose, to the application site.

*Paragraph 33 of the Planning Practice Guidance: Flood Risk and Coastal Change* advises that for individual planning applications where there has been no sequential testing of the allocations in the development plan, a pragmatic approach on the availability of alternative sites should be taken and the area to apply the Sequential Test will be defined by local circumstances relating to the catchment area for the type of development proposed. Para. 33 also provides guidance as to the area that should be used in the Sequential Test for the proposal subject to this Flood Risk Assessment. It states that where there are large areas in Flood Zones 2 and 3 and development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives. It also uses the example of an extension for an existing business premises to advise that where the proposal needs to be in a certain location, it might be impractical to suggest that there are more suitable alternative locations for that development elsewhere.

Whilst I appreciate that the guidance uses an example of where alternative locations are unsuitable for a development that requires a particular location, this example is not considered to be applicable for the application at hand. The guidance states that the development must be needed to 'sustain the existing community' – in this context there has been no evidence put forward to demonstrate that there is a specific and identified local need within Rolleston, and therefore, whilst I am mindful that the applicant seeks to construct a dwelling for themselves, or indeed a relative to live in in order for them to remain in the village it is clear that this is a demonstration of personal need rather than that of the wider community.

Given the applicant has failed to demonstrate that there is an identified local need within Rolleston for a new dwelling that could outweigh the Flood Risk concerns and that there are other allocated sites within Flood Zone 1 and more sustainable settlements within the District I consider that the proposal fails the sequential test and has failed to adequately demonstrate how people would be kept safe from flood hazards identified.

I fully appreciate that a reserved matters application could advance a dwelling to be sited within Flood Zone 1, however, without the ability to agree layout at outline stage (an approach rejected by the applicant) this would by no means be guaranteed. The risk of an outline approval is that it would establish the principle of development within the site and therefore the LPA would lose the ability to apply the Sequential Test at reserved matters stage.

Table 3 of the NPPG guidance (Flood Risk Vulnerability Classifications) indicates that 'more vulnerable' developments in Zone 2 (where the dwelling could be located in this case, given the site includes land in FZ's 1 & 2) are appropriate following the application of the Sequential Test. The applicant has not carried out the Sequential Test. However given that there is no specific need for a dwelling to be sited in this location the dwelling could be provided within flood zone 1 anywhere else in the district, of which there are many sites, including those in more sustainable locations including strategic sites, allocated sites and windfall sites which are also at lower risk of flooding.

Moreover, in the absence of an appropriate Flood Risk Assessment for the site (that assesses the potential of a dwelling in FZ2), it is not possible at this stage to robustly apply the Exception Test (notwithstanding that this would only be applied if the Sequential Test were considered to be

passed). As such the proposal fails the Sequential Test and is contrary to Core Policy 9 and Core Policy 10 of the adopted Newark and Sherwood Core Strategy 2011, Policy DM5 of the Allocations and Development Management DPD and fails the Sequential Test as set out in the National Planning Policy Framework 2012, a material consideration.

### Impact on Highways

Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision.

NCC Highways have provided their comments in relation to the proposed development based on the indicative layout plan that has been submitted detailing the access arrangement and the visibility splays. The new dwelling would share the existing access point for 'Meadow View' which is proposed to be reconfigured to achieve adequate vehicular visibility splays of 2.40 m x 43 m.

Subject to compliance with the above details in the Highways consultation the application is not considered to detrimentally impact upon the highway and is therefore be in accordance with SP7 and DM5.

Given that the existing access point is to be reconfigured rather than a new access created the works would not have a significant impact on the existing boundary hedgerow as such the proposal would not have an adverse impact upon the character and appearance of the area.

### Impact on Neighbouring Amenity

Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in amenity including overbearing impacts and loss of privacy upon neighbouring development. An assessment of amenity impact also relates to both the existing neighbouring occupiers and the occupiers of the proposed dwellings in terms of the amenity provision. Given that the proposed development is only outline, only an indicative site layout has been provided. However given the separation distances between the individual properties and neighbouring dwellings it is not considered that the proposed layout would detrimentally impact upon the amenity of surrounding properties.

### Conclusion

With regards to location, the site is not considered to be within the main built up part of Rolleston. It is judged to be countryside and the proposal would be contrary to DM8 of the Development Plan. In my opinion, as a matter of principle the location of the site means that the development would constitute development in the countryside which would represent an unsustainable form of encroachment and would set a harmful precedent for similar forms of development the cumulative impact would be to erode the character and appearance of the village.

It has been concluded that the site lies outside of the settlement of Rolleston and forms part of the countryside. The development of a new dwelling in the countryside is unacceptable as a matter of principle. There is no need for this speculative dwelling to be located in this particular area. Furthermore the site lies within Flood Zones 1 and 2 and it is considered that there are other sites at lower risk of flooding elsewhere in the district that could provide for such a dwelling. The proposal therefore fails the Sequential Test set out in the NPPF. Nor has it been demonstrated



that the proposal, at any point in the site, would not result in increased levels of flood risk through a full Flood Risk Assessment considering the different siting options in the absence of an approved layout.

It has been concluded that the proposal would adversely affect the rural setting of the village as a matter of principle and that in any event given that matters of precise location of the dwelling or detailed design have not been submitted with this application it fails to be demonstrated that the dwelling would be of “exceptional quality or innovative nature” in accordance with the exception point of Para 55 of the NPPF.

I therefore conclude that the application is contrary to the Development Plan and the NPPF and should be refused accordingly.

## **RECOMMENDATION**

**That outline planning permission is refused for the following reason:**

01

In the opinion of the Local Planning Authority the application site lies outside of the main built up part of Rolleston and it therefore falls to be assessed as development in the open countryside. Both national and local planning policy restricts new development in the countryside. Spatial Policy 3 (Rural Areas) of the Core Strategy and Policy DM8 (Development in the Open Countryside) of the Allocations and Development Management DPD seek to strictly control development in the countryside and limits this to a number of exceptions. This application does not meet any of the exceptions. This proposal represents an unsustainable form of development where there is no justification and the proposal could lead to pressure for similar developments elsewhere in the open countryside that consequently would be difficult to resist if this scheme were to prevail. The proposal is therefore contrary to Spatial Policy 3 (Rural Areas) of the adopted Newark and Sherwood Core Strategy and Policy DM8 (Development in the Open Countryside) of the adopted Allocations and Development Management DPD which together form the Development Plan as well as being contrary to the NPPF which is a material consideration.

02

The outline nature of the application seeks confirmation of the acceptability of the principle of the development on site and reserves matters including layout, appearance, landscaping and scale for subsequent approval. As such, it is not possible to consider a precise layout of the proposal as part of this application. The site lies within both Flood Zones 1 and Flood Zones 2. No sequential test has been submitted with the application.

This development is speculative and there is no identified need for a dwelling at this site. There are many other sites within the district that are within Flood Zone 1 at lower risk of flooding that could accommodate such a dwelling. Nor has it been demonstrated that no adverse impact on flood risk would result. As such the proposal is contrary to Core Policy 9 and Core Policy 10 of the adopted Newark and Sherwood Core Strategy 2011, Policy DM5 of the Allocations and Development Management DPD as well as the National Planning Policy Framework 2012 and National Planning Practice Guidance, which are material considerations.

## **Notes to Applicant**

01

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. Working positively and proactively with the applicants would not have afforded the opportunity to overcome these problems, giving a false sense of hope and potentially incurring the applicants further unnecessary time and/or expense.

02

You are advised that as of 1st December 2011, the Newark and Sherwood Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date. Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

### **BACKGROUND PAPERS**

Application case file.

For further information, please contact Honor Whitfield on ext. 5827.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**  
**Business Manager Growth and Regeneration**



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## PLANNING COMMITTEE - 3 JULY 2018

<b>Application No:</b>	<b>18/00765/FUL</b>		
<b>Proposal:</b>	<b>Demolition of attached garage and erection of dwelling</b>		
<b>Location:</b>	<b>1 School Lane, Farndon, Newark On Trent</b>		
<b>Applicant:</b>	<b>Mr &amp; Mrs A Durham</b>		
<b>Registered:</b>	<b>24 April 2018</b>	<b>Target Date:</b>	<b>15 June 2018</b>
	<b>Extension of Time Agreed Until 5<sup>th</sup> July 2018</b>		

**At the time of going to print the views of Farndon Parish Council are unknown so this application has been placed on the Committee agenda in order to determine the application at the earliest possible committee if required. Should Farndon Parish Council raise no objections and it is not called in by a Member, then the application will be removed from the agenda and dealt with under delegated powers upon expiry of the consultation period.**

### The Site

The site lies within the Farndon Conservation Area within an area highlighted as having surface water drainage issues on the Environment Agency Flood Maps. The host dwelling, no. 1 School Lane, is a modern bungalow that has been much altered and is set back from the lane by approximately 30m with an expanse of gravel (creating a circular drive) between it and the lane. Its driveway is laid with a hard-surface material itself flanked to the south by a modern timber close boarded fence and to the north by a wall.

A pair of Grade II listed cottages (no's 3 and 3a) front the roadside to the north whilst to the south a modern 1980's bungalow sits c3m from the roadside. School Lane extends to the south-east but terminates (where there is a turning head) before it meets the former A46 Fosse Road. The lane has a rural character and is bound with hedges, contains various trees and has wide grass verges.

The application site comprises relatively flat land, laid to lawn, within the curtilage of the host dwelling. The site is bound to the east and west (side boundaries) by hedging although this is sparse in places. There are some trees within the site.

To the north-west of the site is a modern cul-de-sac of modern dormer bungalows (St Peters Close) whose rear gardens abut the site. Land to the east and south is open countryside.

### Relevant Planning History

PREAPP/00129/17 – Erection of house and attached triple garage. Advice given.

11/830066 – Erect bungalow on land east of 1 School Lane. Approved 15/03/1983 and subsequently implemented (no. 1a School Lane)

## The Proposal

Full planning permission is sought for the erection of a detached dwelling located to the rear (south) of no. 1 School Lane in Farndon. The dwelling is one and a half storey with a U shaped plan form with detached triple garage.

The main body of the house is broadly rectangular with a central forward projection; this would measure c17.1m across by 7.15m with the central porch canopy projecting c1.13m forward of this. Two single storey wings projecting back at either end of the main block measuring 8.4m in addition by 5.2m. The height of the main building would be c6.1m to ridge (excluding chimneys) and c2.9m to eaves.

The triple garage/carport measures 9.2m across by 6.5m deep and is 2.4m to eaves and 5.5m to the ridge.

Accommodation comprises entrance hall, w.c, utility, open plan dining kitchen, living room with five bedrooms all with en-suites, and study (one bedroom and study is sited within the upper floor of the main body of the dwelling).

The application is accompanied by the following, which have been revised during the lifetime of the application;

Site Plan 1C/11/2017

Dwelling Plan & Elevations 4E/11/2017

Garage Plan & Elevations 5B/11/2017

Site Location Plan/Block Plan (unreferenced but received 15/06/2018)

Design and Access Statement

## Departure/Public Advertisement Procedure

Ten neighbouring properties have been individually notified by letter. A site notice has been displayed and an advert has been placed in the local press expiring on 24<sup>th</sup> May 2018. Amended plans have been the subject of re-consultation with the expiry 25<sup>th</sup> June 2018.

## Planning Policy Framework

### The Development Plan

#### **Newark and Sherwood Core Strategy DPD (adopted March 2011)**

- Spatial Policy 1 – Settlement Hierarchy
- Spatial Policy 2 – Spatial Distribution of Growth
- Spatial Policy 3 – Rural Areas
- Spatial Policy 7 – Sustainable Transport
- Core Policy 3 – Housing mix, type and density
- Core Policy 9 – Sustainable Design
- Core Policy 10 – Climate Change
- Core Policy 12 – Biodiversity and Green Infrastructure

- Core Policy 13 – Landscape Character
- Core Policy 14 – Historic Environment

### **Allocations & Development Management DPD**

- Policy DM1 - Development within Settlements Central to Delivering the Spatial Strategy
- Policy DM5 - Design
- Policy DM7 - Biodiversity and Green Infrastructure
- Policy DM9 - Protecting and Enhancing the Historic Environment
- Policy DM12 - Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014
- The Newark and Sherwood Landscape Character Assessment SPD

### **Consultations**

**Farndon Parish Council** – No formal response has been forthcoming to date.

**NSDC Conservation** – No objection:

“The proposal site is located within Farndon Conservation Area (CA). 3 and 3A School Lane to the north is Grade II listed.

The earthworks to the east of the proposal site are identified as being of archaeological interest.

### **Legal and policy considerations**

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the ‘Act’) requires the Local Planning Authority (LPA) to pay special regard to the desirability of preserving listed buildings and their setting. Section 72 requires the LPA to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas. In this context, the objective of preservation is to cause no harm. The courts have said that these statutory requirements operate as a paramount consideration, ‘the first consideration for a decision maker’. Planning decisions require balanced judgement, but in that exercise, significant weight must be given to the objective of heritage asset conservation.

Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 12 of the National Planning Policy Framework (NPPF). Paragraph 132 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 7). LPAs should also look for opportunities to better reveal the significance of heritage assets when considering development in conservation areas (paragraph 137).

The setting of heritage assets is defined in the Glossary of the NPPF which advises that setting is the surroundings in which an asset is experienced. Paragraph 13 of the Conservation section within the Planning Practice Guidance (PPG) advises that a thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it. Paragraph 13 also reminds us that the contribution made by setting does not necessarily rely on direct intervisibility or public access.

Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3). In addition, 'Historic England Advice Note 2: making changes to heritage assets' advises that the main issues to consider in proposals for additions to heritage assets, aside from NPPF requirements such as social and economic activity and sustainability, are proportion, height, massing, bulk, use of materials, durability and adaptability, use, enclosure, relationship with adjacent assets and definition of spaces and streets, alignment, active frontages, permeability and treatment of setting. Replicating a particular style may be less important, though there are circumstances when it may be appropriate. It would not normally be good practice for new work to dominate the original asset or its setting in either scale, material or as a result of its siting (paragraph 41).

There are several heritage assets in proximity to the proposal site identified on the Nottinghamshire Historic Environment Record (HER), including areas or features of archaeological interest. In accordance with Annex 2 of the NPPF, Local Interest buildings and features of archaeological interest are non-designated heritage assets. The impact of a proposal on the significance of a non-designated heritage asset is a material consideration, as stated under paragraph 135 of the NPPF. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. In addition, paragraph 139 of the NPPF reminds us that non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.

#### Significance of heritage assets affected

Farndon Conservation Area (CA) covers the historic core of the settlement, focussed around the Church of St Peter and a network of lanes between the River Trent and the Roman Fosse Way. There are a number of historic buildings within the CA, ranging from polite Georgian and Victorian houses to rustic post medieval cottages and farmsteads. The field enclosures to the south of the settlement reflect historic boundaries and contribute to the significance of the CA. The CA was designated in 1992.

The Civil War earthworks visible on the east side close to the Fosse Way, furthermore, also contribute significantly to the character and appearance of the CA. The fortifications from the Civil War (HER number: M3027) date to the 1640s. The monument close to the proposal site comprises an eroded fragment of the defences and survives in a pasture field between the 2 roads linking Farndon with the Fosse Way. According to Clamp's 17<sup>th</sup> century plan, the fort was an angle bastion facing east with 2 faces parallel to the northeast and southeast sides of a curtain rampart, and 2 short flanks facing northwest and southwest. The 2 faces of the bastion, that facing southeast is 60ft long, the southwest flank 15ft long, and a stretch of the curtain running southwest for 170ft, survive as a slight terrace, about 2ft high, with traces of a ditch, clearer on the northeast face. The line of the circumvallation joined the northeast face 70ft northwest of the point of the bastion.

Fragmentary remains of the angle bastion of the Farndon defences exist at SK 7711 5167 coupled with a slight adjacent rampart (line of circumvallation). The works have been mutilated and spread by farming activity and cattle, achieving now a max height of 0.7m only. Now under rough pasture. The HER provides further data on the circumvallation (HER number: M8401).

Nos. 3 and 3a School Lane comprise a pair of red brick and pantile cottages, that on the right being the former school. Late 17<sup>th</sup> century in origin with a significant late 18<sup>th</sup> phase. The list entry advises *“C17 2 storeys plus garret, 3 bay cottage with right red brick, part external, gable stack is set on a rubble and brick plinth and has a first floor band. The single right bay projects and is gabled. To the right is the late C18 2 storey, 3 bay cottage with right red brick gable stack. C17 cottage has a doorway with plank door and to the right 2 C20 glazing bar casements of differing sizes. The late C18 cottage has a central doorway with C20 door and gabled wooden hood flanked by single C20 casements of differing sizes. Above, both cottages have 2 C20 glazing bar casements. To the rear right are 2 storey extensions. Interior of C17 cottage has contemporary winder stair with turned balusters.”*

### Assessment of proposal

The proposal seeks to demolish an existing modern garage and erect a one and half storey dwelling. The proposal site is located within the garden of 1 School Lane and is set well back from the road, being accessed by an existing driveway between 1A and 3 School Lane. To the west are modern bungalows.

The proposed development has been amended following concerns raised by the Conservation Team concerning the design. The revised scheme comprises a modestly scaled cottage range in a U plan with traditional detailing, including chimneys, timber windows and clay pantiles. The new garage reflects traditional cart shed design. The development will not be unduly prominent, and broadly reflects historic farmstead/cottage vernacular typical in this area.

### Recommendation/summary of opinion

Conservation has no objection to the proposed development and we consider that the development sustains the character and appearance of the Farndon Conservation Area. We also consider that the scheme causes no harm to the setting of the adjacent listed building. The proposal therefore accords with the objective of preservation required under sections 66 and 72 of the Planning (LB&CA) Act 1990. No harm is perceived to any other heritage assets, and the proposal is otherwise considered to comply with heritage advice contained within CP14 and DM9 of the Council's LDF DPDs and section 12 of the NPPF.

If approved, and notwithstanding the submitted details, further details of the following matters should be addressed via suitably worded conditions:

- Brick panel to be erected on site before development commences showing bricks, bond, mortar specification and pointing finish (Conservation recommends that the front elevation be externally finished in English Garden Wall or Flemish bond);
- Further details of the proposed porch and chimneys (chimneys to be retained);
- Further details of sills, window/door headers, eaves and verges;
- Precise design details/finish and scale drawings/product literature of the windows, roof lights and doors (external joinery hereby approved to be retained);
- No roof vents on the front facing roof slope unless otherwise agreed;



- Any external accretions on the front elevation (meter boxes, flues etc) to be agreed;
- Remove PD for alterations to the front roof slope (to avoid solar panels).

These details will ensure that the proposed development fully preserves the character and appearance of the Farndon Conservation Area.”

**NCC Highways** - Standing Advice applies.

**LCC Archaeology** – ‘This site lies within the conservation area and close to the Fortified village (Civil War). There are also several other archaeological sites close by. However this application is for a single house on a site which will at least be partly disturbed. It is my opinion that any archaeological works on this site will not provide any meaningful results.

No archaeological input required.’

**Trent Valley Internal Drainage Board** – ‘The site is within the Trent Valley Internal Drainage Board district. Surface water run-off rates to receiving watercourses must not be increased as a result of the development.

The design, operation and future maintenance of the site drainage system must be agreed with the Lead Local Flood Authority and Local Planning Authority.’

**Three neighbours/interested parties have made comment (objections)** on this application, making the following summarized comments:

- Concerns regarding poor water pressure;
- Object to the proposed positioning of the driveway to the west (it should be to the east) to avoid impacts on properties at St Peters Close;
- Properties at St Peters Close have short gardens and the driveway would cause disturbance and loss of privacy (both at construction stage and upon occupation);
- A fence enclosing the driveway would cause a tunnel effect with noise affecting amenity;
- Drive sited so close to existing dwellings would present a security risk;
- Use of the new driveway would be considerable;
- The increased use of the access drive will adversely affect the amenities of neighbours, through loss of privacy and increased disturbance in terms of noise and vehicle pollution. The driveway access is narrow and seems completely disproportionate to the size of the proposed development and the number of people who will be accessing it with their cars;
- Concerned about potential damage to boundary wall;
- Land levels between the access and neighbouring property with no. 3a is somewhat raised on application site where there is a view into lounge;
- Widening only the initial part of this access will be unsightly as this will mean that the boundaries of the two grade II listed properties will not run parallel. This will not preserve the character nor respect the history and aesthetics of the two cottages, a former village school;
- Question how emergency service such as fire engines would access the proposed dwelling if the access is only partially widened.

**In response to the amended plan**, the following comments have been received (from 1 neighbour):

- Previously only concern was position of driveway but now there is concern regarding the position of house and garage – the latter of which would overshadow the neighbour and potentially cause nuisance through security lights etc.
- Risk of significant noise which is currently contained to site frontage.
- Unspecified gap between driveway and boundary and there is concern regarding trees being planted – what trees, what height would they be who would monitor them. Leylandii would affect sunlight.
- Surprised that two trees would need to be removed.

### **Comments of the Business Manager**

The starting point for development management decision making is S.38(6) of the Planning and Compulsory Purchase Act 2004, which states that determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise.

Notwithstanding the current process of Plan Review, at the current time the Adopted Development Plan for the District is the Core Strategy DPD (2011) and the Allocations and Development Management Policies DPD (2013). The Council is of the view that it has and can robustly demonstrate a 5 year housing land supply. This has been rehearsed many times before and as such I do not intend to rehearse this in full other than to say that the policies of the Development Plan are considered up to date for the purposes of decision making. This has been confirmed by an Inspector through recent appeal decisions dated April 2018.

### **Principle of Development**

The districts settlement hierarchy is embedded within Spatial Policies 1 & 2 of the adopted Core Strategy which aims to see the focus of the housing growth in the Sub Regional Centre, Service Centres and Principal Villages. As an 'Other Village' in the hierarchy, this application falls to be assessed against Spatial Policy 3 (Rural Areas) of the Development Plan. This provides that in rural areas such as this new housing should be located within sustainable and accessible villages and should principally meet the five criteria as set out within Spatial Policy 3 (SP3). These are 1) Location; 2) Scale; 3) Need; 4) Impact and 5) Character. The proposal is assessed against these criteria below.

#### *Location*

The site lies at the edge of Farndon. There is no formal defined built up area for Farndon; it is a matter of judgement as to whether a site is located 'within' the settlement. However I take the view that the property (and its associated curtilage) can be considered as forming part of the main built up area of the village. I also note that under the now defunct Local Plan, this was also the view taken as it did previously fall within a defined village boundary. I therefore consider that the proposal is within the main built up part of Farndon, as opposed to being countryside.

The Policy also requires such villages to have local services and access to Newark Urban Area, Service Centres or Principle Villages. Farndon is one of the most sustainable 'other villages' in that it has various local services including a local convenience store, public houses, a restaurant, primary school, village hall and other independent retail uses. It also has good public transport access to Newark and beyond. I therefore consider it accords with the locational criteria of SP3.

### *Scale*

Policy SP3 requires that new development should be appropriate in scale to the proposed location and small scale in nature. I consider that in principle one additional dwelling is acceptable for the size of the settlement subject to other criteria such as impact and character. Scale in terms of the proposals physical bulk is assessed alongside character below.

### *Need*

Policy SP3 requires new housing to meet an identified proven local need. Having regard to the district wide Housing Needs Survey by DCA dated 2014, the Newark Sub Area (within which Farndon falls) identifies there need is for mainly 3 bedroom, 2 bedroom, 4 bedroom and 5 bedroom properties in that order.

I also note that a Housing Needs Survey for Farndon specifically, dated July 2016 (by Midland Rural Housing) identifies a preference/need for 7 market dwellings (1 x 2 bed house, 2 x 3 bed houses, 1 x 5 bed house, 1 x 3 bed bungalow and 2 x 4 bedroom bungalows (adapted)). Our records suggest that we have approved numerous dwellings to meet the affordable need identified, but in terms of market needs dwellings only 1 x 2 bedroom dwelling (by way of a conversion see planning permission 16/01903/FUL) and a 4 bedroom detached single storey bungalow (16/01695/FUL) have been approved which met the needs of a disabled occupant. There is still a need remaining for market housing as specifically identified above and this proposal would meet that need in accordance with SP3.

### Impact upon the Character (including heritage impacts)

SP3 requires that new development should not have a detrimental impact on the character of the location or its landscape setting. Policy DM5 (Design) requires that the district's landscape and character of built form should be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new dwelling. As the site is located within the Farndon Conservation Area, Policies CP14 and DM9 also apply where the requirement is to preserve or enhance the character and appearance of the Conservation Area and the setting of listed buildings.

The boundary to the Conservation Area is drawn wider than what I consider the village envelope to be, most likely because the landscape setting to the conservation area which gives a green enclosure to the village including the civil war earthworks which is located in close proximity. The character of the lane is relatively low density towards the southern end and rural in appearance, with a handful of attractive heritage buildings along the lane, including 3 and 3a School Lane a Grade II listed building, with the remainder being modern buildings which do not contribute positively to the Conservation Area.

The Conservation Officer has provided detailed comments on the proposal and concludes that the U plan dwelling is modestly scaled and its cart shed style garage block would not be unduly prominent and broadly reflects the historic farmstead/cottage vernacular that are the positive elements of this particular part of the Conservation Area. No objection is therefore made subject to conditions. I concur with this advice. The scheme has been amended during the lifetime of the application to better reflect the local character and I am now satisfied that the dwelling is appropriately designed such that although it's a large dwelling its impact will be modest, sustaining the character and appearance of the Farndon Conservation Area and given its design and set back will cause no harm to the setting of the adjacent listed building. I do however

consider that certain permitted development rights should be removed in order to sustain the character and appearance of the Conservation Area moving forward; such as the ability to change the windows, place solar panels on the roof, alterations to the roof including the addition of roof windows and the external painting the dwelling – all of which would need permission as a consequence of suggested condition 13.

As the site is in close proximity of the nearby civil war earthwork it was raised with the applicants that there was a possibility that the site could be of archaeology significance. The Council's Archaeological advisor has commented that the site is close to the fortified village and notes there are several archaeological sites nearby. However they have concluded that because the scheme is for a single house on a site that has already been partly disturbed any archaeological works will not provide any meaningful results. No further exploration of this issue is therefore deemed necessary.

Overall the proposal in my view accords with the objective of preservation required under sections 66 and 72 of the Planning (LB&CA) Act 1990. No harm is perceived to any other heritage assets, and in terms of character and design impacts the proposal is otherwise considered to comply with advice contained within SP3, CP9, CP14, DM5 & DM9 of the Council's LDF DPDs and section 12 of the NPPF.

#### *Impact*

SP3 requires that new development should not generate excessive car-borne traffic from out of the area and that it should not have a detrimental impact on the amenity of local people or on infrastructure. I consider these types of matters below;

#### Flood Risk Impacts

Core Policy 10 requires development to be adequately drained and Policy DM5 relates to flood risk and water management. The NPPF provides that LPA's should apply a sequential risk based approach to the location of new development, with the aim being to steer it to areas with the lowest probability of flooding.

This site lies within Flood Zone 1 (at lowest risk of flooding) according to the Environment Agency's maps. I do note that historically part of this application site fell within flood zones 2 and 3 but at some point in recent times it has been removed. The site lies within surface water drainage hotspot.

Sites in Farndon village that are in flood zone 1 (at lowest risk of flooding) are few and far between as much of Farndon is within zones 2 and 3. No sequential test is therefore required and the development falls below the threshold for requiring a Flood Risk Assessment. However given the sites location in an area prone to surface water flooding, I consider it necessary and reasonable to require details of surface water drainage to be submitted for approval and a condition is recommended to this effect.

#### Highways Matters

Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision. SP3 states that new development should not

generate excessive car-bourne traffic from out of the area and that it not place undue impact upon the transport network.

I do not consider that one dwelling proposed could be said to be generating excessive traffic to the area.

The Highways Authority have previously advised (at pre-application stage) that "The access at School Lane is required to be 4.25 metres wide (minimum) for a distance of 5 metres (minimum) from the back of highway. As the property will be greater than 25 metres from highway, a bin store for this property must be provided adjacent to highway.

The plans show the access to be widened to 4.8m for a depth of 6m which meets the requirements of the Highways Authority such that it will ensure that one vehicle is able to exit the site whilst another enters. Standing Advice requires that driveways must be surfaced in a bound material (not loose gravel), to be drained to prevent the discharge of surface water onto the public highway, and to be served via a dropped vehicular footway/verge crossing in all instances which this proposal can meet.

Visibility splays are shown on the proposed plans as being 2m x 40m. The Standing Advice indicates splays of 43m should be provided in each direction. However I note that the Highways Authority have not previously requested this in providing comments at pre-application stage and I also note that the road is lightly trafficked such that in this instance slightly reduced visibility would not warrant refusal of the application on highway grounds in my view. Appropriate highway conditions are suggested.

### Residential Amenity

Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in amenity including over bearing impacts and loss of privacy upon neighbouring development. The NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

There are several matters that require careful consideration in respect to their potential impact upon neighbours which I consider below.

Access would be taken from an existing access point currently serving the host dwelling (which is set back) off School Lane (which would be slightly widened to the site frontage) between the listed building to the west and no. 1a School Lane, a modern bungalow fronting the road. This access would then be extended (from where the existing garage outbuilding that would be demolished is currently) and the driveway would run alongside both the host dwelling and past the rear garden boundaries of numbers 4 & 5 St Peters Close. There is therefore potential for the increased use of the access drive to have an impact upon the occupiers of these properties; which I consider further below.

To the immediate west of the site entrance are a pair of listed buildings; 3 and 3a School Lane. No 3a has its amenity space (patio) facing both the driveway and running alongside the large area of hardstanding to the front of the host dwelling which is bound by timber fencing. There is already an existing impact therefore from the access drive and from the ability of the occupiers of the host dwelling being able to park right up against the fence of the extended garden to the west. Whilst I accept that the increased use of the driveway would be inevitable at both construction phase and

operational stage, ultimately it is for one additional dwelling. It should be noted that no 3 School Lane has its frontage facing the access and thus the impact would be less as their amenity space is elsewhere. No. 1a is sited some distance from the access and I do not consider there would be any unacceptable adverse impact upon the occupiers from either the driveway or the proposed dwelling.

Whilst the increased use of the access could have a more negative effect on the occupiers of the dwellings either side of the access, I am mindful that for the most affected occupier, 3a, the harm would be off-set by the introduction of a landscape buffer alongside which is almost 5m in depth. In my view once planted with a hedgerow or suitable planting (to be controlled by condition) I consider that this would be a betterment for the privacy of the affected occupier and thus I find the impacts to be acceptable in this respect.

The extended access drive has been set away from the north-western boundary with the dwellings at St Peters Close by between 4.7m to the north and 2.9m towards the south where it tapers in. I note that these existing dwellings at St Peters Close have modest garden lengths. However the buffer does allow for appropriate boundary treatments such as a boundary fence plus I would expect substantial soft landscaping in the form of a hedgerow to be planted also. I consider that this would be both reasonable and necessary in order to both screen the development and to assist with noise attenuation to mitigate the likely increase in noise and general disturbance that will be inevitable from the development. However I do not consider that the level of increased disturbance from one dwelling, albeit a large dwelling, would amount to such increased noise and disturbance that would justify its refusal, when the harm can be largely mitigated. I note that the repositioning of the garage would be close to the boundary with no. 5 St Peters Close than previously proposed. The distance of the proposed garage to no. 5 is similar (it's actually further away) to the distances between the garages of both existing neighbours of no. 5 (4 & 6) and therefore on this basis I do not consider it to be unacceptably located. Further, its design and siting are acceptable and in my view would not have an adverse impact through being overbearing or oppressive.

Turning now to the impact of the proposed dwelling itself. This is set 26m from the nearest property at St Peters Close and 21m from the rear elevation of the host dwelling. The distances between dwellings are more than adequate to meet the needs of privacy and I am satisfied there would be no adverse impacts in terms of overlooking or overshadowing etc upon neighbours.

Finally I am aware that the construction phase of the development could be particularly sensitive in terms of the increased use of the driveway for deliveries, albeit it will be for a finite period. However given the close proximity of dwellings, I consider that limiting the construction hours in this case is justified and the early planting of the buffer would also be of benefit or the provision of temporary measures to mitigate the harm. As such I suggest the imposition of a construction management plan condition is appropriate in this case.

### Impact on Ecology and Trees

Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity, reflected also in Policy DM7 of the Allocations and Development Management DOD. Policy DM5 of the ADMDPD also states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced.

The proposed development site is part of a lawned garden such that the ecological value of the site is limited. The re-siting of the dwelling would now involve the loss of some trees. However these are ornamental trees that do not contribute to the public realm and would not be worthy of retention so their loss is judged to be acceptable. There is ample scope for their replacement with more native species elsewhere within the site. In order to protect any breeding birds, vegetation removal should be outside of bird breeding season and this can be conditioned accordingly.

### Conclusion

The proposal seeks full planning permission for an additional dwelling in a rural village. I have concluded that the scheme represents a sustainable pattern of development on the basis that Farndon has some local services and sustainable access to a wider range of services and employment in the nearby Sub Regional Centre. The proposed dwelling also meets an identified local need.

Having carefully considered all the site specific impacts, including upon residential amenity, heritage, trees & ecology, flood risk and impact on highway safety, I consider that the impacts are acceptable subject to mitigating conditions and the proposal would accord with the Development Plan.

### **RECOMMENDATION**

**That full planning permission is approved subject to the following conditions:**

#### Conditions

01

The development hereby permitted shall not begin later than three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

02

No development shall be commenced, including any works of demolition or site clearance, until a Construction Management Plan (CMP) has been submitted to, and approved in writing by the local planning authority. The approved CMP shall be adhered to throughout the construction period unless otherwise agreed in writing by the local planning authority. The CMP shall provide for:

- Details of the parking area for vehicles associated of site operatives and visitors/contractors;
- Details of the area reserved for the loading and unloading of plant and materials;
- Details of the area to be used for the storage of plant and materials used in constructing the development;
- The proposed construction hours (for each day of the week);
- Temporary measures to protect the existing neighbours from noise and general disturbance such as temporary boundary fencing alongside the north-western boundary during the construction period.

Reason: In the interests of residential amenity to afford adequate protection to nearby local residents from disturbance during the construction phase of the development in line with SP9 and DM5 of the Development Plan.

03

The development hereby permitted shall not commence until drainage plans for the disposal of surface water have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

04

No hedge or tree that is to be removed as part of the development hereby permitted shall be lopped, topped, felled or otherwise removed during the bird nesting period (beginning of March to end of August inclusive) unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that adequate provision is made for the protection of nesting birds on site.

05

No development above slab level shall be commenced until details (including samples upon request) of the external facing materials have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: In order to preserve or enhance the character and appearance of the conservation area.

06

No development shall be commenced until a brick work sample panel showing brick work, bond, mortar mix and pointing technique has been provided on site for inspection and approval has been received in writing by the local planning authority. The brick work shall be flush jointed using a lime based mortar mix. Development shall thereafter be carried out in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: In order to preserve or enhance the character and appearance of the conservation area and preserve the setting of the nearby listed building.

07

No development shall be commenced in respect of the features identified below, until details of the design, specification, fixing and finish in the form of drawings and sections at a scale of not less than 1:10 have been submitted to and approved in writing by the local planning authority. Development shall thereafter be undertaken in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

external windows and doors and their immediate surrounds including details of glazing bars (including garage doors and roof lights)

Verges and eaves



Chimneys

Porch

Rainwater goods

Extractor vents

Flues

Meter boxes

Soil and vent pipes

Any other external accretions such as roof vents

Reason: In order to preserve or enhance the character and appearance of the conservation area and preserve the setting of the nearby listed building.

08

The development hereby permitted shall not be occupied until the chimneys shown on the approved drawing (reference 4E/11/2017) have been installed on site. The chimneys shall thereafter be retained for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority through a separate application.

Reason: In the interests of visual amenity and in the interests of the character and appearance of the Conservation Area.

09

No development shall be commenced until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:

a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species. **This shall be particularly robust alongside the north-western boundary.**

existing trees and hedgerows, which are to be retained pending approval of a detailed scheme, together with measures for protection during construction.

means of enclosures (walls/fencing etc);

hard surfacing materials;

Reason: In the interests of visual amenity and biodiversity.

010

The approved soft landscaping shall be completed during the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the current or next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority. The approved hard landscaping scheme shall be implemented prior to first occupation unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure the work is carried out within a reasonable period and thereafter properly maintained, in the interests of visual amenity and biodiversity.

011

No part of the development hereby permitted shall be brought into use until the driveway has been laid out to a width of not less than 4.25 metres for a minimum distance of 5.0 metres back from the highway boundary in a bound material to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety.

012

No part of the development hereby permitted shall be brought into use until the parking/turning areas are provided in accordance with the approved plan. The parking/turning areas shall not be used for any purpose other than the parking/turning of vehicles.

Reason: In the interests of highway safety and to ensure that sufficient on-site parking is available for the development.

013

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (and any order revoking, re-enacting or modifying that Order), other than development expressly authorised by this permission, there shall be no development under

Schedule 2, Part 1 of the Order in respect of:

Class A: The enlargement, improvement or other alteration of a dwellinghouse, including extensions to the property and the insertion or replacement of doors and windows.

Class B: The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.

Class C: Any other alteration to the roof of a dwellinghouse.

Class G: The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse.

Class H: The installation, alteration or replacement of a microwave antenna on a dwellinghouse or within the curtilage of a dwellinghouse.

Or Schedule 2, Part 2:

Class C: The painting of the exterior of any building.

Or Schedule 2, Part 14 of the Order in respect of:

Class A: The installation, alteration or replacement of microgeneration solar PV or solar thermal equipment.

unless consent has firstly be granted in the form of a separate planning permission.

Reason: In order to preserve or enhance the character and appearance of the conservation area and preserve the setting of the nearby listed building.

014

The development hereby permitted shall not be carried out except in complete accordance with the following approved plans:

Site Plan 1C/11/2017

Dwelling Plan & Elevations 4E/11/2017

Garage Plan & Elevations 5B/11/2017

Site Location Plan (unreferenced but received 15/06/2018)

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission.

#### Notes to Applicant

01

The applicant is advised that in respect of Condition 6 Conservation Officers have recommended that the front elevation should be finished in English Garden Wall or Flemish bond.

02

The application as submitted is acceptable. In granting permission without unnecessary delay the District Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

03

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk)

The proposed development has been assessed and it is the Council's view that CIL IS PAYABLE on the development hereby approved as is detailed below. Full details about the CIL Charge including, amount and process for payment will be set out in the Regulation 65 Liability Notice which will be sent to you as soon as possible after this decision notice has been issued. If the development hereby approved is for a self-build dwelling, residential extension or residential annex you may be able to apply for relief from CIL. Further details about CIL are available on the Council's website: [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/) or from the Planning Portal: [www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil](http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil)

#### BACKGROUND PAPERS

Application case file.

For further information, please contact Clare Walker on ext 5834.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**  
**Business Manager – Growth & Regeneration**



## PLANNING COMMITTEE - 3 JULY 2018

<b>Application No:</b>	<b>18/00572/FUL</b>		
<b>Proposal:</b>	<b>Change of use of public open space to extend garden area of 31 Darricott Close</b>		
<b>Location:</b>	<b>Land Adjacent To 31 Darricott Close, Rainworth, NG21 0FP</b>		
<b>Applicant:</b>	<b>Mr Darren Morgan</b>		
<b>Registered:</b>	<b>03 April 2018</b>	<b>Target Date:</b>	<b>29 May 2018</b>
		<b>Extension of Time Agreed:</b>	<b>6 July 2018</b>

**This application is being referred to the Planning Committee for determination as NSDC are the current owners of the land.**

### The Site

The application site is the land directly to the south of the dwelling, 31 Darricott Close in Rainworth. The parcel of land is c.28 m by 8 m and triangular in shape, decreasing towards the west. Currently the land provides open space and has open boundaries to the east and south with a small hedgerow and parcel of vegetation on the boundary to the west. The land is mainly laid to lawn with sporadic shrubs planted and a number of trees.

The hostdwelling is a semi-detached two storey dwelling positioned on the end of Darricott Road on the junction with Hall Close to the south. The hostdwelling currently benefits from a rear garden (E) that is c.11 m x 9 m. The dwelling is surrounded by properties of a similar style and size, to the SW is a large area of green open space (c.43 x 41m).

Dwellings across the highway to the south are approx. 15 m from the boundary of this parcel of land, as are the dwellings directly to the east, separated by their rear gardens. The boundaries to the hostdwelling's rear garden are approx. 1.5 m hedgerow to the south, to the north and east is a approx. 1.8 m high close boarded fence.

### Relevant Planning History

94/51447/FUL - TWO STOREY SIDE EXTENSION TO FORM BEDROOM, ENSUITE, DINING ROOM AND GARAGE – Permitted 1994

### The Proposal

Planning permission is sought for the change of use of a parcel of land (directly to the south of the dwelling) from open space to garden land to serve 31 Darricott Close. The parcel of land is c. 28 m by 8 m and triangular in shape, decreasing towards the west.

The proposal also includes the erection of an approx. 1.8 m high close boarded fence to the east and south boundaries of the parcel of land, the western boundary will retain the hedgerow and vegetation which is c. 0.6-1.2 m high in parts towards the front with an approx. 1.8 m high fence following the line of the principal elevation of the dwelling. The fencing is proposed to be set in approx. 1 m from the boundary of the parcel of land, screened by an area of soft planting.

#### Departure/Public Advertisement Procedure

Occupiers of 12 properties have been individually notified by letter.

Earliest decision date 25<sup>th</sup> April 2018.

#### Planning Policy Framework

##### **The Development Plan**

*Newark and Sherwood Core Strategy DPD (adopted March 2011)*

Core Policy 9: Sustainable Design

*Allocations & Development Management DPD*

Policy DM5: Design

##### **Other Material Planning Considerations**

- Planning Practice Guidance (2014)
- National Planning Policy Framework Adopted (NPPF) (March 2012)

#### Consultations

**Rainworth Parish Council** – Object to the proposal: Loss of public amenity open space, would set a precedent within the area for other property owners to come forward to claim more open space.

**Interested parties** – 2 comments from interested parties have been received, they can be summarised as follows:

**Objection** on the grounds that:-

- a) Allowing this land to be garden land will see the extension of the dwelling into an area that would impact amenity of surrounding neighbours.
- b) Potential for vehicular access to be taken from this land, impact on highways safety and congestion should this be permitted.
- c) Potential for this land to be used for business use and the congestion this could cause in the future.

**Objection** on the grounds that:-

- a) The proposal will change the character of the area.

- b) Will lead to increased traffic and parking on the cul-de-sac.
- c) Concern that vehicular access will be put into this parcel of land.
- d) Loss of public green area will decrease the value of surrounding properties.
- e) Possibility of unauthorised building work to take place on this land.

### Comments of the Business Manager

#### *Principle of Development*

The application site is within the urban boundary of Rainworth which is accepted by the Settlement Hierarchy of the Core Strategy as a Service Centre where additional development could be supported in principle. Core Policy 9 details that all new development should achieve a high standard of design and ensure that it is appropriate to its context and the existing landscape. CP9 also states that proposals should demonstrate an effective and efficient use of land that is suitable to the local character.

Policy DM5 accepts development providing that it reflects the rich local distinctiveness of the District's landscape and any built form reflects the existing scale, form, design and detailing.

#### *Impact upon Character of Area*

The proposal seeks the change of use of land to the south of the property 31 Darricott Avenue, the land is currently open and acts as open space within the wider area. The land is mainly laid to lawn with sporadic shrubs and planting and a number of small trees. The land is currently owned by NSDC pending sale. The parcel of land is approx. 160 m<sup>2</sup> and lies directly to the south of the boundary of the hostdwelling.

I note that this proposal will see the loss of a parcel of land that is currently publically accessible open space and that by the very nature of this application, there will be an impact on the character of the area. However, for the avoidance of doubt, the site is not protected as 'Public Open Space' through Spatial Policy 8 (as confirmed through the Proposals Map for Rainworth).

It is acknowledged that the parcel of land is fairly heavily vegetated and planted at present and as a result it would appear that this land is not available to be used by playing children or for any other formal use by the community. In addition to this, I note that directly to the south west is a larger area of public space that is entirely laid to lawn and provides publically accessible land for the community to enjoy. As such, whilst I appreciate that the loss of this land will impact the character of the area, I am of the view that this loss would not be so substantial to warrant a refusal.

In addition, I acknowledge that this proposal also seeks consent for the erection of an approx. 1.8 m high close boarded fence to the east and south boundaries of the parcel of land, the western boundary will retain the hedgerow and vegetation which is c. 0.6-1.2 m high in parts. The fence is not considered to be out of keeping with the character of the area and can be seen in other



properties within the vicinity. In addition, this type and height of fencing is considered to be characteristic of domestic properties and would not unduly impact the character of the surrounding area. Officers have also negotiated throughout the life of the application that the fence be screened by a c. 1 m wide area of soft planting to all elevations which is considered to lessen the impact of the erection of this fencing. Furthermore I note that no additional access points on to the highway to the south are proposed from this parcel of land that would have the potential to impact the character of the area.

In conclusion the proposal is considered to respect the character and appearance of the wider area and is acceptable in context of policies CP9 and DM5.

#### *Impact upon Residential Amenity*

The NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy DM5 states that development proposals should have regard to their impact on the amenity or operation of surrounding land uses and where necessary mitigate for any detrimental impact.

The main consideration is the impact upon the amenity of the surrounding properties and community. I note that at present this land is open space, however as stated above the land is not protected as being 'Public Open Space' by Spatial Policy 8 within the ADMDPD or as a parcel of land that is intentionally left open for public use. The surrounding dwellings have private garden areas and in addition, the land to the SW of the application site is a larger area of open space that is grassed and accessible for the local community's enjoyment. The parcel of land subject to this application is vegetated and has sporadic trees within it – as such I am of the view that this land is unlikely to be used in favour of the land directly to the SW which provides ample open space for the community to enjoy.

Turning to the proposed fence, given that it is proposed to be approx. 1.8 m in height and typically domestic in character the fence is not considered to unduly impact any neighbouring amenity through overshadowing and overbearing, particularly given that properties to the south are approx. 15 m from the boundary of this piece of land and across the highway.

It is therefore considered that the proposed development complies with Policy DM5 of the ADMDPD in respect to amenity impacts.

#### *Impact upon the Highway*

Having assessed this application, as the proposal comprises the change of use of land and the erection of a fence, without the incorporation of any new access on to the highway, the application is not considered to have a detrimental impact upon highways safety. I note that some comments have been received from interested parties detailing that the cul-de-sac to the south, where this parcel of land forms part of the northern boundary to, is heavily congested and there is a concern that a new access to this parcel of land would impact on highways safety. Whilst I

acknowledge these comments and have given them due care and consideration I am satisfied that there is no proposal to utilise this land as a new access point for the property and in addition, no vehicular access is proposed within the plans. The application has to be assessed based on what is before me and as such I conclude that there would be no detrimental impact on the public highway as a result of this application.

### *Other Matters*

Comments have been received from neighbouring occupiers and the Parish Council which object to the proposal and they have been duly taken on board. The comments raised relate to the impact the proposal will have on the character of the local area, private amenity through the loss of a public space and highways safety. The impact the proposal will have on the character of the area, public amenity and the highway can be read in the appraisal section above.

Comments also make reference to the potential for the hostdwelling to extend into this area if it is permitted to be garden land. Whilst I appreciate the concerns of the local residents I must assess the application before me on its own merits and without the prejudice of future development. In any event, should any future occupant of this property wish to extend into this land it would be subject to its own appraisal through the planning process to ensure any extension would not unduly impact the character of the area or private amenity.

Comments have also been submitted making reference to the impact that this proposal would have on the surrounding properties and the value of houses within the area, whilst I have acknowledged and assessed the impact the application will have on neighbouring amenity through loss of open space and in respect to the proposed fence, depreciation in house value is not a material planning consideration. Similarly, I note that the Parish have raised concern over the precedent that this application would set in the area and how it could cause more people in the area to want to claim open space. Whilst I appreciate these concerns, any subsequent application for a similar proposal would have to be assessed independently through the planning process and would be evaluated on a case by case basis.

### *Conclusion*

In conclusion it is considered that the proposed change of use of the parcel of land from open space to garden land and the erection of a boundary fence with planted screening would not unduly impact the character of the surrounding area or impact private and public amenity through the loss of open space or through overbearing or overshadowing.

In conclusion I consider the proposal would accord with Core Policy 9 of the CS and policy DM5 of the ADMDPD and the proposal would not detract from the character and distinctiveness of the surrounding area. The development is appropriate and accords with the development plan, taking in to account material planning considerations.

## **RECOMMENDATION**

**That full planning permission is approved subject to the following conditions;**

### **Conditions**

01

The development hereby permitted shall not begin later than three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

02

The development hereby permitted shall not be carried out except in complete accordance with the following approved plan references:

- Site Location Plan
- Revised Proposed Boundary Treatment (received 18.6.18)

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission.

03

The development hereby permitted shall be constructed entirely of the materials details submitted as part of the planning application unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual amenity.

04

No development shall be commenced until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:

a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species.

existing trees and hedgerows, which are to be retained pending approval of a detailed scheme, together with measures for protection during construction.

Reason: In the interests of visual amenity.

05

The approved landscaping shall be completed during the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority.

Reason: To ensure the work is carried out within a reasonable period and thereafter properly maintained, in the interests of visual amenity and biodiversity.

### **Notes to Applicant**

01

The applicant is advised that all planning permissions granted on or after the 1<sup>st</sup> December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the gross internal area of new build is less 100 square metres.

02

The application as submitted is acceptable. In granting permission the District Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

### Background Papers

Application Case File

For further information, please contact Honor Whitfield on ext. 5827.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**

**Business Manager Growth & Regeneration**



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## PLANNING COMMITTEE - 3 JULY 2018

<b>Application No:</b>	<b>18/00868/HRN</b>	
<b>Proposal:</b>	<b>Removal of 36m of hedgerow in connection with development of second cricket pitch</b>	
<b>Location:</b>	<b>Land Adjacent To, Newark R And M Cricket Club, Sports Ground, Kelham Road, Newark On Trent, Nottinghamshire</b>	
<b>Applicant:</b>	<b>Newark And Sherwood District Council – Mr Andy Hardy</b>	
<b>Registered:</b>	<b>04.05.2018</b>	<b>Target Date: 15.06.2018 Extended until 04.07.2018</b>

**This application is being presented to the Planning Committee in line with the Council’s Scheme of Delegation as the applicant is Newark and Sherwood District Council.**

### Description of Site and Surrounding Area

The application relates to a 36m length of hedgerow comprising hawthorn and overgrown scrub. The hedgerow sits within a wider area of land to the west of the A46 accessed from Kelham Road. The adjacent site to the east of the site is the existing Newark R & M Cricket Club.

### Description of Proposal

The proposal seeks to remove the 36m length of hedgerow to facilitate the use of the land to the south of the hedge which was granted approval under 16/02163/FULM for the Change of use of the land from Agricultural/grazing land to a cricket pitch which will be used in association with the existing club and pitch to the north. The hedge forms the northern boundary of this development site.

### Site History

16/02163/FULM - Change of use of Agricultural/grazing land to cricket pitch – Approved 05.04.2018

### Consultations

**Newark Town Council** – No objection was raised to this application.

**NSDC appointed Archaeology consultee** – “Many thanks for consulting the Lincolnshire County Council Archaeology Section regarding the above Hedgerow Removal Notice. The Notice has now been appraised against the Nottinghamshire County Historic Environment Record (HER).

From information within the HER I am able to say that this hedgerow does not mark the boundary, or part of the boundary, of any historic parish or township.

This hedgerow does not incorporate an archaeological feature which is:

(a) included in the schedule of monuments compiled by the Secretary of State under section 1 (schedule of monuments) of the Ancient Monuments and Archaeological Areas Act 1979; or

(b) recorded at the relevant date in the HER.

This hedgerow is not:

(a) situated wholly or partly within an archaeological site included, or recorded as mentioned above or on land adjacent to and associated with such a site; nor is it

(b) associated with any monument or feature on that site.

Although I am able to respond to your consultation with regard to those criteria listed in Part 2 of Schedule 1 (Paragraphs 1-5) of the Hedgerow Regulations that make reference to HER information, I am unable to comment on those criteria that depend upon information from documents in a Record Office. For a more thorough search it is advised that the archives office is consulted.”

**Nottinghamshire Wildlife Trust** – No comments received at the time of writing this report

**Nottinghamshire County Council Ecology section** – No comments received at the time of writing this report

### **Planning Policy Framework**

The Hedgerow Regulations 1997.

### **Appraisal**

The Hedgerow Regulations 1997 apply to a hedgerow that grows in, or adjacent to any common land, local nature reserve, Site of Special Scientific Interest (SSSI), or land used for agriculture, forestry or the breeding or keeping of horses, ponies or donkeys, if:

a. It has a continuous length of, or exceeding, 20 metres;

b. It has a continuous length of less than 20 metres and, at each end, meets (whether by intersection or junction) another hedgerow.

As the part of the hedgerow that is proposed to be removed grows adjacent to fields used for either agricultural or horticultural purposes and exceeds 20 metres in length, The Hedgerow Regulations 1997 are applicable to its removal.

The main issue relating to this application is whether the hedgerow is an ‘important’ hedgerow according to the criteria contained within Schedule 1 of the Hedgerow Regulations 1997, and if so, whether a hedgerow retention notice should be served having regard to the particular reasons given for its removal.

For the purposes of section 97 (hedgerows) of the Environment Act 1995 and these Regulations, a hedgerow is ‘important’ if it, or the hedgerow of which it is a stretch,—

(a) has existed for 30 years or more; and

(b) satisfies at least one of the criteria listed in Part II of Schedule 1.

Part II of Schedule 1 divides criteria into two sections being 'Archaeology and history' and 'Wildlife and landscape'.

### Archaeology and history

The comments of the archaeological consultant noted above have concluded that the hedge is not considered important based on the hedge not forming a historic boundary as detailed in the regulations. Furthermore I have conducted a desk based study of the Anderson 1835 Map which, in my opinion, confirms the hedge is not historic as it is not shown as a boundary on this map. On this basis I am satisfied that the boundary hedging that when assessed against the criteria of The Hedgerow Removal Regulations 1997 of the schedule, the hedging is not classed as archeologically or historically 'important'.

### Wildlife and Landscape

I am mindful that the application has not been accompanied by an Ecology Appraisal but I note that the Regulations do not put the onus of providing this information on the applicant. Nottinghamshire Wildlife Trust has unfortunately not provided any comment. However having visited the site I consider that given the location of the hedge in close proximity to the A46 and existing the cricket club that the wildlife value of is likely to be low. Furthermore I am mindful that other legislation (namely the Wildlife and Countryside Act 1981) must be adhered to when removing trees and hedges where protected species are identified. Having consideration of the above points with the information available to me, I cannot conclude that the wildlife and landscape characteristics of the hedge satisfy any of the relevant parts of part II of schedule 1 of the regulations and as such I cannot conclude that the hedge is 'important' in this regard.

### Conclusion

I am mindful that the Regulations state that a local planning authority shall issue hedgerow retention notice in respect of an 'important' hedgerow unless satisfied, having regard in particular to the reasons given for its proposed removal in the hedgerow removal notice, that there are circumstances which justify the hedgerow's removal.

I am satisfied that there is no evidence before me to suggest that the hedging can be classed as historically or ecologically important and the reason for removal is justified. As such I cannot identify any material reason as to why the hedge should not be removed.

### **Recommendation**

Grant consent for the removal of the hedge subject to those conditions outlined in the Regulations.

### Notes to applicant

01

The consent hereby granted is only valid for 2 years from 4<sup>th</sup> July 2018. Any work which is carried out beyond this period shall require a further consent from the Local Planning Authority.

02

The hedgerow to be removed and shall be carried out in accordance with the location plan (which labels the hedge in question as Hedge 1) submitted with the application



03

In taking the action specified in the Hedgerow Removal Notice, special care should be taken not to disturb wild animals that are protected by the Wildlife and Countryside Act 1981.

04

Please note hedgerow sections should be removed outside of the bird breeding season (March-September inclusive). Under the Wildlife and Countryside Act (1981) it is an offence to disturb any wild bird whilst they are building a nest or are in, on or near a nest containing eggs or young.

Background Papers

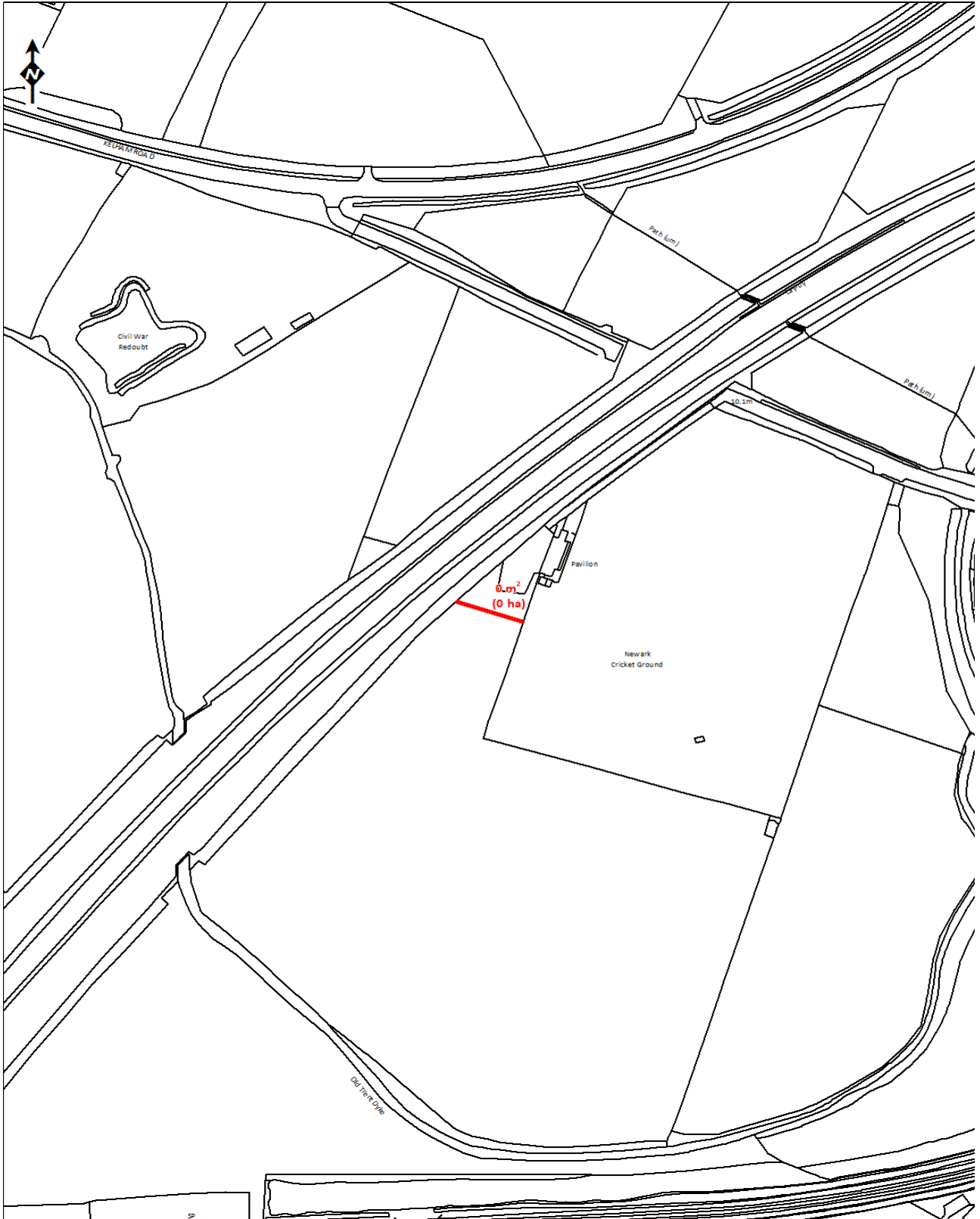
Application Case File

For further information, please contact Sukhjinder Chohan 5828

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**

**Business Manager Growth & Regeneration**



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## PLANNING COMMITTEE - 3 JULY 2018

<b>Application No:</b>	<b>18/01002/FUL</b>	
<b>Proposal:</b>	<b>Householder application for erection of a single storey front, rear and side extension</b>	
<b>Location:</b>	<b>26 Bancroft Road, Newark on Trent Nottinghamshire</b>	
<b>Applicant:</b>	<b>Mr Anthony Cregg</b>	
<b>Registered:</b>	<b>25.05.2018</b>	<b>Target Date: 20.07.2018</b>

**This application is before Planning Committee for a decision due to the applicant being related to an elected member, in accordance the District Council's scheme of delegation.**

### The Site

The application site relates to a traditional semi-detached two storey dwelling located on the west side of Bancroft Road within the established urban area of Newark on Trent. The application dwelling is set back from the highway with a hard surfaced driveway running along the flank elevation and a gravel area located at the front of the site. A 1.8m panel fence runs along the front boundary of the site. There is a small hipped roof addition to the rear elevation and a detached store/garage building located at the rear of the site.

### Relevant Planning History

No relevant planning history

### The Proposal

The proposal seeks planning permission for a single storey extension that wraps around the front, flank and rear elevation and would create a store, kitchen/breakfast and a sun room at ground floor level. The roof design would be hipped with integrated roof lights. The extension would project 2.25m from the original flank elevation and 2.8m from the original rear elevation. The eaves level would measure 2.7m and the maximum height of the extension would be 3.6m.

The external finish would be smooth red external brickwork on the elevations and plain red clay tiles on the roof, both to match the host dwelling.

### Public Advertisement Procedure

Occupiers of six properties have been individually notified by letter.

### Planning Policy Framework

**Newark and Sherwood Core Strategy DPD (adopted March 2011)**

Core Policy 9: Sustainable Design

### **Allocations & Development Management DPD (2013)**

Policy DM5 – Design

Policy DM6 – Householder Development

Policy DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014
- Householder Development SPD

### **Consultations**

**Newark Town Council** – No objection was raised to this application.

**No other representations have been received.**

### **Comments of the Business Manager**

#### **Principle**

Policy DM6 of the DPD states that householder developments are acceptable subject to an assessment against a number of site specific criteria including the impact of the proposal upon visual and residential amenity. Given the above, I am satisfied that the proposed extension at the site would be acceptable in principle.

#### **Impact on Visual Amenity**

The NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive. Core Policy 9 states that new development should achieve a high standard of sustainable design that is of an appropriate form and scale to its context complementing the existing built and landscape environments. Policy DM5 of the DPD states that local distinctiveness should be reflected in the scale, form, mass, layout, design and materials in new development.

I am mindful that the front and side elements of the proposed extension would be visible from the adjacent highway, however I am satisfied that the proposed extension would appear subservient in nature to the host dwelling and would not be unduly prominent within the street scene. I also consider the application site to be capable of accommodating the proposed development without appearing cramped or over intensive. As such, I am satisfied that the proposal would not result in any material impact on the character and appearance of the site or wider locality.

#### **Impact on Residential Amenity**

The NPPF seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings. Policy DM6 of the DPD states that planning permission will be granted for householder development provided it would not adversely affect the amenities of the adjoining

premises, in terms of loss of privacy or overshadowing.

In assessing the impact on the neighbouring property to the north, No. 24 Bancroft Road, and having considered the single storey hipped roof design of the proposed extension as well as the neighbouring driveway which would be located between the extension and the neighbouring property, I am satisfied that the proposal would not result in any material overbearing or overshadowing impact on the amenity of this property. Having also considered the modest projection depth of the rear element of the proposed extension and that the adjoining property to the south has been also previously been extended to the rear, I am also satisfied that the proposed development would not result in any material overbearing or overshadowing impact on the adjoining property No. 28 Bancroft Road. I note that there would be no side facing windows serving the proposed extension and that the rooflights would be set at a high level. As such, it is considered that the proposal would not result in any material overlooking impact on neighbouring amenity.

### Conclusion

Given the above, I am satisfied that the proposal would comply with the relevant aims of the NPPF as well as Core Policy 9 Newark and Sherwood Core Strategy DPD and Policy DM6 of the Allocations & Development Management DPD. Accordingly, I recommend that planning permission be granted.

### RECOMMENDATION

**That full planning permission is approved subject to the following conditions**

#### **Conditions**

01

The development hereby permitted shall not begin later than three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

02

The development hereby permitted shall not be carried out except in complete accordance with the following approved plans

- Site Location Plan
- Proposed Ground Floor Plan – 009311 20 01
- Proposed Elevations – 009311 20 03

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission.

03

The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building in terms of type, colour and texture, size, profile and bonding pattern unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual amenity.

### **Notes to applicant**

01

The application as submitted is acceptable. In granting permission without unnecessary delay the District Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

02

The applicant is advised that all planning permissions granted on or after the 1<sup>st</sup> December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the gross internal area of new build is less than 100 square metres.

### **BACKGROUND PAPERS**

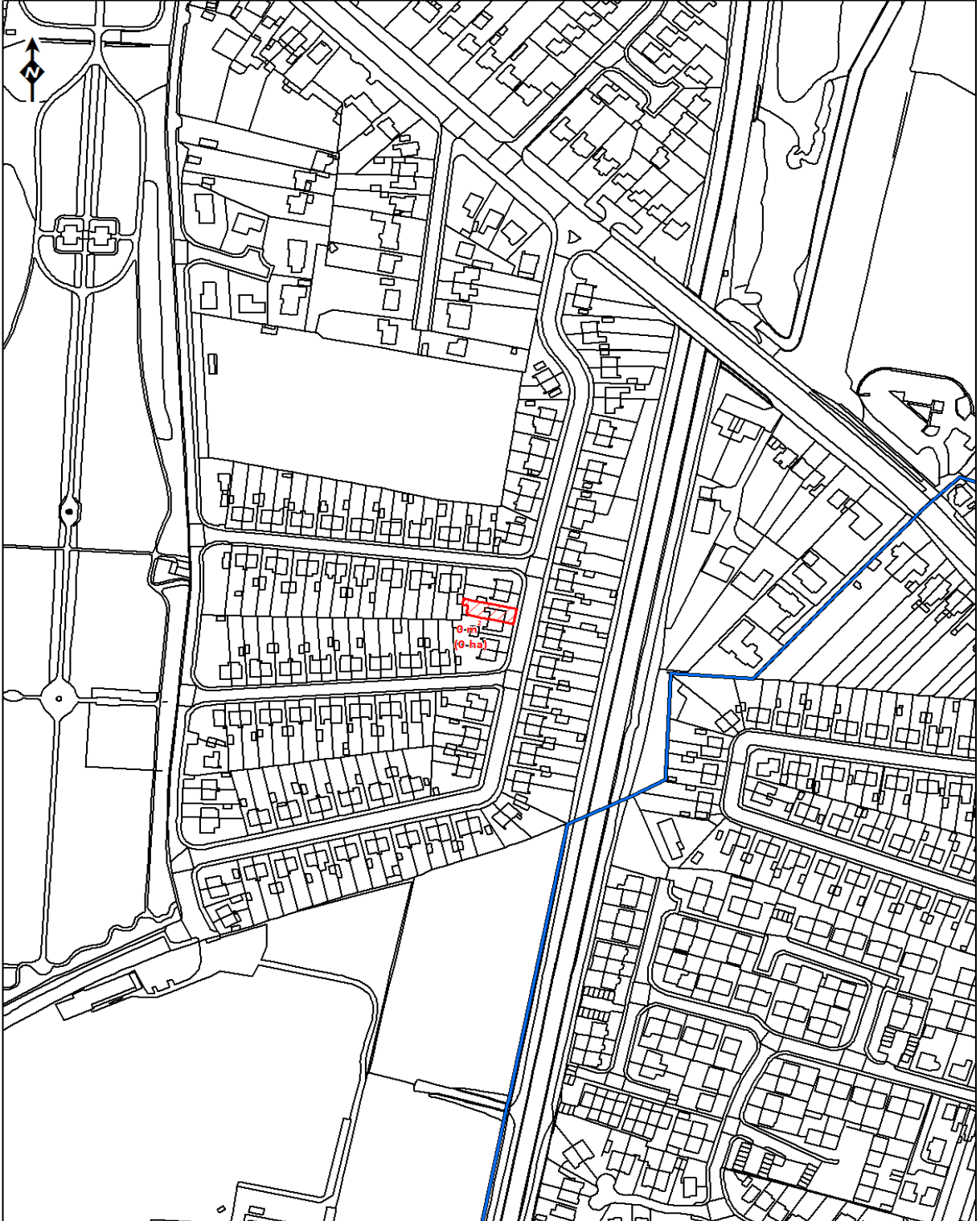
Application case file.

For further information, please contact Gareth Elliott on Ext: 5836.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**

**Business Manager Growth and Regeneration**



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**PLANNING COMMITTEE – 3 JULY 2018**

**APPENDIX B: APPEALS DETERMINED (22 May 2018 and 19 June 2018)**

<b>App No.</b>	<b>Address</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision date</b>
17/00852/FUL	Willow Tree Farm Eagle Road Spalford Newark On Trent Nottinghamshire NG23 7HA	Application for the removal/variation of condition 1 attached to application 09/00920/FUL; Change from agricultural to valeting and storage (Retrospective)	DISMISS	04.06.2018
17/00326/ENF	The Old Library High Street Edwinstowe Nottinghamshire	Appeal against	DISMISS	24.05.2018
17/01637/FUL	Former White Lion Public House Main Street Blidworth Nottinghamshire NG21 0QD	Proposed two-bedroom dwelling with integral single garage.	DISMISS	24.05.2018
17/01020/LDC	Hilltop House Balderton Lane Coddington Newark On Trent Nottinghamshire NG24 2QE	Lawful Development Certificate for proposed development of additional stores and stables	DISMISS	22.05.2018
17/01727/ADV	Wirtgen Group House Godfrey Drive Winthorpe Nottinghamshire NG24 2UA	1 Nr Illuminated Building Sign 1 Nr 6m High Illuminated Pylon Sign 1 Nr 3m High Illuminated Pylon Sign 6 Nr 8m High Flag Poles	ALLOW	11.06.2018



17/00406/ENF	2 Adams Row Southwell Nottinghamshire NG25 0FF	Appeal against	ALLOW	30.05.2018
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**RECOMMENDATION**

That the report be noted.

**BACKGROUND PAPERS**

Application case files.

For further information please contact our Technical Support Business Unit on 01636 650000 or email [planning@nsdc.info](mailto:planning@nsdc.info) quoting the relevant application number.

Matt Lamb  
Business Manager Growth & Regeneration



## Appeal Decision

Site visit made on 8 May 2018

**by Mr A U Ghafoor BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 May 2018

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### Appeal Ref: APP/C/17/3191626

#### The Old Library, High Street, Edwinstowe, Nottinghamshire NG21 9QS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Ms Jayne Whittaker against an enforcement notice issued by Newark and Sherwood District Council.
  - The enforcement notice was issued on 12 December 2017.
  - The breach of planning control as alleged in the notice is without planning permission, development consisting of alteration to existing windows on the east facing front elevation consisting of the insertion of 2 aluminium double doors and the removal of existing central entrance door and sidelights and replacement with a new wider accessible entrance door with glazed sidelights installed
  - The requirements of the notice are to replace the masonry, brickwork, windows and doors so as to return the east facing front elevation to that shown on drawing number 16/2065/001 (existing layout, elevations and site layout) as submitted as part of planning application 16/01058/FUL, as shown with the photographs contained as images 1 & 2 within the enforcement notice.
  - The period for compliance with the requirements is 100 days.
  - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.
- 

### Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

### Reasons

2. The main issue is whether the development preserves or enhances the character or appearance of the Edwinstowe Conservation Area (CA).
3. The surrounding area includes residential properties but High Street is a busy commercial street. Whilst there have been some alterations to buildings within the designated heritage asset, it is defined by solid brick masonry and plain tiled buildings as well as the layout of the streetscape. Original architectural features, like sash windows with small panes and timber shop fronts, reinforce the special architectural and historic interest of the CA.
4. The Old Library is particularly important to the significance of the heritage asset given its historic connection to the settlement. The type of building materials used reflects other properties within this part of the CA. The front elevation included original features like timber window and door frames. I consider that the building makes a positive contribution to the special architectural interest of the CA.

5. Planning permission was granted to convert The Old Library to a café and multi-use facility together with an extension to the rear<sup>1</sup>. The original windows and doors to the front were shown as being retained. Pursuant to the approved plans, building operations have been carried out. However, alterations to the front elevation have been made resulting in the removal of original windows and central door, formation of opening by the removal of brickwork below. The two window openings have been replaced by aluminium double doors to floor level. The central entrance has been replaced by a wide entrance door with glazed sidelights.
6. The appellant argues that appeal building was unloved and has been sensitively restored and the alterations to the front are required for circulation, internal and external connectivity and accessibility. However, while the brick arches and keystone as well as the porch detailing have been retained, the external appearance of the building has dramatically changed. This is because of the removal of original timber windows and main entrance door. The full-height openings together with aluminium frames are at odds with the building's utilitarian and simple architectural style. The design of the alterations has little regard to the proportion and scale of the building's fenestration. I consider that the development significantly undermines the architectural quality of host building.
7. The appeal building was constructed during the Edwardian period and forms part of a distinctive early 20<sup>th</sup> Century phase along High Street. The building is set back from the highway but it is located on higher ground and is set within its own plot: its front elevation is a prominent feature. Given the extent of the front alterations, I take the view that the development is out-of-keeping with the character of the street scene.
8. I have taken account of the appellant's design strategy. Nonetheless, the development has a significant adverse visual effect upon the external appearance of the host building and fails to respect the special architectural interest of the CA. Accordingly, the development conflicts with Core Strategy Policy 14 (2011), policies DM5 and DM9 from the Allocations and Development Management Development Plan Document 2013. This finding is of considerable importance and weight.
9. The harm caused to the CA is less than substantial. There is, nevertheless, real and serious harm which requires clear and convincing justification. The strategy is to use the front courtyard in connection with the cafe, but the information presented does not show that the front elevation alterations are required for functional reasons. I do not consider there is any public benefit justifying this particular scheme. Given the above and in the absence of any substantiated public benefit, on balance, I conclude that the development fails to preserve the character or appearance of the CA.

## Conclusion

10. For the reasons given above and having regard to all other matters, I conclude that the appeal should not succeed. I have upheld the enforcement notice and refused to grant planning permission on the deemed application.

*A U Ghafoor*

Inspector

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<sup>1</sup> LPA refs: 16/01058/FUL and LPA ref: 17/00929/FUL.



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## Appeal Decisions

Site visit made on 8 May 2018

by **Mr A U Ghafoor BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 May 2018

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**Appeal A ref: APP/C/17/3191826**

**Appeal B ref: APP/C/17/3191827**

**2 Adams Row, Southwell, Nottinghamshire NG25 0FF**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the Act).
- The appeals are made by Mr Adrian Boud and Mrs Angela Boud against an enforcement notice issued by Newark and Sherwood District Council as the local planning authority (LPA).
- The enforcement notice was issued on 27 November 2017.
- The breach of planning control alleged in the notice is failure to comply with condition No 4) of a planning permission ref 16/00024/FUL granted on 2 March 2016.
- The development to which the permission relates is erection of a small rear lean-to kitchen extension and front extension over garage. The condition in question is no.4, which states that: *Notwithstanding the plans hereby approved, all windows at first floor level in the western elevation shall be obscured glazed to level 3 or higher on the Pilkington scale of privacy or equivalent and shall be non-opening up to a minimum height of 1.7 m above the internal floor level of the room in which it is installed. This specification shall be complied with before the development is occupied and thereafter be retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.* The reason given for the condition reads: *To safeguard against overlooking and loss of privacy in the interests of amenity of occupiers of neighbouring properties.* The notice alleges that the condition has not been complied with in that all of the windows at first floor level in the western elevation are not obscure glazed and non-opening up to a minimum height of 1.7 metres.
- The requirements of the notice are to:
  - 1) Ensure that all windows within the development approved by planning consent reference 16/00024/FUL, as issued by the LPA on 2<sup>nd</sup> March 2017, at first floor level in the western elevation are obscured glazed to level 3 or higher on the Pilkington scale of privacy or equivalent; and
  - 2) Ensure that all windows within the development approved by planning consent reference 16/00024/FUL, as issued by the Local Planning Authority on 2<sup>nd</sup> March 2017, at first floor level in the western elevation are non-opening up to a minimum height of 1.7m above the internal floor level of the room in which it is installed.
- The period for compliance with the requirements is 56 days.
- The appeals are proceeding on the grounds set out in section 174(2) (b), (c) and (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeals on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

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### Matter concerning the notice

1. The allegation clearly tells the recipient what has gone wrong and the requirements specify what needs to be done to remedy the alleged breach. It is apparent to me that the notice alleges a breach of condition imposed on a previous planning permission.

However the notice at section 1 refers to section 171A(1) subs (a) of the Act but this is technically incorrect.

2. Subsection (b) to s 171A(1) indicates that failing to comply with any condition or limitation subject to which planning permission has been granted constitutes a breach of planning control. I consider that the notice requires correcting for clarity's sake. This is a minor error. I am satisfied that the correction causes no injustice to the LPA or appellants. I shall correct the notice as follows.

### **Decisions – Appeals A and B**

3. It is directed that the enforcement notice be corrected by the deletion of the following: '*paragraph (a) of section 171A(1)*' in section 1, beginning with the words '*this notice*', and the substitution therefor by the following: '*paragraph (b) of section 171A(1)*'. Subject to the correction, the appeals are allowed on ground (c) and the enforcement notice is quashed.

### **Ground (b)**

4. The challenge is that the matters alleged on the corrected notice have not in fact occurred. The date of the notice's issue is relevant. In legal grounds of appeal, the standard is on the balance of probabilities.
5. Planning permission was granted on 2 March 2016 for the erection of a small rear lean-to kitchen extension and front extension over the garage subject to four conditions (the 2016 permission). In January 2018 the LPA approved a non-material amendment<sup>1</sup>.
6. The appellants maintain that the 2016 permission has been implemented in accordance with the plans specified at condition 2), which were changed by the non-material amendment. The LPA consider that the development is in breach of condition 4), which states the following:

*Notwithstanding the plans hereby approved, all windows at first floor level in the western elevation shall be obscured glazed to level 3 or higher on the Pilkington scale of privacy or equivalent and shall be non-opening up to a minimum height of 1.7m above the internal floor level of the room in which it is installed. This specification shall be complied with before the development is occupied and thereafter be retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.*

The reason for imposing the condition reads:

*To safeguard against overlooking and loss of privacy in the interests of amenity of occupiers of neighbouring properties.*

7. The facts are that part of the window fitted to the study room is clear glazed. It therefore appeared to the LPA that a breach of condition 4) had occurred. At the time of my site visit the window to the study room was not fully obscure glazed and non-opening. That was the circumstance during the period leading up to the issuing of the notice. At the date when the notice was issued, the matters alleged in the corrected notice had in fact occurred. Ground (b) must fail.

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<sup>1</sup> LPA refs: 16/00024/FUL and 17/02318/NMA.

### **Ground (c)**

8. The appellants should show that the window in the study room does not amount to non-compliance with condition 4). Their case is that the condition has been satisfied because all of the windows up to a height of 1.7 m are obscure glazed and non-opening. They argue that any window above 1.7 m could be both opening and clear-glazed. On the other hand, the LPA's submission is that the stipulation requires all of the windows to be obscured glazed and non-opening.
9. The windows installed at first floor level to the western elevation are emphatically controlled by condition 4), which is reasonable and remains effective and in force. The intended purpose of the stipulation is to safeguard the privacy of the neighbours. Read straightforwardly and within the context of the 2016 permission, the natural and ordinary meaning of the words clearly suggest that it requires obscure glazed and non-opening windows up to a minimum height of 1.7 m when measured from the internal floor level. That is the basic criteria for compliance with its terms. I do not consider that the condition is uncertain.
10. My assessment of the condition's meaning is consistent with the reason given for imposing it. The LPA wanted to avoid potential loss of privacy, but it specified obscure glazing and non-opening windows up to a minimum height of 1.7 m when measured from internal floor of the room in which the window is installed. Thus, the condition affects those windows that are less than the specified height. In my opinion, to argue otherwise is unrealistic and inconsistent with the terms of the 2016 permission. Furthermore, I disagree with the assertion that all of the windows are controlled by implication, due to the use of clear terminology in drafting the condition. If the LPA wanted to control all of the new windows in the western elevation at first floor level, the height restriction should not have been imposed.
11. I have already said that the clear glazing to the study room window is above 1.7 m in height when measured from the internal floor level. Given the precise meaning of condition 4), I find that the window does not breach its terms. On the balance of probabilities, I conclude that the matters alleged in the corrected notice do not constitute a breach of planning controls.

### **Other matters and overall conclusions**

12. Arguments about the need for the clear glazed window or invasion of privacy go to the planning merits of the development. None of these are pertinent to the consideration of these legal grounds of appeal. In my assessment of these Appeals, I have disregarded all of the planning merits arguments.
13. For the reasons given above and having regard to all other matters, I reject the LPA's submissions and ground (c) succeeds. Accordingly the enforcement notice is quashed subject to a minor correction. In these circumstances ground (f) does not need to be considered.

*A U Ghafoor*

Inspector

By virtue of paragraph(s) 3, 5 of Part 1 of Schedule 12A of the Local Government Act 1972.

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