



*Castle House  
Great North Road  
Newark  
NG24 1BY*

*Tel: 01636 650000*

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

**Monday, 29 July 2019**

**Chairman: Councillor R Blaney  
Vice-Chairman: Councillor I Walker**

**Members of the Committee:**

**Councillor L Brazier  
Councillor M Brock  
Councillor M Brown  
Councillor L Dales  
Councillor Mrs M Dobson  
Councillor L Goff  
Councillor R Holloway**

**Councillor J Lee  
Councillor Mrs P Rainbow  
Councillor M Skinner  
Councillor T Smith  
Councillor K Walker  
Councillor Mrs Y Woodhead**

**MEETING: Planning Committee**

**DATE: Tuesday, 6 August 2019 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

|   | <u>Page Nos.</u> |
|---|------------------|
| 1. Apologies for Absence  |                  |
| 2. Declarations of Interest by Members and Officers   |                  |
| 3. Declaration of any Intentions to Record the Meeting  |                  |
| 4. Minutes of the meeting held on 23 July 2019  | 5 - 12           |
| <b>Part 1 - Items for Decision</b>  |                  |
| 5. White Post Garage, White Post, Farnsfield 18/02151/FUL<br>Site Visit: 9.45 – 9.55am                          | 13 - 28          |
| 6. Former Co-op, Main Street, Farnsfield 19/00208/FUL<br>Site Visit: 10.05 – 10.15pm                            | 29 - 46          |
| 7. Grange Barn, Newark Road, Caunton 19/00848/FUL<br>Site Visit: 9.15 – 9.25pm                                  | 47 - 56          |
| 8. The Academy, 62 Gainsborough Road, Winthorpe, Newark On Trent<br>19/00503/FUL<br>Site Visit: 11.50 – 12.00pm | 57 - 81          |
| 9. 2 Gainsborough Road, Winthorpe, 19/01129/FUL<br>Site Visit: 12.10 – 12.20pm                                  | 82 - 95          |
| 10. Field OS 8200 Marriott Lane, Blidworth 19/00184/FULM<br>Site Visit: 10.30 – 10.40am                         | 96 - 108         |
| 11. Bankwood Farm, Oxtun Road, Thurgarton 19/00746/FULM<br>Site Visit: 10.50 – 11.00pm                          | 109 - 130        |
| 12. Sawmills Farm, Rufford Lane, Ollerton 19/01230/FUL  | 131 - 144        |
| 13. Land Off Main Street, Coddington 18/00799/FUL   | 145 - 175        |
| 14. 8 Willow Drive, North Muskham 19/01160/S73  | 176 - 190        |
| 15. Land Adjacent Ivydene, Main Street, Weston 19/01294/PIP   | 191 - 198        |

- |     |  |           |
|-----|--|-----------|
| 16. | Land Off Hutchinson Road, Newark On Trent 19/00192/RMA   | 199 - 213 |
|     | Site Visit: 12:30 – 12:40pm  |           |
| 17. | TPO N367 - G1 Group of trees On land to the rear of No's 38 to 120 Middleton Road, Newark 19/00002/TPO | 214 - 218 |

**Part 2 - Items for Information**

- |     |                    |           |
|-----|--------------------|-----------|
| 18. | Appeals Lodged     | 219 - 221 |
| 19. | Appeals Determined | 222 - 239 |

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

- |     |  |           |
|-----|--|-----------|
| 20. | Quarterly Enforcement Activity Update Report | 240 - 255 |
|-----|--|-----------|

**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 Part 1 of Schedule 12A of the Act.

There are none.

**NOTES:-**

A Briefing Meeting will be held in Room F1, Castle House at 3.00 pm on the day of the meeting between the Director of 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, 23 July 2019 at 4.00 pm.

PRESENT: Councillor R Blaney (Chairman)  
Councillor I Walker (Vice-Chairman)

Councillor M Brock, Councillor L Dales, Councillor Mrs M Dobson, Councillor L Goff, Councillor R Holloway, Councillor J Lee, Councillor Mrs P Rainbow, Councillor M Skinner, Councillor T Smith, Councillor K Walker and Councillor Mrs Y Woodhead

ALSO IN ATTENDANCE: Councillor R White

APOLOGIES FOR ABSENCE: Councillor L Brazier (Committee Member) and Councillor M Brown (Committee Member)

### 43 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

There were none.

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

The Chairman informed the Committee that the Council was undertaking an audio recording of the meeting which subsequently failed to record. Councillor T Smith also informed the Chairman that he was recording parts of the meeting.

### 45 MINUTES OF THE MEETING HELD ON 2 JULY 2019

AGREED that the minutes of the meeting held on 2 July 2019 be approved as a correct record and signed by the Chairman.

### 46 SPRINGFIELD BUNGALOW, NOTTINGHAM ROAD, SOUTHWELL 19/00689/FUL

The Committee considered the report of the Director of Growth & Regeneration, which sought retrospective planning permission for the variation of conditions 02, 03, 04 and 05 of planning permission 16/01369/FUL to allow the new access junction to be constructed wholly within highway land or that owned by the applicant.

A schedule of communication was tabled at the meeting which detailed correspondence received after the agenda was published from the Agent; Highways Authority and local residents.

Councillor P Scorer representing Southwell Town Council spoke against the application in accordance with the views of Southwell Town Council as contained within the report.

The Chairman commented that there was an inaccuracy within the report and confirmed that the visibility splays were 2.3 x 43 metres. The Director of Growth &

Regeneration confirmed that the County Highways had demonstrated a splay of 2.3 x 43 metres in both directions was achievable.

The Chairman commented that conditions 4 and 5 of the report should be amended to reflect the measurement of 2.3 x 43 metres to the left and right.

Members commented that a relaxation in normal standards was of concern given the location of the access, number of properties served, and the vehicles were clearly damaging the kerbs already. It was felt that an independent disability consultant; risk assessment; and swept path analysis be undertaken.

A Member commented that the application had come back to Committee prematurely as the access issues had not been resolved. The boundary disputes and sub-station disputes had not been resolved and as a reasonable authority we should intervene.

A vote was taken for approval and lost with 2 votes For and 11 votes Against.

AGREED (unanimously) that contrary to Officer recommendation planning permission be refused on the grounds of access, traffic and safety.

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

| <b>Councillor</b> | <b>Vote</b> |
|-------------------|-------------|
| R. Blaney         | For         |
| L. Brazier        | Absent      |
| M. Brock          | For         |
| M. Brown          | Absent      |
| L. Dales          | For         |
| M. Dobson         | For         |
| L. Goff           | For         |
| R. Holloway       | For         |
| J. Lee            | For         |
| P. Rainbow        | For         |
| M. Skinner        | For         |
| T. Smith          | For         |
| I. Walker         | For         |
| K. Walker         | For         |
| Y. Woodhead       | For         |

47 SPRINGFIELD BUNGALOW, NOTTINGHAM ROAD, SOUTHWELL 19/00779/FULM

The Committee considered the report of the Director of Growth & Regeneration, which sought planning permission for variation of condition 11 of planning permission 15/01295/FULM to allow the new access junction to be constructed wholly within highway land or that owned by the applicant.

A schedule of communication was tabled at the meeting which detailed

correspondence received after the agenda was published from the Highways Authority and local residents.

AGREED (unanimously) that contrary to Officer recommendation planning permission be refused on the grounds of access, traffic and safety.

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

| Councillor  | Vote   |
|-------------|--------|
| R. Blaney   | For    |
| L. Brazier  | Absent |
| M. Brock    | For    |
| M. Brown    | Absent |
| L. Dales    | For    |
| M. Dobson   | For    |
| L. Goff     | For    |
| R. Holloway | For    |
| J. Lee      | For    |
| P. Rainbow  | For    |
| M. Skinner  | For    |
| T. Smith    | For    |
| I. Walker   | For    |
| K. Walker   | For    |
| Y. Woodhead | For    |

48 LAND TO THE REAR OF 9 TO 18 HOUNSFIELD WAY, OFF HEMPLANDS LANE, SUTTON ON TRENT 19/00981/FUL

The Committee considered the report of the Director of Growth & Regeneration, which sought planning permission for the installation of 5 x 4000 litre underground tanks with associated Secondary Regulator Housing Cabinet and amendments to the already approved equipped play area.

A schedule of communication was tabled at the meeting which detailed correspondence received after the agenda was published from the Applicant.

Members considered the application acceptable providing that a more prominent warning notice be displayed and included within the conditions.

AGREED (unanimously) that full planning permission be approved subject to the conditions contained within the report and the amendment to include the warning signage and the signing and sealing of a Deed of Variation to the S106 attached to 14/00161/FULM (for the erection of 50 dwellings) to require an off-site commuted sum towards open space provision and an additional item of play equipment.

49 LAND TO THE REAR OF 9 TO 18 HOUNSFIELD WAY, OFF HEMPLANDS LANE, SUTTON ON TRENT 19/00971/FULM

The Committee considered the report of the Director of Growth & Regeneration, which sought planning permission for application for the variation of Conditions 9 (hard and soft landscaping), 17 (external materials), 19 (boundary treatment) and 25 (approved plans) attached to planning permission 14/00161/FULM (the erection of 50 dwellings with associated infrastructure, landscaping and public open space and surgery car park extension providing 11 car park spaces). The variation includes the addition of a substation and fibre box cabinet plus amendments to the landscaping, open space, play area, boundary treatments and materials

A schedule of communication was tabled at the meeting which detailed correspondence received after the agenda was published from the Applicant.

Members considered the application and suggested that mature hedging and boxing be planted in order to maximise the chance of survival of the planting scheme as a result of the variation.

AGREED (unanimously) that full planning permission be approved subject to the conditions contained within the report with the amendment to include mature hedging and boxing and the signing and sealing of a Deed of Variation to the S106 attached to 14/00161/FULM (for the erection of 50 dwellings) to link it to this permission.

50 188 LONDON ROAD, BALDERTON 19/00594/FUL

The Committee considered the report of the Director of Growth & Regeneration, which sought planning permission for the erection of 4 houses consisting of 2 No. 3 Bed semi-detached houses and 2 No. 2 Bed semi-detached bungalows (Re-submission of application 18/00792/FUL).

A schedule of communication was tabled at the meeting which detailed correspondence received after the agenda was published from Nottinghamshire County Council Highways.

Nottinghamshire County Council Highways had suggested an amendment to the conditions as follows:

- Condition 5 shown within the Officer report should be replaced with Nottinghamshire County Council Highways Condition 1, as contained in the Schedule of Communication;
- Condition 7 shown within the Officers report should be replaced with Nottinghamshire County Council Highways Conditions 2 & 3 as shown in the Schedule of Communication.

Members considered the application and some Members felt that whilst they would like to see this waste site developed, they felt that the land could have been better used and the proposed development was not in keeping with the surrounding area as the site was surrounded by bungalows. Other Members felt that the proposed



development would bring the site back to life and provided much needed homes.

AGREED (with 8 votes For and 5 votes Against) that planning permission be approved subject to the conditions contained within the report with the amendments to Conditions 5 and 7 as detailed in the Schedule of Communication.

51 LAND REAR OF 51 ROPEWALK, SOUTHWELL 19/01003/FUL

The Committee considered the report of the Director of Growth & Regeneration, which sought planning permission for the construction of a four bedroomed dormer bungalow with associated access arrangements and all other works.

Members considered the application and whilst some Members felt that the building was too large for the site, other Members considered the development acceptable.

AGREED (with 10 votes For and 3 votes Against) that full planning permission be approved subject to the conditions contained within the report.

52 HIGH VISTAS, 24 ROBIN HOOD AVENUE, EDWINSTOWE 19/00982/FUL

The Committee considered the report of the Director of Growth & Regeneration, which sought planning permission for a single storey 3 bed dwelling and separate garage which was a Re-submission of 19/00219/FUL.

Members considered the application acceptable.

AGREED (with 10 votes For, 1 vote Against and 2 Abstentions) that planning permission be approved subject to the conditions contained within the report.

53 111 WOLSEY ROAD, NEWARK 19/00870/FUL

The Committee considered the report of the Director of Growth & Regeneration, which sought planning permission to change the existing pitched roof of the rear bathroom extension to a flat roof to increase internal hoisting height.

A schedule of communication was tabled at the meeting which detailed correspondence received after the agenda was published from the Applicant.

AGREED (unanimously) that planning permission be approved subject to the conditions contained within the report.

54 RAINWORTH VILLAGE HALL MANAGEMENT COMMITTEE, KIRKLINGTON ROAD, RAINWORTH, NOTTINGHAMSHIRE 19/01173/FUL

The Committee considered the report of the Director of Growth & Regeneration, which sought planning permission for the erection of a single storey side extension to Rainworth Village Hall.

A schedule of communication was tabled at the meeting which detailed correspondence received after the agenda was published from Rainworth Parish Council, notifying that they were in support of the scheme.

AGREED (unanimously) that planning permission be approved subject to the conditions contained within the report.

55 JERUSALEM FARM, JERUSALEM ROAD, SKELLINGTHORPE, LINCOLN 18/00995/NPA

The Committee considered the report of the Director of Growth & Regeneration, which sought planning permission for a Neighbour Planning Application Reference PL/0055/18, for the demolition of an existing animal by products processing plant and all associated installations. The construction of a new animal by products processing plant, composed of: raw material reception and process buildings; engineers building; boiler house; oxidiser building and flue; DAF plant; effluent treatment plant; bio filter bed; general office; weighbridge and weighbridge office; hardstanding areas for accessing the processing plant and for parking of cars, commercial vehicles and trailers used in connection with the operation. Residential development to provide three environmentally sustainable eco affordable homes and one manager's house for the processing plant. Alterations to the existing site access from Jerusalem Road. All associated development, including landscaping.

A schedule of communication was tabled at the meeting which detailed correspondence received after the agenda was published from the Planning Case Officer.

The local ward Member commented that Thorney Parish Council had objected to this development and the proposals affected three small villages that she represented. Those three villages had problems with odour and traffic created by the processing plant.

AGREED (unanimously) that Newark and Sherwood District Council support Lincoln County Council in their objection.

56 REVIEW: SCHEME OF DELEGATION

The Committee considered the report of the Director of Growth & Regeneration, which set out the findings of an internal review of the current Scheme of Delegation (SoD) in relation to planning matters and to request that Members consider amending the SoD in line with the concluding recommendations. If the Planning Committee were minded to support the proposed changes, the matter would be advanced to the Councillors Commission and then Full Council. The current SoD formed part of the Council's Constitution and set out a set of criteria for committee and officer decisions.

The reason for the review was due to a number of factors.

- The SoD was last updated in July 2018. It was best practice to review this from time to time and it made sense to do this early into the new Council's administrative term.

- Also of importance was to see if there was scope to reduce the size and frequency of agendas (and the length of time that these meetings last) thereby reducing Member time and officer resources. More importantly by reducing agenda sizes it would help focus attention on the more complex and strategic applications as well as improving the (perceived) quality of decision making, particularly towards the end of long committee meetings.
- Furthermore, reducing the number of planning matters that needed to be reported to the Planning Committee should assist in helping to meet the stretched internal performance targets introduced in the Newark and Sherwood District Council Community Plan (adopted 2019) which aspired that 90% of all applications should be determined within a specified target date, as opposed to current national performance targets of 60%, 65% and 80% depending on the type of application.
- There was a number of application types that the SoD did not currently capture which needed to be rectified, such as the new 'Planning in Principle' and 'Technical Details Consent' application type.

The report detailed the existing committee arrangements and scheme of delegation for Newark and Sherwood District Council; the existing committee arrangements and scheme of delegation at other authorities. The types of applications being considered by Newark and Sherwood District Council and the reasons why applications were considered were also detailed.

The report detailed six options as follows:

Option 1 - Minor Dwellings to be delegated contrary to Parish/Town Council regardless of the professional recommendation.

Option 2 - Minor Dwellings to be delegated Contrary to Parish/Town Council where officer recommendation is for refusal only

Option 3 - Member Call In/Referral Powers

Option 4 - Possible Change to Householder Call-In

Option 5 - Applications to Vary or Remove Planning Conditions not automatically determined by Committee

Option 6 - Major Applications where Parish/Town Council Support Contrary to Recommendation

The Chairman informed the Committee that the reason for the review was because the Council had approved the Community Plan and there was an aspiration that 90% of planning applications be determined in the stipulated date.

A Member commented that he disagreed with the report and that Planning Committee should take place during a full day and the call in procedure should be changed in order for the Councillor who called in the application to be present to

speak at the Planning Committee. The Chairman commented that many Members of the Council would not be able to attend full days and Members needed to respect that.

A Member commented that planning variation needed to be addressed and planning enforcement should be tightened by supporting the planning enforcement officers.

A Member further commented that she had contacted her Parish Council to receive their views on the proposed changes and confirmed that the Parish Clerk and Vice-Chairman were in support of the proposed changes.

A Member commented that the recently appointed Growth & Regeneration Business Manager should be involved in this process and submit her ideas. It was also proposed that the planning reports could be reduced in size to save officer time.

A Member asked whether public speaking would be introduced in the future. The Chairman confirmed that consideration could be given to this however if public speaking was allowed the agenda would need to be reduced further.

A Member commented that the Town and Parish Council's should be encouraged regarding their right to attend and speak at Planning Committee.

The Director of Growth & Regeneration confirmed that additional resources would be provided for enforcement in terms of the change to the enforcement structure. Temporary resources were also reported to be in place. He also confirmed that the recently appointed Business Manager had read the report and would submit her comments to future meetings.

AGREED (unanimously) that the attached proposed revisions to the SoD are noted.

57 APPEALS DETERMINED

AGREED that the report be noted.

Meeting closed at 6.55 pm.

Chairman

## PLANNING COMMITTEE – 6 AUGUST 2019

|                        |   |                                |
|------------------------|---|--------------------------------|
| <b>Application No:</b> | <b>18/02151/FUL</b>   |                                |
| <b>Proposal:</b>       | <b>Demolition of the existing garage and bungalow and the erection of a new vehicle sales garage, showroom and office accommodation with associated car parking</b> |                                |
| <b>Location:</b>       | <b>White Post Garage, White Post, Farnsfield</b>  |                                |
| <b>Applicant:</b>      | <b>Minster Developments Ltd</b>   |                                |
| <b>Registered:</b>     | <b>19.11.2018</b>   | <b>Target Date: 14.01.2019</b> |
|                        | <b>Extension of time agreed: 05.07.2019</b>   |                                |

This application is referred to Planning Committee as the application involves a commercial proposal which could potentially deliver significant rural employment opportunities and the application would otherwise be recommended by officers for refusal.

This application was on the printed committee agenda for June. However before the meeting the applicant requested that the application be withdrawn from the agenda to allow them the opportunity of potentially revising the scheme. No such revisions have been forthcoming despite requests for confirmation of intentions. Given the agreed target date is only until the day after the July committee the application is presented for consideration by members. The report that follows is unaltered from its previous form.

### The Site

The site lies outside of the village of Farnsfield (E) to the south-west of the traffic island with the White Post Inn on the south-eastern side, White Post Farm to the north-east, White Post Cottage to the north and a small group of dwellings to the west. The site fronts onto Mansfield Road to the north and Old Rufford Road to the east. The garage building is the northern most building on the site and is single storey, fronted with traditional large-scale commercial garage doors. The bungalow is adjacent and has a hipped roof under rendered walls. The vehicular access is in between these buildings with a second access off Mansfield Road. Parking is to the front of the site and to the south of the buildings. To the west the land is open to countryside including improved grazing land divided into small fields by trimmed hedgerows.

The site has a noticeable gradient, especially nearest the A614 roadside. This slopes down towards the roundabout (highest point is at the south and lowest at the north). The same can be said of the approach from the North, with limited visibility of the site until within 150 metres.

### Relevant Planning History

**07/01277/FUL** - Three replacement dwellings and parking and external areas also access alterations to the White Post Garage - Refused 19.11.07

**07/00228/FULM** - 60 bedroom hotel and restaurant, three replacement dwellings, parking landscaping & access (Re-Submission) - Refused 28.06.07

**06/01381/FULM** - Demolition of existing garage and 3 No. dwellings, erection of 60 No. bedroomed hotel, themed restaurant, 3 No. replacement dwellings and associated access, parking and landscaping – Withdrawn 30.11.06

### The Proposal

The application seeks permission for the demolition of an existing vehicle sales garage and 2 bedroom bungalow and erection of a new vehicle sales garage, showroom and office accommodation with associated car parking. Proposed use: sui generis and B1 office.

The proposal would site the vehicle sales garage adjacent to the access off Old Rufford Road with the offices to the south of this. The Land to the rear of the buildings would be used for access and parking. The access of Old Rufford Road would be for entry only with the access on Mansfield Road for entry and exit. The vehicle showroom would have a partly curved façade and would be used to accommodate vehicles for sale with plant and office accommodation to the rear. The office building would have open office accommodation and ancillary rooms on the ground floor with offices above. The showroom would be single-storey and of a modern design with render and glazing for the walls and a projecting flat roof. The office building would be two-storey with an oversailing first floor and would be of cladding and glazing.

The building is proposed to be set back c. 10 m from the edge of Old Rufford Road which would be landscaped.

Site Area: 3090m<sup>2</sup>

### Materials

Walls - Monocache Render (white). Rockpanel cladding - Chamelon (two tone colour).

Roof - Flat roof - single ply membrane (grey). Rockpanel - Chameleon cladding (two tone).

Windows - Powder Coated Aluminium (grey).

Doors - Powder Coated Aluminium (grey).

### **Floorspace:**

| Existing Gross Internal Floorspace m <sup>2</sup> | Gross internal floorspace to be lost by change of use or demolition m <sup>2</sup> | Total gross new internal floorspace proposed (including changes of use) m <sup>2</sup> | Net additional gross internal floorspace following development m <sup>2</sup> |
|---|--|--|---|
| <b>281 + 103</b>                                  | <b>384</b>   | <b>691.7</b>   | <b>307.7</b>  |

### Explained:

Existing Footprint: 384m<sup>2</sup>

Footprint Proposed: 492m<sup>2</sup>

Total Increase in footprint: 108m<sup>2</sup>

**Employees:** Existing: 4 full time employees. Proposed: additional 15 full time and 5 part time employees. Total: 24.

**Opening Hours:** Monday – Friday 8:00-18:00, Saturday and Sundays: closed.

**Cars:** Existing number of spaces: 20, total proposed: 33 (13 additional).

Documents deposited with the application:

- Site Location Plan - 18/2177/LP
- Proposed Site Layout - 18/2177/001A
- Proposed Floor Layouts - 18/2177/002A
- Proposed Elevations - 18/2177/003A
- Topographic Survey – 001
- Concept Visualisation – (V)002
- Concept Visualisation – (V)001
- Photomontage – 03
- Ex and Pro Photomontage - 04
- Travel Plan
- Transport Assessment
- Tree Survey
- Protected Species Survey
- Landscape and Visual Impact Assessment
- Design and Access Statement
- Biodiversity Survey and Report

#### Departure/Public Advertisement Procedure

Occupiers of nine properties have been individually notified by letter and a site notice posted.

Earliest decision date - 25.12.2018

#### **Planning Policy Framework**

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

###### *Farnsfield Neighbourhood Plan*

FNP4 - Local Employment Opportunities

FNP5 - Creating A Thriving Parish

FNP7 - The Quality Of Development

FNP8 - Landscape

###### *NSDC Amended Core Strategy - Adopted 2019*

Spatial Policy 1: Settlement Hierarchy

Spatial Policy 2: Spatial Distribution of Growth

Spatial Policy 3: Rural Areas

Core Policy 6: Shaping our Employment Profile

Core Policy 9: Sustainable Design

Core Policy 12: Biodiversity and Green Infrastructure

Core Policy 13: Landscape Character

###### *NSDC Allocations and Development Management DPD Adopted July 2013*

Policy DM5: Design

Policy DM8: Development in the Open Countryside

Policy DM9: Protecting and Enhancing the Historic Environment

### Other Material Considerations

National Planning Policy Framework 2019

National Planning Practice Guidance 2014

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

### Consultations

**Farnsfield Parish Council:** No objection

**Highway Authority:** “This proposal is for the development of a new vehicle sales garage and associated offices following demolition of the existing vehicle sales garage and bungalow. The applicant has confirmed by email that the offices are to be part of the vehicle sales garage and not a separate entity.

The site layout plan submitted, dwg. no. 18/2177/001 Rev. A, demonstrates 33 parking spaces within the site, which includes 2 disabled spaces.

There are two existing access points into/from the site – Mansfield Road and A614 Old Rufford Road. The information submitted states that these are to be retained, and dwg. no. 18/2177/001 Rev. A indicates the access onto the A614 Old Rufford Road is to be ‘left turn entry only. No exiting’. In practice, this cannot be strictly controlled. It is, therefore, recommended that this access point be closed off altogether and the site operates solely from the access on Mansfield Road.

Therefore, subject to the following conditions, the Highway Authority would not wish to raise objection:

1. No part of the development hereby permitted shall be brought into use until the existing site access on Old Rufford Road that has been made redundant as a consequence of this consent is permanently closed and the access reinstated as verge in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. Reason: In the interests of highway safety.
2. No part of the development hereby permitted shall be brought into use until the parking areas are provided in accordance with the approved plan, ref. 18/2177/001 Rev. A. 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

In order to carry out the offsite works required you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore, land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act. Please contact David Albans, tel: 0115 804 0015 for further details.”

**Environmental Health:** The previous use of the application site is a motor vehicle garage with MOT servicing. Furthermore, the application documents (design and access statement) shows photographic evidence of petrol pumps being present. There is clearly the potential for the site to have been contaminated from this former use. As it appears that no desktop study/preliminary



risk assessment has been submitted prior to, or with the planning application, then request that our standard phased contamination conditions are attached to the planning consent.

**Access Officer:** It is recommended that the developer be advised to give consideration to access and facilities for all, with particular reference to disabled people. BS8300:2018 - Design of an accessible and inclusive built environment - Buildings and external environment - Codes of practice contains useful information in this regard as well as minimum Building Regulations standards described in Approved Documents M and K. Access to, into and around the proposal and on all floors along with the provision of accessible features and facilities, should be carefully considered together with access from the boundary of the site and from car parking where carefully laid out provision for disabled motorists should be available carefully marked out and signed. BS8300 gives details in this regard including proportion of spaces etc. A safe segregated 'traffic free' pedestrian route should be considered from car parking and other areas of the site. A separate enquiry should be made regarding Building Regulation requirements and it is further recommended that the developer be mindful of the provisions of the Equality Act

**No letters have been received from neighbouring occupiers.**

#### Comments of the Business Manager

The PPG 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 10th October 2017 Newark and Sherwood District Council adopted the Farnsfield 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 Farnsfield. 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.

#### *Principle of Development*

The site is currently in use as a plant hire and sales operation and was formerly a vehicle (including MOT) garage. The proposal would use the site for vehicle sales and office use. I consider the main issues to be whether the location is suitable for the proposed use with regard to the Council's development strategy; the effect of the proposed development on the character and appearance of the area; and whether there would be any adverse highways safety impact.

Spatial Policy 1 of the Amended Core Strategy (ACS) sets out the settlement hierarchy for the district by identifying those settlements that are central to delivering the spatial strategy and the roles of settlement in this. Spatial Policy 2 sets out the spatial distribution of growth for the district. The site lies outside of the built up area of the 'principal village' of Farnsfield as a matter of fact. As the site is located outside of any settlement boundary, the proposal would fall at the bottom on the settlement hierarchy and falls to be assessed against Policy Spatial Policy 3 (Rural Areas) of the ACS. Policy SP3 advises that development not in villages or settlements, in the open countryside, will be strictly controlled and restricted to uses which require a rural setting, these

proposals are to be considered against policy DM8 of the Allocations and Development Management DPD. DM8 explains the types of development that will be considered acceptable in the open countryside.

Core Policy 6 of the ACS supports the economies of the rural community and seeks to direct most growth to the Sub-Regional Centre of Newark, followed by Service Centres and Principal Villages. The policy does support the rural economy through rural diversification that will encourage “tourism, recreation, rural regeneration, and farm diversification, and complement new appropriate agriculture and forestry development. Development sustaining and providing rural employment should meet local needs and be small scale in nature to ensure acceptable scale and impact.”

I note that the agent has contested that the site is situated within the “Open Countryside” explaining how they consider it to be ‘semi-rural’, whilst I appreciate their interpretation of the context of this site I must consider the policy designation of the area and the approach taken towards development within the open countryside which is strictly controlled to afford protection to rural locations.

Policy DM8 of the ADMDPD covers the replacement of non-residential buildings; stating that “Where they (replacement buildings) are related to established uses or proposed uses enabled by other criteria of this policy, planning permission will be granted for the replacement of nonresidential buildings. Proposals will need to demonstrate that the buildings to be replaced originated from a permanent design and construction, are not of architectural or historical merit, have not been abandoned and are not suitable for conversion to other uses. The replacement building should be located within the curtilage of the site it is intended to serve”.

Whilst the conversion of existing buildings is encouraged by DM8, the replacement with a new building is not precluded. This is however subject to the buildings being of permanent design and construction and of no architectural and or historical interest – the supporting text to this policy recognises that, where permanent buildings serve a beneficial purpose in relation to a nonresidential use, their replacement can lead to operational and environmental improvements.

However the policy text also states that in order to minimise the visual impact on the countryside, replacement buildings should be of similar size and siting to their predecessor. Proposals for buildings of substantially greater size or difference in siting will only be supported where operational or environmental improvements outweigh any visual impact (which will be considered further below). I consider the replacement building would not represent proportionate expansion of the existing buildings on site and there are no operational or environmental improvements that would outweigh this. This part of DM8 also specifically relates to the replacement of nonresidential buildings and I note that one of the buildings subject to this application is a residential bungalow. As such I consider it appropriate to assess this application against point 8 of DM8 ‘Employment Uses’.

Policy DM8 seeks to limit development in the countryside to that including proposals to diversify the economic activity of rural business where it contributes to the local economy, business should be complimentary and proportional to the existing business in nature and scale and be accommodated in existing buildings where possible. Point 8 of DM8 states that small scale employment development will only be supported where it can demonstrate the need for a particular rural location and a contribution to providing or sustaining rural employment to meet local needs in accordance with the aims of Core Policy 6. Proposals for the proportionate

expansion of existing businesses will be supported where they can demonstrate an ongoing contribution to local employment. Such proposals will not require justification through a sequential test.

The proposal would replace the existing buildings with a new showroom and office building and would be for vehicle sales. The site has a history of motor related operations and historically was a repair garage and petrol station. The current use is for plant hire and sales. There is general support in the Development Plan for the growth of the rural economy and it is acknowledged that the existing site is in a vehicle based commercial use. However, this current use utilises the historic buildings which are relatively small scale and an established part of the character and appearance of the site and locality. The theme running through DM8 is that proposals should be complimentary and proportionate to the existing business in their nature and scale and be accommodated in existing buildings wherever possible. To minimise the visual impact on the countryside, existing buildings should be re-used wherever possible.

The proposal would represent a substantial development on the site and an expansion over the existing operation; it would not reuse the existing built form but seeks to completely replace the existing premises. It would be for vehicle sales and offices that are not directly related to rural employment or economy or fall within the above employment categories within CP6 – in fact the NPPF defines businesses of this nature as a ‘Main Town Centre Use’ that do not require a rural location. I acknowledge that the use of the site has evolved from a local garage to plant hire and sales which serves the local community, however the proposed use is for vehicle sales and office accommodation; this is not a use that specifically requires a rural location.

DM8 states that proposals for the proportionate expansion of existing businesses will be supported where they can demonstrate an ongoing contribution to local employment, in discussions with the agent it has been confirmed that the business currently employs 4 people full time. The redevelopment of this site would seek to employ an additional 15 employees full time and 5 part time, however a justification for this expansion has not been provided. It has been queried whether the office part of this proposal is intended to operate separately from the car sales business given the scale of the expansion and the separate entranceways proposed to serve both parts of the building, whilst the agent has confirmed that this is not the intention I consider it to be an expansion of the function of the current business and the significant increase in employment figures would lead me to question whether this is a genuine expansion of solely the existing business. Whilst I note that this is a significant proposed increase in rural employment opportunity for the area I consider this level of business expansion to be disproportionate.

In addition to this, the expansion of the business with this new development would result in a 307.7 m<sup>2</sup> net additional gross internal floorspace which I do not consider to be proportionate to the small scale buildings currently in situ. As such the proposal fails to comply with the intentions of policies CP6 or DM8 which support the rural economy but seek to limit development to that which requires a rural setting to mitigate the impact on the countryside and rural areas. The disproportionate expansion of businesses within rural locations is not considered to accord with the provisions of the NSDC Amended Core Strategy or the NPPF which, when considering rural employment, promotes the diversification of agricultural or other land-based rural business and the conversion of existing building to facilitate business expansion.

Whilst I am mindful that the NPPF also promotes the sustainable growth and expansion of all types of business in rural areas through well-designed new buildings I consider the proposal to be disproportionate to the existing business function and location. Whilst I appreciate the needs of

the business and recognise that in some cases expansion is necessary to support the economic activity of the rural business, it should be recognised that the expansion of any given site is likely to be limited at some point by its impacts on the countryside and particularly for this proposal that the rural sustainability of the proposed expansion is acceptable.

In any case, the policy states that when considering development within the open countryside, even expansions of existing businesses should be complimentary and proportionate to the nature and scale of the existing business. The building as proposed exceeds the proportions of the existing buildings present on the site in terms of net additional floor space. The visual impact will be considered further in the section below. Overall, a case has not been made in this application that this expansion requires such a large scale redevelopment of the site and it is therefore considered that the proposal is not acceptable in principle.

Policy FNP4 'Local Employment Opportunities' of the Farnsfield Local Plan advises that development which includes new employment opportunities will be supported within the village envelope of Farnsfield. The NSDC Allocations and Development Management DPD identifies the application site to lie outside of the village of Farnsfield and as such this policy cannot be applied. Policy FNP5 'Creating A Thriving Parish' outlines that development will be supported for uses that will contribute to the vitality and viability of Farnsfield through the creation of new opportunities for community, retail, cultural, leisure and tourism, where it is within the village envelope. Outside of the Village Envelope, uses will be supported that contribute to tourism and rural diversification, where they are in accordance with the wider policies of the Neighbourhood Plan, in particular FNP8 which will be discussed in more depth in the section below. As commented earlier, this proposal is not considered to fall within a use which requires a rural location or consider to be rural diversification and therefore the proposal is not considered to accord with policy FNP5 of the NP.

#### *Impact upon the Character of the Area (Including Design)*

Policy CP9 requires development to have a high standard of design and be of an appropriate form and scale to its context and to be complimentary to the existing landscape environment. Policy DM5 requires development to reflect local distinctiveness and character and states permission will only be granted for development where the rich local distinctiveness of the landscape and character of built form is reflected in the scale, form, mass, layout, design, materials and detailing of new development proposals.

Policy DM8 of the A&DMDPD states rural development proposals should be complimentary and proportionate to the existing business in their nature and scale and be accommodated in existing buildings wherever possible to minimise the visual impact on the countryside.

Core Policy 13 of the Core Strategy addresses issues of landscape character. It states that development proposals should positively address the implications of the Landscape Policy Zones in which the proposals lie and demonstrate that such development would contribute towards meeting the Landscape Conservation and Enhancement Aims for the area.

The District Council has undertaken a Landscape Character Assessment to assist decision makers in understanding the potential impact of the proposed development on the character of the landscape. The LCA provides an objective methodology for assessing the varied landscape within the District and contains information about the character, condition and sensitivity of the

landscape. The LCA has recognised a series of Policy Zones across the 5 Landscape Character types represented across the District.

The area is characterised within Policy 'S PZ 7 – Oxton Village Farmlands' of the Newark and Sherwood Landscape Character Assessment SPD as a Conserve and Create Area. The area is described as having a gently undulating topography with moderate visibility in and out of the area. The guidance specifically states that "threats to the area include expansion further of leisure activities at White Post Farm, further break down of field pattern by removal of hedgerows due to agricultural intensification and expansion of urban centres of Bilsthorpe and Farnsfield into the area." The policy goes on to state that the detracting features of the area are the busy roads and concentration of commercial and leisure facilities around the White Post Farm area and advises that to conserve the integrity and rural character of the landscape new development should be concentrated around the existing urban fringe of Bilsthorpe and Farnsfield. The existing field patterns should also be conserved by locating new small scale development within the existing field boundaries and proposals should be of a sensitive design and appropriate siting.

Given that the landscape character appraisal (LCA) specifically cites the area surrounding the busy roads and commercial and leisure facilities around the White Post Farm roundabout as a threat to the landscape character I am mindful of the potential visual impact of this proposal. The LCA also advises that new development should be concentrated around the existing urban fringe which would not apply to this location. Whilst I am mindful that the proposal seeks to replace existing built form, the buildings on site are of a relatively small-scale and appropriate to the rural context of the site. They are not of such merit that the retention could be insisted upon and the demolition is therefore acceptable in principle.

DM8 states that new buildings in these locations should be sited and designed to reflect their location and in the interests of minimising visual impact, new buildings should be restrained to the minimum necessary to sustain the business, and in accordance with the NPPF, should respect the character of the countryside. The proposal is to construct a contemporary style building subdivide into a car sales garage which is single storey and office accommodation which is two storey. The single storey element of the building is in a similar location to the existing bungalow however the replacement building repositions the built form within the site along the eastern site boundary. The existing bungalow is 5.1m in height and the single storey element of the new building proposed in a similar location is 4.3m. The two storey element of the building would be sited on a part of the site that is currently devoid of built form – this would increase to 7.3m in height and whilst this is only 0.3m higher than the existing two storey building on site I note that the existing building is sited adjacent to other two storey properties to the NE such that it assimilates with the existing massing. This proposal would relocate the two storey built form to the south of the site along the eastern boundary where the built form is notably lower with the existing bungalow. There is also no other built form further south such that I consider this two storey portion of the building would be prominent within the site and wider area.

The site slopes upwards from north to south (south being the higher point). The site is proposed to be levelled locally in the south east corner to facilitate the building but the above measurements have been taken from the proposed ground level such that I still consider the building will be prominent within the site. The design and access statement states that the new building would be significantly lower than the surrounding parameters of the White Post Inn building (E) which they state is 2 m higher, however I consider this point to be irrelevant in the appraisal of this new building given the characteristics of the site are different. The application site comprises low level

buildings along the SE side such that this two storey replacement would not visually integrate into the existing built form within this corner of the roundabout which is clustered to the NW.

It is acknowledged that surrounding the roundabout there is substantial built form of varying style and design. However I also note that towards the south-west, past the application site, is an open field that buffers the distance between residential properties c.72m south, to the west the area is characterised by open agricultural fields. I therefore consider that the demolition of small scale traditional buildings appropriate to the rural context with a larger scale (in part two storey) overtly contemporary building would conflict with the rural character of the area and result in a significant expansion within the open countryside.

The proposed buildings would represent a substantial increase in the size and scale of buildings on the site (an increase in footprint by 108m<sup>2</sup> and net additional gross internal floor space by 307.7m<sup>2</sup>), would introduce a two storey building further south on the site where this is currently not two storey built form and an overall large-scale re-development in a rural location. The buildings would be based on a modern design approach using flat roofs, render, cladding and an oversailing first floor office building. A curved wall with full height glazing fronting the roundabout is proposed to act as a focal point for the car sales garage. Although no objection is raised to this modern approach in principle the proposal would result in a substantial change to the site which currently is appropriate to the rural context. The proposal would introduce a larger scale development of a modern appearance which would be at odds with the rural context. The design is not considered appropriate to this established rural location and by reason of size, scale, design and massing, would not reflect the local distinctiveness of the site or wider rural landscape. The site is a prominent one at a busy junction in an area which is characterized by sporadic incremental development which is largely small scale and appropriate to the rural environment. The proposal would dominate the site and surroundings and would not be sympathetic to the rural setting.

Whilst the agent references other nearby developments around the round-about junction I would maintain the view that the replacement building would exceed the scale and proportions of the existing site which is not of a similar context to some of the larger scale agricultural buildings that are present further north. The agent refers to a 12.4% to 16% increase in built footprint with the new proposal; however I would dispute these calculations which differ within the application form and D&A statement, I do however note that the building is proposed to increase to two-storeys on a part of the site where 2 storey built form is not clustered which would greatly increase the massing and scale of the development here. The agent explains how the current buildings on site are untidy and the proposed building would improve the visual aesthetic of the area. I would contest that these lower profile, previously residential buildings are 'untidy' and would instead note that these reflect the small scale development form that is appropriate in this location that is proportionate to the rural setting.

FNP7 of the Farnsfield Neighbourhood Plan discusses the quality of developments and advises how developments must demonstrate how it has taken into account the character of the village and its impact upon the landscape. FNP8 'Landscape' of the Farnsfield Neighbourhood Plan advises that development proposals located within or adjacent to a Landscape Policy Zone ('S PZ 7 – Oxton Village Farmlands') should ensure they have considered and appropriately responded to the implications of the zone and demonstrates that the meeting of the landscape conservation enhancement aims would be contributed towards. In this case the proposal is not considered to be in accordance with the aims within the Landscape Policy Zone and would have an unacceptable impact on the character and appearance of the open countryside and surrounding area.

As a result of the proposed design, materials of building and scale in relation to the existing buildings that are visible on the site I am of the view that the building will not assimilate into the landscape and would be unduly prominent within the surrounding rural area contrary to Policy DM8. I do however note that the applicant has shown clear willingness to negotiate on the design of the building as this has been raised as a concern throughout the course of the application. The decision however was taken that given there was an in principle objection to the proposal and the re-design of the scheme would not have afforded the opportunity to overcome these problems, any negotiation on design would have given a false sense of hope and incurred the applicant further unnecessary time and/or expense. Should the committee disagree with the objection in principle to the proposal the applicant is willing to reconsider the design of the building.

In conclusion, the addition of an overtly contemporary building with extensive levels of glazing, render, cladding and prominence of location and overall scale of the building would make it unduly prominent from the surrounding rural area in contrast with CP13, Policies DM5 and DM8 of the Development Plan Document and the NPPF.

#### *Impact on Neighbouring Amenity*

Policy DM5 requires development to have a satisfactory relationship with neighbouring properties and land uses. The site has historically been used for motor-based activities and is situated on a busy road. Therefore, the continuation of use for appropriate commercial operations can be supported in principle in terms of residential amenity. It is not considered the proposed use have any greater harmful impact on the amenity of local residents that the existing or historic operations.

The north the site borders the highway and the nearest neighbouring property would be set to the north of Mansfield Road. The proposed buildings would be set off the northern boundary and would have no undue adverse impact on this property. To the north-east and east the site is bordered by the highway with the nearest neighbouring buildings being the children's nursery and the pub. The buildings would be significantly separated from these sites and would have no undue adverse impact. To the south there are no immediate neighbours. To the west the neighbouring properties would be adjacent to the proposed vehicle parking with a significant separation distance to the proposed buildings.

As such, the proposal complies with the above policies and guidance and is acceptable in terms of residential amenity.

#### *Impact upon Highway Safety*

Policies SP7 and DM5 require the provision of safe and inclusive access, appropriate parking provision and seek to ensure that there should also be no adverse impact on the highway network as a result of the proposal.

A Transport Assessment has been submitted which states the following:

- The applicant expects the number of people using the new development to increase by around 7,200 per annum due to the addition of a new office building. The existing vehicle sales garage to be replaced with a new vehicle sales garage is not expected to generate any more staff or visitors. An estimated total of 38 visitors per day are expected for the

proposed site, which translates into an estimated maximum of 9,880 visitors per year to the site (excluding weekends). However according to the TRICS data obtained, the site could generate as much as 192 vehicular trips per day. This taken into account, the maximum impact that the development will have on the existing highway is thought to be minimal, as this increase comprises less than 1% of the existing traffic at the roundabout;

- The predicted traffic generated by the proposals to redevelop a vehicle sales garage and office building will result in an increase in traffic within the local highway; however, the capacity assessment shows the White post Roundabout junction with Old Rufford Road and Mansfield Road can accommodate the additional vehicular traffic and as such the increase can be absorbed into the surrounding network without any discernible impact to the acceptable flow of traffic;
- The addition of “keep clear” markings at the access(es) would ensure any queuing on Mansfield Road east and the A614 Old Rufford Road south would not impact on the free flow of traffic moving into the site due to the proximity to the roundabout, in particular right turns into the site from the A614 Old Rufford Road south;
- Investigations into the number and severity of accidents recorded in the vicinity of the site are not indicative of defects in the highway layout and design. Given the volume of traffic at the White Post Roundabout is on average around 20,463 vehicles per day (between 07:00-20:00), an accident rate of 0.4 per year in the last 5 years 5 months is considered to be minor and does not highlight any specific problems with the safety record of the local highway network. Any additional traffic to be generated by the development is unlikely to impact the existing road safety within the study area.

The proposed drawing demonstrates 33 parking spaces within the site, which includes 2 disabled spaces. There are two existing access points into/from the site – Mansfield Road and A614 Old Rufford Road. The information submitted states that these are to be retained and access onto the A614 Old Rufford Road is to be ‘left turn entry only. No exiting’. In practice, this cannot be strictly controlled. The Highways Authority has therefore recommended that this access point be closed off altogether and that the site operates solely from the access on Mansfield Road. As such, the Highway Authority have raised no objection subject to conditions. These conditions are reasonable and could be imposed in the event that the application is approved. As a result it is considered that the application is acceptable on highway safety grounds.

#### *Land Contamination*

The site has been used for vehicle repairs, sales etc. for many years and includes the provision of petrol pumps. A condition would be required in the event of permission being granted to address any potential residual land contamination to prevent harm to human health and the environment.

#### *Ecology*

Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Whilst the site is not considered to have significant ecological potential given the lack of vegetation and brownfield nature the site is located within a pSPA 5km buffer zone for nightjar and woodlark. Special Protection Areas (SPAs) are strictly protected sites classified in accordance with Article 4 of the EC Birds Directive, which came into force in April 1979. They are classified for rare and vulnerable birds (as listed on Annex I of the



Directive), and for regularly occurring migratory species.

The NPPF (2019) states when determining planning application LPAs should apply the following principles as stated within paragraph 175 of the NPPF. This states that if “significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Development whose primary objective is to enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.”

A Protected Species Survey has been submitted with this application which confirms that there is no breeding bat or bird potential in the buildings, nor is there any evidence of past roosts. The grassland surrounding the site is also not considered to harbor any significant locally rare plants or plant communities and as such it is considered that the proposal is unlikely to have any detrimental impact on local biodiversity in accordance with CP12 of the Amended Core Strategy (2019). With regard to the SPA I note that given the developed nature of the site there are no surrounding trees that are proposed to be impacted as a result of the development, nor would the development be located next to any trees such that, in my opinion I do not consider the proposal would result in a direct impact on the pSPA. The proposal therefore complies with the aims of Core Policy 12, Policy DM5 and the guidance in the NPPF.

#### *Other Matters*

The agent has submitted an additional statement which, amongst other things, refers to CP9 and the point within this policy that stated that the LPA will support development proposals that demonstrate a high standard of sustainable design that both protects and enhances the natural environment and contributes the existing built landscape and environments. In referencing this, the agent has stated that this proposals presents an opportunity to provide a thermally efficient, low carbon building constructed from modern materials and the latest construction techniques. Whilst I acknowledge the applicants desire to construct a well-performing building that utilizes modern techniques to improve sustainability this should not be at the expense of the character and appearance of the area or sustainability of the rural location which I consider that this would be.

The agent has submitted a letter referencing an application 14/01797/FUL (the Marston’s public house at the A6075/A616/A614 roundabout). The agent explains how this application sets a precedent for the application at hand. Firstly I would note that every application must be assessed on its own merit and without prejudice. Nevertheless I have reviewed this approval and would note that this application was for the replacement of a Pub and Restaurant in which the officer report notes how policy DM8 confirms that visitor based tourism development will be permitted in rural locations in order to meet identified need, where it will support local employment and community facilities. To this end I consider the application at hand to be materially different to the above referenced application in that it does not represent a visitor based tourism business but a vehicle sales premises that does not require a rural function or support visitor based tourism – which I would also note that the majority of the surrounding business within the surrounding locality do.

## *Conclusion*

Overall, I do not consider the proposal to represent sustainable development in an open countryside location as a matter of principle; the applicant has not justified the requirement for this scale of expansion in a location away from the settlement and it is considered that the replacement of this residential and non-residential property for a business purpose that does not require a rural location does not fit with the requirements of policy DM8. The proposal would introduce a relatively large-scale commercial operation in replacement of a small-scale existing former-residential building which would be inappropriate in this rural context. It is considered that this proposed building would represent an incongruous replacement addition which would be harmful to visual amenity given it would disproportionately exceed the existing proportions of the site in this particular location and would be therefore contrary to Policies CP9, DM8 & DM5 of the DPD. As such, the proposal is contrary to Policies SP3 and DM8. Furthermore, the proposal is not considered to be appropriate visually to its rural environment and is contrary to policies CP9 and DM8.

## **RECOMMENDATION**

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

01

The proposal is considered to represent an unacceptable form of development in principle in an open countryside location which would detract from the rural character of the countryside. The need for this particular rural location or its contribution to the local rural economy has not been demonstrated in this instance. Overall, it is considered likely that such an expanded business of the commercial nature proposed would be more sustainably be located elsewhere in accordance with the aims of the Spatial Strategy for the District. Furthermore, the size, scale, massing, design and materials of the proposal are not considered appropriate to the rural context of the site and surroundings and would result in unnecessary encroachment in to the open countryside.

The application therefore amounts to unsustainable and visually unacceptable development contrary Core Policy 6 (Shaping our Employment Profile), Core Policy 9 (Sustainable Design) and Core Policy 13 (Landscape Character) of the adopted Newark and Sherwood Amended Core Strategy (2019) and Policy DM5 (Design) and Policy DM8 (Development in the Open Countryside) of the adopted Allocations and Development Management Development Plan Document (July 2013) as well as the provisions of the NPPF (2019).

## **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

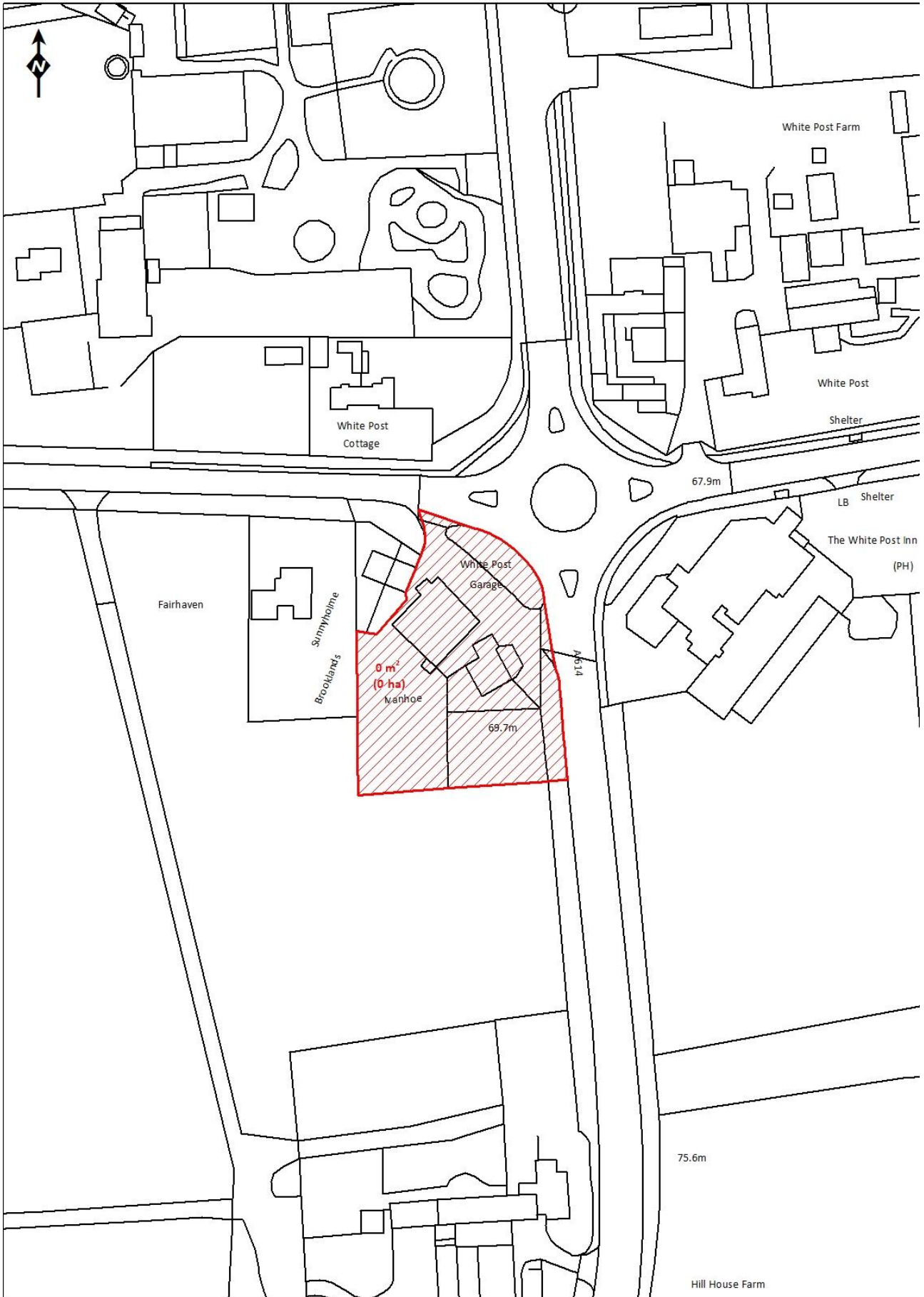
For further information, please contact Honor Whitfield on ext. 5827.

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**

**Director of Growth & Regeneration**

Committee Plan - 18/02151/FUL



© Crown Copyright and database right 2019 Ordnance Survey. Licence 100022288. Scale: Not to scale

## PLANNING COMMITTEE – 6 AUGUST 2019

|                        |  |                     |                   |
|------------------------|--|---------------------|-------------------|
| <b>Application No:</b> | <b>19/00208/FUL</b>  |                     |                   |
| <b>Proposal:</b>       | <b>Change of use of former Co-op Retail Store (A1) to Pizza Restaurant, Cafe Bar (A3 &amp; A4) including interior and exterior alterations and refurbishments, new shopfront and new access door to courtyard.</b> |                     |                   |
| <b>Location:</b>       | <b>Former Co-op, Main Street, Farnsfield, Nottinghamshire, NG22 8EF</b>  |                     |                   |
| <b>Applicant:</b>      | <b>Mr &amp; Mrs Oliver</b>   |                     |                   |
| <b>Registered:</b>     | <b>06.02.2019</b>  | <b>Target Date:</b> | <b>03.04.2019</b> |
|                        | <b>Extension agreed to: 05.07.2019</b>   |                     |                   |

**In line with the Scheme of Delegation this application is referred to Planning Committee as the application involves a commercial proposal which could potentially deliver significant rural employment opportunities and the application would otherwise be recommended by officers for refusal. The recommendation is contrary to the recommendation of the Parish Council.**

### The Site

The site is located within the defined local centre of Farnsfield and within the Conservation Area as defined by the Allocations and Development Management DPD. The south-western corner of the site lies within Flood Zone 3 as defined by the Environment Agency Flood Map and includes the remainder of the site that is devoid of built form.

The building at present has an A1 use class (retail). Whilst it is currently vacant it was previously used as a Co-Op convenience store before this relocated further east along the Main Street. The unit lies to the south of Main Street towards the western side of the defined local centre. Across the highway to the north is a collection of A1 units; to the South West is a residential property, 'Janik'. Adjoining the application site to the east is a Grade II listed residential property. The premises are surrounded by residential and mixed use buildings with an industrial unit to the rear.

The building has a rendered brick front elevation with a glazed shopfront which has been boarded in with a pedestrian doorway off the pavement. To the eastern side of the site is a gated loading access which leads onto the rear courtyard off the pavement whilst to the south of the application building is a small rear yard area with a flat roofed store.

The site falls within the Farnsfield Local Centre as defined by the Allocations and Development Management DPD.

### Relevant Planning History

No relevant planning history.

## The Proposal

The application seeks permission for the change of use of the former Co-Op building (A1-retail use) to a Pizza Restaurant and Café/Bar (A3 & A4 - Food & Drink/Drinking Establishment use). As part of this change of use the applicant seeks permission to carry out external and internal alterations and refurbishments including the installation of a new shop front and a new access door to the courtyard area.

The internal footprint of the building will remain unchanged.

### Alterations proposed to:

Front (N) elevation: new glazed shopfront along the eastern side of the frontage and the insertion of a new glazed shopfront and entrance to the west of the front elevation.

Side (W) elevation: insertion of a new glazed folding door access and erection of a timber pergola measuring 6.3 m deep x 3 m wide, 2.8 m in height.

Rear (S) elevation: New chimney installed on the rear facing roof slope to serve the wood fired oven, finished in black. Air conditioning external units installed.

Extension proposed to the external store/outbuilding: 3.4 m wide x 3 m deep, 2.7 m in height.

Proposed Staff Numbers: 15 new permanent jobs full and part time

*Proposed number of staff on site during day and evening trade*

Mon – Thurs - 0800 – 15.30 hrs. = 4

Mon – Thurs – 15.30 – 22.30 hrs. = 6

Fri – Sun - 0800 – 15.30 hrs. = 6

Fri – Sat – 15.30 – 23.00 hrs. = 8

### Opening Hours:

Monday – Thursday & Sunday: 08:00am – 22:30pm

Friday & Saturday: 08:00am – 23:00pm

### Covers:

Up to 60 dining inside, the outside courtyard will accommodate another 16-20 covers (this area will not be covered and is intended more for daytime/ early evening use for coffee/ snacks).

The internal alterations proposed do not require planning permission but include: Works to the structural openings, new counters, finishes and fittings, new toilet facilities, installation of a wood fired pizza oven and air conditioning and will utilise existing services and infrastructure.

### Documents submitted:

- Application Form
- Design and Access Statement
- Gozoney Ovens Data Sheet
- For Sale Details & Cover Letter
- Air Conditioning Units – SK\_AC
- Proposed Plans and Elevations – ref. 1154\_PO4
- Existing Plans and Elevations – ref. 1154\_PO3
- Proposed Floor Plans – ref. SK\_01 rev. H
- Napoli 1250 Pizza Oven Specification

- Transport Statement
- Supporting Statement: Hours of opening, staff numbers and customer base
- Supporting Statement: Parking Update
- Customer Support Petition with 53 names and email addresses.
- Parking number comparisons between retail use and restaurant use
- Beat Survey Map and Results

### Public Advertisement Procedure

Occupiers of 17 properties have been individually notified by letter. A site notice has been displayed close to the application site and an advert has been placed in the local press. The consultation period expired on 18<sup>th</sup> March 2019.

### Planning Policy Framework

#### **The Development Plan**

#### **Farnsfield Neighbourhood Plan (Adopted 28<sup>th</sup> September 2017)**

FNP4: Local Employment Opportunities

FNP5: Creating a Thriving Parish

#### **Newark and Sherwood Core Strategy DPD (adopted March 2019)**

Spatial Policy 1 – Settlement Hierarchy

Spatial Policy 2 – Spatial Distribution of Growth

Spatial Policy 8 – Protecting and Promoting Leisure and Community Facilities

Core Policy 6 – Shaping our Employment Profile

Core Policy 8 – Retail Hierarchy

Core Policy 9 - Sustainable Design

Core Policy 14 – Historic Environment

#### **Allocations & Development Management DPD (adopted July 2013)**

DM1 – Development within Settlements Central to Delivering the Spatial Strategy

DM5 – Design

DM9 – Protecting and Enhancing the Historic Environment

DM11 – Retail and Town Centre Uses

DM12 – Presumption in Favour of Sustainable Development

### Other Material Planning Considerations

- National Planning Policy Framework 2019
- Planning Practice Guidance 2014

### Consultations

**Farnsfield Parish Council** – Support the scheme.

Initial Comments 13.2.19 “Farnsfield Parish Council actively supports this application.”

*Additional comments received – 27.2.19* “Farnsfield Parish Council submitted their comments regarding this planning application following their planning meeting on Tuesday 12th February. Following a meeting last night where a group of residents attended and asked the Councilors to reconsider their support for the application the Council has decided that this should be discussed again on Tuesday 12th March. Would it be possible for Council to resubmit their comments after this meeting if they decide to change their view on the application and have them taken into account. I assume this would require an extension in the time for submissions to the 13th March.”

*Revised Comments 13.3.19* ““Farnsfield Parish Council do not object to this planning application”

**Hockerton Parish Council** – “Having learned about the application, I'd like to offer enthusiastic support for 19/00208/FUL which is for a pizza restaurant in Farnsfield. To have a proper wood fired pizza restaurant and take-away nearby would be fabulous; and it would serve Farnsfield (whose population has expanded greatly recently) very well. I do hope the planning committee look favourably on the application.

**NSDC Conservation** – “I went to visit site today and was actually able to visit the full site as the applicants happened to be on site.

The building is a modern structure. I note it is attached to a listed building and historic maps do show a structure in this position, but the materials and form of the existing building are not those of a historic building. While there are possibly bricks of different ages in the gable of the main building, these are all later C20. The site boundaries here are partly constituted of historic bricks, so are presumably remnants from the older structure here. Also, the rear lean-to outbuilding has Georgian bricks in places, but the structure has been both truncated and mostly rebuilt.

The frontage of the building is prominent in the street scene of Main Street and works here have the ability to affect the character and appearance of Farnsfield Conservation Area. Being attached to the listed building (The Bus Stop Pot Shop) the proposals also have the ability to affect the setting, and therefore significance, of the listed building.

I also note a reasonable proximity of the building to the parish church and other listed buildings, but given intervening buildings, along with the nature of the proposed works, I do not think the proposal will affect the setting of any other buildings.

I have no objection to this proposal which sees relatively minor modifications/additions to a modern building of no particular significance.

The re-opening up of the front façade with shop windows will be an enhancement re-animating an otherwise blocked up and blank façade. The proposed shopfront detail is very similar to the façade of the building when it was the coop but with more divisions to the shop windows and another door, which actually breaks the façade up better than previously. I would not want to see this in UPVC. I have no objection to the proposed gable doors, which will have little impact on the building or wider area.

I note a new proposed timber pergola which will be visible down the gap at the side beyond the gable, but this is a light weight and essentially permeable structure and will again have little



impact. I have no objection to the proposed siting of air con and extract pipes which are on the most discrete facades and will be barely visible in the public realm.

I have no objection to the proposed extension of the outbuilding, which follows the line and form of the existing building, and which in any event is hugely altered. The resultant form is in keeping with this rear yard.

Overall this proposal will not harm the setting of the listed building or the significance of the conservation area and the re-animation of the front façade will be an improvement to the street front generally. This accords with Section 72 and 66 of the Planning (Listed Building and Conservation Areas Act) 1990.

I note this application does not include signage, which it would not need to, but it would be good to notify the applicants that any signage here may require Advert Consent and to direct them to our SPD covering signage.”

- Confirmation received from the agent that a separate signage/advert application will be submitted and that the windows are to be hardwood double glazed.

**NSDC Environmental Health** – “I refer to the above application and would comment as follows. The plans show that the property is semidetached on one side and in close proximity to residential properties on the other sides.

In respect of the adjoining property there is scope for noise from inside the application site affecting the residents next door. This could be addressed by requiring a high standard of sound insulation, to be approved by the LPA, be provided to the walls, were any consent give. On the remaining sides there is shown a courtyard area that presumably would be available for diners to use in warmer weather. I also note that there is external air conditioning plant to be installed. Both of these installations could cause noise and disturbance to neighbours. The fixed plant could be addressed by screening to LPA approval and that may be a way to deal with the outside dining area, were any consent to be granted.

I note that a wood fired pizza oven is to be installed. Farnsfield is not in a smoke control area and the manufacturers data appears to show that the appliance is on the Defra, exempt appliance list. In any event there is scope for nuisance from wood smoke and cooking odours though I do accept that pizza is at the lower end of the potential for cooking odour. Can I ask therefore how potential smoke and cooking odours will be addressed?”

Following confirmation regarding the proposed soundproofing (internal sound insulation to neighbouring walls), ability to restrict the house of use of the external eating area, screening of the air conditioning unit and specification for the proposed pizza oven (which would use gas to pre heat) the EHO has confirmed that the application is acceptable (subject to appropriate conditions) and they raise no objection to the scheme.

**NSDC Access and Equalities Officer** – “It is recommended that the developer be advised to consider inclusive access by all people, with particular reference to disabled people. In particular, inclusive access to, into and around the proposal together with adequate manoeuvring space should be carefully considered with suitably wide level approaches and inclusive access to available features, equipment and facilities. It is recommended that the developer make separate enquiry regarding Building Regulations and be mindful of the provisions of the Equality Act.”

## **NCC Highways – Object and recommend refusal**

25.2.19 - "This proposal is for the change of use of the former Co-op store to pizza restaurant, café bar. There is no parking provision for the site. There are 15 members of staff expected, however, it is unclear how many staff will be on site at one time. Could this be clarified. It is understood that the opening hours will be 0800-2230hrs Mon-Thurs and Sunday and 0800-2300hrs Friday, Saturday. Could the applicant please clarify the maximum number of customers that are expected to be accommodated at one time."

*Additional comments received – 20.03.2019 – "The applicant has provided further details for this proposal, confirming the maximum number of staff at one time will be approx. 8, of which 50% are expected to be within walking distance of the application site. Also, it is confirmed there are 50-60 customers expected at the pizzeria whilst the Transport Statement states that 60 covers will be provided indoors with approx. 20 covered seating in the courtyard.*

There are a number of residential properties along Main Street, in the vicinity of the application site, which have no off street parking facilities, therefore, considerable on street parking occurs in this area. It is stated that the former use of the site, as a food store, did not provide car parking within the site. However, for this type of proposed use and the expected demand, particularly in the evenings and weekends, it is considered this proposal would result in further on street parking in this area, exacerbating the current situation.

Therefore, it is recommended that this application be refused for the following reason: The proposed development fails to make adequate provision for the parking of any 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 and surrounding area to the detriment of highway safety."

*Additional comments received - 26.4.19 – "Although it is acknowledged that the site could reopen again as an A1 use without permission, a retail/convenience store generates vehicular movements in short stops, whereas the proposed use will require vehicles to be parked in the vicinity for the duration of their visit, resulting in parking on nearby side streets if not available on Main Street.*

### **A total of 32 representations have been received in relation to the scheme as follows:-**

**12** representations have been received in **objection** to the application which can be summarized as follows:

- Concerns regarding the Parish Council comments '**actively** supporting' the application and their involvement in the planning application;
- Concerns regarding the reliability of the Transport statement;
- Loss of an A1 unit in a shopping area;
- A4 and A5 use could attract larger pub/takeaway chains;
- Concerns about highways safety: lack of parking, traffic flow, pedestrian safety;
- Too many eating establishments will impact existing local businesses – food and drink market is already saturated;
- Potential for noise disturbance from the late opening hours;

- Chimney proposed would not be in keeping with the surrounding area;
- Concerns relating to odour and combustion nuisance;
- Suggestion for customers to park in the village car park on Parfitt Drive to the east of the site will not be carried out as it is 0.6 miles away;
- Local residents need the on street parking outside this premises more than the restaurant;
- Nearby residents have to get up for work early in the mornings and therefore a late opening time is not acceptable;
- Businesses will lose trade if their customers cannot park on street near the application site;
- No provision for the loading/offloading of delivery vehicles;
- Concerns that the premises would operate a takeaway service and the repercussions of this for parking and litter;
- Unreasonable opening hours proposed.

**20** representations have been received in **support** of the application, summarized as follows:

- Welcomed addition to the village that would appeal to families;
- The trail food van has been successful with local people;
- The restaurant would provide local jobs;
- The restaurants reputation will draw more people to Farnsfield;
- Addition of another business will add to a prospering rural village vitality;
- The proposal will bring a main unit in the centre of the village back into re-use and improve the area;
- The proposal will diversify the village centre;
- Parking would still be an issue if the site operated as a shop.

### Comments of the Business Manager

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 28<sup>th</sup> September 2017 Newark and Sherwood District Council adopted the Farnsfield 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 Farnsfield. 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.

### Principle of Development

Core Policy 6 requires the economy of the District to be strengthened and broadened with most growth to take place in Newark and to a lesser extent within Farnsfield which is identified as a 'principal village' that has a good range of services and facilities and which is expected to act as a secondary focus for service provision in its area. The NPPF supports sustainable economic growth and places significant weight on the need to support economic growth through the planning system.

The Core Policy accepts commercial development subject to an assessment of numerous factors including satisfactory provision of access for parking and servicing and the protection of the amenities of adjacent neighbouring areas, which are also required by Policy DM5 of the ADMDDP.

Policy Fa/LC/1 of the Allocations & Development Management DPD states that to promote the strength of Farnsfield as a Principal Village, a Local Centre has been defined on the Policies Map. The site falls within this local centre. In order to promote the strength of the principle village Fa/LC/1 stated that development of retail and other town centre uses within the Local Centre will be considered against the general policy requirements in the Core Strategy and the Development Management Policies in Chapter 7, with particular reference to DM Policy 11 Retail and Town Centre Uses.

Part 3 of policy DM11 covers development of retail and town centre uses in local centres such as Farnsfield. Within these areas new and enhanced convenience retail development that serves the community in which it is located and is consistent with its size and function will be supported. Retention of the primary shopping frontages within local centers are key to maintaining their vitality and viability and consequently the Council require substantial justification of the benefits in order to support non retail uses.

Part 5 of the Farnsfield Neighbourhood Plan, Local Priorities, refers to employment and the economy within Farnsfield. The policy states that development should support the local employment and be of a scale appropriate in the rural village. The policy also supports local retail and office uses and their expansion, particularly in relation to Small and Medium Enterprises (SMEs). Policies FNP4: Local Employment Opportunities and FNP5: Creating a Thriving Parish support development within the village envelope so long as it is of an appropriate scale, can be accommodated within the highways and wider infrastructure of the village, would not adversely impact the highway and public parking provision, is sympathetic to the residential environment and respects the character of the village. In addition, employment opportunities will be particularly encouraged where they would also provide skilled jobs for local people; would make provision for micro businesses and start-ups; and supports new and/or growth sectors.

This application proposes the change of use of an existing A1 unit to A3 (Restaurants & Café) and A4 (Drinking Establishments) use classes to cater for a Pizza Restaurant/ Cafe Bar. The applicant has advised that the building has been marketed on a leasehold basis since 2014 and more recently on a freehold/leasehold basis. The marketing of the unit has comprised of a marketing board on the building, facing onto Main Street; mailing has been undertaken on a regular basis both to national retailers and enquiries registered on an internal database with requirements for similar types of property in Farnsfield and the wider area. The applicant states that there has been very little interest in the unit due to the programme of refurbishment required to be undertaken by the next occupier to bring this property back into repair and make it habitable again.

The applicant seeks to open the unit as a pizzeria restaurant and café bar which would see the creation of 15 jobs (a mixture of full and part time posts), and whilst the applicant advises that they have interest from local people to full these vacancies it is not possible for the planning system to control the locality of employees. I do however accept that this proposal would offer a significant amount of employment opportunity within this principal village location which is supported in principle.

I note that comments in objection to this proposal refer to the Council having a policy which resists the change of use of A1 units in shopping areas – to this I would note that policy DM11

supports retail uses within local centres such as Farnsfield but does not preclude the diversification of these areas adding that non-retail uses will be supported where there is a clear and convincing justification. Competition for retail businesses within Farnsfield and particularly this local shopping frontage is high, with the large Co-Op store that relocated to the former pub to the east of the application site along with other local food retailers.

Since the relocation of the Co-Op store the application site has not operated successfully, I therefore consider the use of this building, to a town center type of use such as this would be appropriate in principle and is preferable than having such a large, keystone unit vacant within the local centre. As such I consider the change of use of this building would contribute to the vitality and viability of the local centre. I do not consider the application will result in a fundamental loss of the A1 use as a community facility as it is possible that the unit could revert back to an A1 use under permitted development rights should this application be granted. The uses classes sought are appropriate within a local centre location and as such I consider the application to be acceptable in principle.

The proposal will not fundamentally alter the total size of the existing building, with a minor extension only proposed to the external store to the rear of the building. Alterations to the external appearance of the building are limited to the installation of a new shopfront and bi-folding doors into the gable end side elevation to open up the courtyard area as usable space. Paragraph 83 of the NPPF advises that in order to support a strong, competitive economy planning decisions should enable the sustainable growth and expansion of all types of businesses [...] both through the conversion of existing buildings and well-designed new ones. The NPPF also supports the diversification of uses within principal shopping locations to support the vitality and viability of these locations. Given the location, within a Principal Village and the Farnsfield Local Centre I consider the A3 and A4 use classes to be appropriate in principal in this local centre location, subject to a detailed assessment.

Overall, it is considered that the proposed change of use of the building is acceptable in principle as it would support the local economy of a Principal Village and defined Local Centre, and would satisfy the above policy requirements subject to the assessment of the below constraints.

#### *Impact on the Character and Appearance of the Area*

The site is located close to other commercial and residential units and given that the building already has a commercial use classification it displays characteristics of a former commercial premises. Surrounding units have traditional timber glazed shop fronts which are interspersed with residential units. The building is located within the defined characterful conservation area for Farnsfield and as such, regard must be had for the impact of any works on the character and appearance of the conservation area. Given the sensitivity of the location of this building, within the Farnsfield Conservation Area (CA) and adjacent to a Grade II listed building regard must be given to the distinctive character of the area and seek to preserve and enhance the conservation area in accordance with Policy DM9 of the DPD and Core Policy 14 of the Core Strategy.

Paragraph 137 of the National Planning Policy Guidance states that, 'Local planning authorities should look for opportunities for new development within Conservation Areas...to enhance or better reveal their significance.' Section 72 of the Planning (Listed Building and Conservation Areas Act) 1990 states, in relation to the general duty as respects conservation areas in exercise of planning functions that, 'special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area'.

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 16 of the National Planning Policy Framework (NPPF).

Paragraph 194 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 8.c).

The application site, whilst attached to a listed building, comprises a modern building which is prominent in the street scene. The building is made up of different phases of brickwork and render and given its prominence, alterations to it have the potential to impact the character and appearance of the CA – in addition, being attached to the listed building (The Bus Stop Pot Shop) the proposals also have the ability to affect the setting, and therefore significance, of the listed building.

Overall the Conservation Officer (CO) has commented in support of this application which sees relatively minor modifications/additions to the modern building which is not considered to be of particular significance within the CA. The re-opening up of the front façade with shop windows will result in an enhancement to the building, re-animating an otherwise blocked up and blank façade. The CO advised that the proposed shopfront detail is similar to the façade of the building when it was the Co-Op but with more divisions to the shop windows and another door, which would improve the previous situation as it breaks the façade. Following clarification from the agent that the windows and door glazing is to be carried out in timber hardwood double-glazed the conservation has no objection to these alterations, in addition to the proposed gable doors, which will have little impact on the building or wider area.

Turning now to the proposed pergola. I am conscious that this would be visible within the street scene down the gap at the western side beyond the gable end of the building. However given this is a lightweight structure it would have limited impact on the character of the CA. The CO also raised no objection to the proposed siting of the air con and extraction pipes which have been proposed on the most discrete facades and will be barely visible in the public realm.

The CO has advised that they raise no objection to the proposed extension of the outbuilding, which follows the line and form of the existing building, and which in any event is hugely altered from any historic account of a previous structure in this position – the extension is minimal in footprint and would be largely screened from public view by the existing shop building. Nevertheless the resultant form would be in keeping with this rear yard.

Overall I do not consider the proposed changes would have a detrimental impact upon the character of the area particularly given the mixed use nature of Main Street and the sympathetic alterations proposed. It can be concluded that this proposal will not harm the setting of the listed building or the significance of the conservation area and the re-animation of the front façade will be an improvement to the street front generally. This application therefore accords with Section 72 and 66 of the Planning (Listed Building and Conservation Areas Act) 1990 as well as Core Policy 14 of the CS, policy DM9 of the ADMDPD and Section 16 of the NPPF.

### *Appropriateness of proposed use in this location and Impact on Residential Amenity*

The applicant seeks to accommodate 60 covers internally and 16-20 covers externally in the courtyard area to the west of the site. The indicative site plans shows four tables could be accommodated within the courtyard area along with the 60 internal covers which would be a mixture of restaurant seating, high dining and lounge seating. The application would not result in an increase in floorspace of the main unit on site (whilst a minor extension is proposed this is only to the rear external store area). The change of use of this unit would result in the employment of 15 staff members. The applicant has advised that the maximum number of staff on site at any one time would be 8 and the minimum, 4. The opening hours are proposed to be:

Monday – Thursday & Sunday: 08:00am – 22:30pm  
Friday & Saturday: 08:00am – 23:00pm

I note that the Co-Op operates from 7am – 10 pm Monday – Sunday in the site to the east and was likely to operate under similar time constraints in this unit, although the precise former opening hour restrictions are not available.

I consider the use classes to be acceptable for this local area; the site is close to existing facilities such as a food store, cafés, local produce shops, public houses etc., and other A1 use buildings with a newsagents, greengrocers and hairdressers in close proximity – the mixed use area of this location leads me to the conclusion that the proposed uses would be acceptable in this location and will not result in a dominant use along Main Street in accordance with policy DM11. The NPPF defines appropriate uses in town centre locations which include the use classes sought in this application, given the location and the size of the settlement I consider all of the use classes sought to be appropriate for this local centre.

The Parish Council, along with a number of local residents have commented in support of this application, however there have also been a number of local objections to the suitability of this use class in this location – although I note that most of these relate to highways safety and parking concerns (which will be considered later within this appraisal). Comments also relate to the ‘saturation’ of Farnsfields local centre with eateries and cafes – comments state that this proposal would result in competition for local businesses that would have a negative affect local businesspeople - to this I advise that considerations of commercial competition are not material planning considerations as such will not be discussed further.

Objectors raise concern that the “A4 and A5 use could attract larger pub/takeaway chains”. I would highlight that the application does not seek permission for A5 (takeaway) use class, which would require planning permission should this be a requirement in the future. The suitability of the A3 and A4 use class in this location has been explored above, however I would note that, subject to a detailed assessment of the amenity and highways safety impacts, the principle of these use classes are not considered to be inappropriate in this mixed use local centre location.

I have considered the appropriateness of the opening hours of the proposed restaurant café/bar with the surrounding premises/residential units and note that the former A1 use class would likely have operated under similar opening hours as the current Co-Op to the east which is 7am – 10 pm Monday – Sunday. The application seeks to open from 8am-10:30pm Monday – Thursday and Sunday and 8am – 11pm Fridays and Saturdays. I consider these opening hours for the internal restaurant to be appropriate in principle. I appreciate that the premises has been vacant for some time, and therefore surrounding residents and businesses have enjoyed a period of less

disturbance however the fall-back position is that this unit could re-open as an A1 use class at any time which would re-introduce patrons coming and going from this unit at uncontrolled hours.

The courtyard area which was previously used for loading and parking lies to the west of the shop and can be accessed externally by the public and internally through the unit. To the west of the courtyard is a residential property which sits 5m SW from the boundary of the courtyard which comprises a c. 2m high brick wall which is proposed to be retained as part of the proposal. Nevertheless this property is in close proximity to the external area. The applicant has advised that the external area is likely to only be used in the summer months and would be for use as more of a café/bar style than sit-down restaurant seating, such that the use would be less consistent than the restaurant. Subject to a detailed assessment of the amenity impact, I consider the use of this area would not be inappropriate if regulated in a way in which mitigated any potential disturbance at sensitive times such as into the late evening.

With regards to the appropriateness of the proposed uses in this location I note that the Farnsfield Local Centre is vibrant and that existing uses in the locality include residential, retail, café's and public house premises. The premises lie within the conservation area and within Farnsfield's main local centre, subject to an in depth assessment of the implications I do not consider that the proposed uses would be inappropriate or result in an incompatible use class relationship with surrounding properties. I am mindful that the surrounding area is a mix of commercial and residential premises but consider that the amendments to the use classes, coupled with the proximity to neighbouring dwellings would not result in an unacceptable relationship in this instance, subject to a more detailed assessment on residential amenity.

#### Impact upon Residential Amenity

Criterion 3 of policy DM5 outlines that regard should be given to the impact of proposals on amenity or surrounding land uses and should not cause unacceptable loss of amenity. The policy goes on to advise 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. Given the local centre setting of the site within Farnsfield I am satisfied that the proposal would not result in any undue impact upon the amenity of the occupiers or users of nearby units.

I consider that the properties most likely to be impacted by this proposal would be 'Janik', located 5m to the SW of the boundary of the application site and the eastern adjoining occupier 'The Bus Stop Pot Shop'.

I consider that a potential increase in patronage from the shop to include the sale of food and drinks and promotional functions is likely, however I note that the residential properties are already in close proximity to businesses that operate into the evening and further westwards a public house operates to a similar opening time as proposed in this location.

The Environmental Health Officer has been consulted on the appropriateness of this use in this proximity to residential premises and they have advised that given the details that have been submitted in relation to the proposed soundproofing (internal sound insulation to be used on internal adjoining walls), screening to the external air conditioning plant unit and specification of the proposed pizza oven (which would use gas to pre heat) they raise no objection to the scheme. The EHO has confirmed that Farnsfield is not located in a smoke control area and the manufacturers details submitted show that the proposed appliance is on the DEFRA exempt appliance list, the use of gas to pre heat the appliance and extraction system proposed led the



EHO to conclude that there would be no unacceptable smoke or odour nuisance to surrounding residential properties.

The EHO raised concerns relating to the use of the external courtyard in close proximity to residential properties. I also have concerns regarding the potential use of this space up to 11 pm on Fridays and Saturdays in such close proximity to a residential property. However I note that in locations such as mixed commercial/residential areas within a defined local centre environment and served by busy roads, it may be concluded that a degree of noise and activity both during the day and in the evening is inevitable. It may also be considered that people who live in or near such a location must expect a certain level of activity close to their homes. However, I accept that the use of this courtyard area within 10m of a neighboring property is likely to result in an impact on the occupiers of this properties amenity. I therefore consider it would be reasonable to condition that this outside space could close at 9pm should Members be minded to approve the scheme.

Overall I am satisfied that subject to compliance with the submitted details relating to noise and odour abatement and restrictions to the external opening times which will be controlled via condition, there would be no unacceptable impact upon the amenity of neighbouring residents.

Due to the proposed use and size of the building which would be a constraint to the level of use of the site, I consider there would be no significant detrimental harm upon neighbouring residential occupiers or users of other adjoining buildings. As such, I consider the proposal would not result in unacceptable levels of amenity for surrounding occupiers and the proposal would accord with policy DM5 of the ADMDPD.

#### Highways Safety and Access

Spatial Policy 7 of the Core Strategy and Policy DM5 of the ADMDPD, along with the NPPF (para. 108) make clear the requirements for development to ensure safe and inclusive access, and to make parking provision appropriate to the scale of development. Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems.

Whilst I note that a supporting statement details that the pizzeria could would entertain 50-60 customers at any one time the submitted details show that the restaurant could potentially carry out up to 80 covers at any one time along with up to 8 members of staff on site at any one time. The proposal provides no parking for either members of staff or patrons. The justification from the applicant states that c.60-70% of the customer base will be local clientele attracted from the surrounding area within walking/cycling distance, that the area benefits from public transport routes and that there is a publically accessible car park on Parfitt Drive c.500 m SE.

Main Street is a single lane carriageway running through the centre of Farnsfield in an east-west direction. The road is subject to a 30mph speed limit. It has informal on-street parking on one side of the carriageway and traffic calming bollards in an attempt to restrict on-street parking and slow traffic.

There are a number of discrepancies within the Transport Statement and the submitted details which alternate the number of covers proposed at any one time. I will base this assessment upon the initial submitted details and indicative plan which shows up to 80 covers could be accommodated on site.

NCC Highways have reviewed this application and have advised that there are a number of residential properties along Main Street, in the vicinity of the application site, which have no off street parking facilities; therefore, considerable on street parking occurs in this area. It is stated that the former use of the site, as a food store (A1), did not provide car parking within the site. However, for this type of proposed use (A3/A4) and the expected demand (up to 80 covers plus up to 8 members of staff at any one time), particularly in the evenings and weekends, it is considered this proposal would result in further and unacceptable levels of on street parking in this area, exacerbating the current situation. Restaurant users are likely to attend the site for a prolonged period of time resulting in resident displacement throughout the evening when they are likely to require their parking the most.

I accept that DM5 states that parking provision for vehicles and cycles should be based on the scale and specific location of the development and that the Council will seek to be flexible and pragmatic towards parking provision in connection with new development. In sustainable locations where development is not likely to exacerbate existing problems, the Council will not insist on on-site parking, however where development is proposed in areas of known parking problems and it is likely to exacerbate these at the expense of highway safety, the Council will seek to secure sufficient off-street parking to provide for the needs of the development.

The proposed use would attract a significant customer base however I also acknowledge that there is a fall-back position that this unit could re-open an A1 use class at any time – A1 use includes, but is not limited to: Shops, retail warehouses, hairdressers, undertakers, travel and ticket agencies, post offices, pet shops, sandwich bars, showrooms, domestic hire shops, dry cleaners, funeral directors and internet cafes. The agent argues that these A1 uses could generate more traffic than the proposed restaurant use given there is a limit to their capacity and that shorter but more frequent trips could be associated with other A1 uses. The agent also correctly states that there was no parking provision for customers for the former A1 use and that this would remain to be the case if the premises re-opened.

However NCC Highways have responded stating that although it is acknowledged that the site could reopen again as an A1 use without requiring any permission, a retail/convenience store generates vehicular movements in short stops, whereas the proposed use will require vehicles to be parked in the vicinity for the duration of their visit, resulting in parking on nearby side streets if not available on Main Street and longer displacement of residents to the detriment of highways safety.

I acknowledge that there is provision for public parking within the Farnsfield Centre and that there are a number of public bus services that operate through the area to serve the application site. I am satisfied that a large proportion of the customer base in Farnsfield could walk, utilise public parking facilities or public transport but this will not be all patrons and I must give substantial weight to the comments of NCC Highways as the technical highways experts.

The proposed development fails to make adequate provision for the parking of any 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 and surrounding area to the detriment of highway safety. The applicant advises that most of the customers will walk to the site. Whilst this could be the case it is not something that can be controlled by condition. I accept that customers could park in the public car park, however given this is some 500m to the SE and that there are residential streets in closer proximity surrounding the site I consider it also likely

that patrons would choose to park more conveniently in closer proximity, irrespective of guidance directing them to do otherwise.

The agent states that the premises could change use under 'permitted development' from A1 to A3, however I note that the premises exceeds 150m<sup>2</sup> and as such would fail the constraints of Schedule 2, Part 3, Class C of The Town and Country Planning (General Permitted Development) (England) Order 2015. Whilst the agent has submitted additional highways studies and evidence, these have been reviewed by NCC Highways who have reiterated their objection to the scheme based on a lack of parking provision.

Overall, whilst I acknowledge that there is a fall-back position that would result in a highways impact, I share the view that the impact will be materially different given that cars could be parked on the highway for longer periods of time as a result of this proposal. I give substantial weight to the technical advice of the highways officer who has concluded that the application would detrimentally impact the safety of the highway contrary to Spatial Policy 7 of the Core Strategy and Policy DM5 of the DPD.

### Impact on Flooding

The site is located within Flood Zone 3 as defined by the Environment Agency data and as such a flood risk assessment is required.

Policy DM5 and the NPPF require development such as this to undertake the sequential test in terms of flood risk. The aim of the Sequential Approach is to ensure that sites at little or no risk of flooding (Flood Zone 1) are developed in preference to areas at higher risk (Flood Zone 2 and 3). A Flood Risk Assessment has been submitted as part of the design and access statement which appraises the risk of flooding from the development. In accordance with the PPG the application would fall to be considered as "minor development" in relation to flood risk as it is a non-residential extension with a footprint of less than 250m<sup>2</sup> and a change of use application and as such the sequential and exception tests are not required.

The proposal does not include any works to existing door thresholds, access or floor levels. The existing concrete yard, brick paving courtyard and existing drainage is to remain unaffected by the proposals and whilst the proposals show a small extension to the existing store/outbuilding to the rear this minor increase in built form over an area of concrete hardstanding is not considered to detrimentally impact the existing condition on site such that Flood Risk will not be increased to third parties.

It is not therefore considered that the proposed development would result in any increased levels of flood risk for users of the site or elsewhere in accordance with the NPPF and Core Policy 10.

### Planning Balance and Conclusion

In conclusion the proposed change of use of the site to A3 and A4 use classes is considered to be appropriate in this location having regard to the hierarchy of this principle village and the designation of the local centre. The scheme would also bring economic benefits of bringing a large keystone unit in this location back into use and offer some local employment opportunities which do weigh in the schemes favour.

The application is not considered to detrimentally impact upon the Farnsfield Conservation Area

and subject to conditions would not detrimentally impact the amenity of neighbouring residents. There would also be no additional flood risk that would arise as a result of this application. These elements are neutral therefore in the planning balance.

Nevertheless, given the sensitivity of the location with regard to the capacity of the highways network there is an overriding highways safety concern which given the capacity of the proposed restaurant/café bar and the anticipated number of covers it has been concluded that there would be a significant effect upon car parking that is likely to have a significant and unacceptable impact on highway safety arising from cars parked in the vicinity and causing nuisance to neighbours who rely on on-street parking.

Irrespective of the fallback position that the premises could open in A1 use at any time this proposal would increase the demand on the highways network for prolonged periods of time and therefore harm highway safety and be in conflict with SP7 and DM5 of the DPD.

In my view this harm outweighs the benefits of the scheme and I recommend that this application be refused.

### **RECOMMENDATION**

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

01

In the opinion of the Local Planning Authority the proposed development fails to make adequate provision for the parking of any 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 and surrounding area to the detriment of highway safety. The parking of vehicles on the highway is also likely to give rise to nuisance to residents in the area that rely on on-street parking and exacerbate existing parking issues. The proposal does not therefore accord with the requirements of Spatial Policy 7 (Sustainable Transport) of the adopted Newark & Sherwood Core Strategy nor Policy DM5 (Design) of the adopted Allocations and Development Management DPD which together form the Development Plan as well as the NPPF, a material planning consideration. There are no matters that outweigh the harm identified.

### **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.

### **BACKGROUND PAPERS**

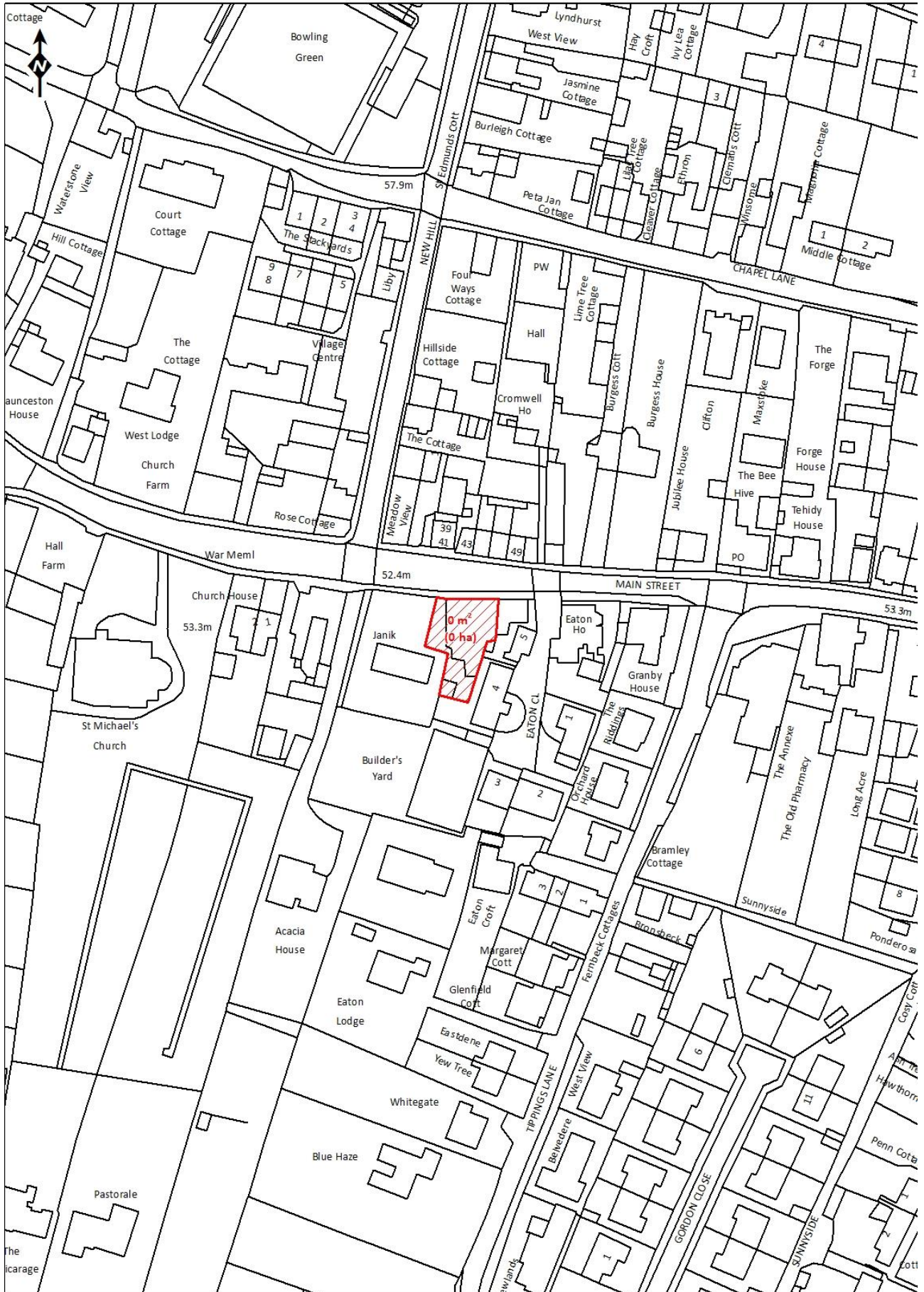
Application case file.

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**  
**Director of Growth and Regeneration**

Committee Plan - 19/00208/FUL



© Crown Copyright and database right 2019 Ordnance Survey. Licence 100022288. Scale: Not to scale

## PLANNING COMMITTEE 6 AUGUST 2019

|                        |   |                     |                   |
|------------------------|---|---------------------|-------------------|
| <b>Application No:</b> | <b>19/00848/FUL</b>   |                     |                   |
| <b>Proposal:</b>       | <b>Householder Application for first-floor extension, over the existing footprint which is currently single storey height to give the elevation a balanced and symmetrical appearance</b> |                     |                   |
| <b>Location:</b>       | <b>Grange Barn, Newark Road, Caunton.</b>   |                     |                   |
| <b>Applicant:</b>      | <b>Mr &amp; Mrs Thomas</b>  |                     |                   |
| <b>Registered:</b>     | <b>07.05.2019</b>   | <b>Target Date:</b> | <b>02.07.2019</b> |

**This application is being referred to the Planning Committee for determination by the local ward member (Cllr Sue Saddlington) due to local support from the Parish Council.**

### The Site

The application site relates to a detached traditional dwelling located on a junction of Newark Road, within the settlement of Caunton and the conservation area. The site is accessed via a shared private drive off of Newark Road which also serves 'Lavender House' immediately to the east and Holme Farm 30m to the south-east. There is a hard surfaced area immediately in front of application property which is used as off street parking amenity. The private amenity space is located to the rear of the site with hedgerows running along the shared boundaries. To the north-west is 'The Grange' a grade II listed property and its associated grounds.

The application site is located within flood zone 2 and 3.

### Relevant Planning History

No relevant planning history

### The Proposal

The proposal seeks planning permission for the erection of a first floor extension over the existing dining room and garage with no increase in the footprint of the application dwelling.

The proposed extension would have a dual pitched roof design, with the first floor addition over the dining room continuing at the same height as the existing ridge line and the first floor element over the garage incorporating a step down from the main ridge line and set back from the principle elevation.

Following discussions with the case officer, revised plans have been submitted which show the first floor element over the garage to be pulled in from the side boundary by 1m.

The proposed extension would create a master bedroom, with ensuite and walk in wardrobe area

at first level. The existing garage is shown to be retained.

### Public Advertisement Procedure

Occupiers of eight 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 Amended Core Strategy DPD (adopted March 2019)**

Spatial Policy 3 – Rural Areas  
Spatial Policy 7 - Sustainable Transport  
Core Policy 9 - Sustainable Design  
Core Policy 10 – Climate Change  
Core Policy 14 – Historic Environment

#### **Allocations & Development Management DPD (2013)**

DM5 – Design  
DM6 – Householder Development  
DM9 – Protecting and Enhancing the Historic Environment  
DM12 – Presumption in Favour of Sustainable Development

#### Other Material Planning Considerations

- National Planning Policy Framework 2019
- Planning Practice Guidance
- Section 16, 6 and 72 of the Planning Act
- Householder Development SPD

#### Consultations

**Caunton Parish Council** – No objections to the above planning application.

#### **NSDC Conservation Officer -**

Legal and policy considerations

Section 72 of the Act 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, and is a matter of paramount concern in the planning process.

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. Key issues to consider in proposals for additions to heritage assets, including new development in conservation areas, 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 16 of the National Planning Policy Framework (NPPF – revised 2019). When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation, for example. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. In determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness. LPAs should also look for opportunities to better reveal the significance of conservation areas when considering new development (paragraph 200).

Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3).

In this context, the objective of preservation is to cause no harm, and is a matter of paramount concern in the planning process. The courts have said that these statutory requirements operate as ‘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.

#### Significance of heritage asset(s)

The site is located within the boundary of Caunton Conservation Area, which was designated in 1974. The area was designated due to its special architectural and historic interest. The boundary is drawn around the historic development of Caunton and its landscaping setting to the south.

There are some listed buildings located within the conservation area boundary. Adjacent to the site there is Caunton Grange, which is grade II listed (LEN 1045975) designated in September 1985. The listing description advises;

*‘House. Enlarged and refronted c.1785, incorporating earlier house. Brick and dressed stone with hipped C20 plain tile roof. Chamfered eaves, single roof and single sidewall stacks, 3 storeys, 3 bays. L-plan. Front windows are glazing bar sashes with splayed keystone lintels. Main east front has central ashlar Doric portico with 4 columns and pediment. C19 door with traceried panels and overlight, flanked by single windows. Above, 3 similar sashes, and above again, 3 smaller sashes. South side has to left a C20 casement and a glazing bar sash with rubbed brick segmental head. Above, 2 similar windows. Above again, 2 small glazing bar sashes with rubbed brick segmental heads. Flat roofed rear addition and rear elevation have C20 fenestration. Interior has single C19 stucco fireplace with Ionic piers and Greek Key frieze. Several C19 doors with original fittings’.*

#### Assessment of proposal

The proposed first floor extension is minimal and will not cause harm to the character of the conservation area or the setting of the adjacent listed building.

There are six rooflights being proposed to the rear elevation. They would face the listed building and it is considered that this number of rooflights will have an impact on the setting on the listed

building. Caunton Grange is a substantial house and would have been designed to sit within its grounds to add to enhance its rural location and give the impression of seclusion. The number of rooflights would make the roof more prominent, therefore detracting from its secluded location. A lot of rooflights are for landing areas that are considered that it is not necessary. In addition many of the rooms, including dressing room and en-suite already have windows that can provide natural light and ventilation.

It is recommended that the rooflights are removed from the scheme to alleviate the harm to the setting of the listed building.

**Representations have been received from 2 local residents/interested parties which can be summarised as follows:**

- Loss of privacy from the side facing window in the gable end and the rear facing windows as well as the rear facing rooflights.
- Loss of light on windows serving the neighbouring property
- The proposed extension would be of an inappropriate scale and mass.
- Overbearing impact from the gable of the proposed extension.

#### Comments of the Business Manager

##### Principle of Development

I am mindful that Policy DM6 accepts householder development subject to an assessment of numerous factors including that the proposal respects the character of the dwelling and surrounding area, as well as protects the amenity of neighbouring residents. As such, the principle of the development is considered acceptable

##### Heritage and Local Distinctiveness

The property lies within a Conservation Area, where development should take account of the distinctive character of the area and seek to preserve and enhance the conservation area, as stated by policy DM9 of the DPD. In addition, Section 72 of the Planning Act 1990 sets out that considerable importance and weight should be given to the desirability of preserving the character and appearance of Conservation Areas.

Given the adjacent Listed Building (The Grange) consideration will also need to be given to the potential impact to the setting of this building.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Local Planning Authority to pay special regard to the desirability of preserving listed buildings, their setting and any architectural features that they possess.

Paragraph 193 of the NPPF requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

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.

Policy CP14 of the Core Strategy reflects this guidance and requires continued preservation and enhancement of heritage assets.

I am mindful that the proposed development would be visible from the adjacent private shared drive, however as the proposed extension would be based on the existing footprint of the application dwelling and at the eastern edge of the application site, it is considered that proposed development would not be unduly prominent from any wider vantage point than the application site and adjacent private drive. Furthermore, the proposed extension is considered to be in keeping with the design of the application dwelling and incorporate design features which aid a subservient appearance, including the set back and set down of the first floor element over the garage.

I note that the Conservation Officer has not raised any objection to the proposal and overall considers the proposal to not result in any harm to the character and appearance of the conservation area or cause any harm to the setting of The Grange. I concur with this opinion and in light of the above, consider the proposal to comply with the aims of the Core Policy 14 and Policy DM9 of the ADMDPD. I note the comments in relation to the rear facing rooflights, however as four out of the six roof lights would be classified as permitted development, it is felt unreasonable to request that these be omitted from the scheme. The two additional rooflights within the proposed extension are not considered to cause any materially greater impact on the character or appearance of the Conservation Area or the setting of the The Grange than the four permitted rooflights.

#### Impact upon Residential Amenity

Policy DM6 of the DPD states planning permission will be granted for the extension of dwellings provided it would not adversely affect the amenities of the adjoining premises, in terms of loss of privacy, light and overbearing impact.

The Householder Development Supplementary SPD provides further specific guidance and is a material consideration. In relation to side additions, the SPD advises that these should be designed in a way which is sensitive to the host dwelling and prevailing character of the surrounding area, particularly in cases where the gaps and spaces between buildings contribute to the pattern of development.

In terms of potential overbearing impacts the Householder SPD advises Householder development should be designed in a way that does not lead to an unacceptable level of overbearing to neighbouring properties or private amenity space. Such impacts are most likely to occur where two storey development is proposed in close proximity to or along shared boundaries.

Within Para 7.13 the Householder Development SPD states that Householder development proposals should:

- (i) Not dominate a neighbouring property, or result in principal windows which serve habitable rooms being presented with a building that appears visually intrusive or overbearing.
- (ii) Not appear as overbearing or visually intrusive when viewed from neighbouring private amenity space.
- (iii) Not be of a depth or height that would give the impression of enclosing or 'looming' over neighbouring dwellings and/or their private amenity areas.

It is acknowledged that the revised plans show a reduction in the width of the first floor element which moves the first floor extension 1m in from the shared boundary with Lavender House and reduces the potential overbearing impact on this property over the originally proposed scheme. However, in considering the relationship that the proposed extension would have with Lavender House, I am mindful of the distance between gable of the proposed extension and the principle elevation of Lavender House would be 8.3m even when taking account of the revision.

I am also mindful that the proposed extension would present a two storey gable towards the southern half of the principle elevation of Lavender House, which contains a large window at ground floor, serving the kitchen and a large window at first floor level which is believed to serve a bathroom. In light of this relationship and the close proximity between the proposed extension and the principle elevation of Lavender House, it is considered that the proposal would dominate the neighbouring property and result in a material overbearing impact when viewed from the within neighbouring properties kitchen and private amenity space at the front of the property. In this regard, the proposal is considered to be contrary to the advice within DM5 and the Householder Development SPD.

The revised scheme has omitted the high level window within the gable from the original scheme and while I note the concerns over the rear facing rooflights, I am satisfied that these would be positioned so as look down the rear garden of the host property and not gain any direct view of the private amenity space associated to Lavender House. As such, I have no material overlooking concerns with the proposal.

### Flood Risk

A householder flood risk assessment has been submitted with the application to confirm that floor levels within the proposed development will be set no lower than existing levels and flood proofing of the proposed development has been incorporated where appropriate which is considered acceptable in this instance.

### Conclusion

The principle of the proposed development at the site is considered acceptable and there has been no identified harm to the character and appearance of the conservation area or the setting of the listed building to the rear of the site 'The Grange'. The applicant has worked with the planning authority to explore possible revisions to the scheme in order to overcome the identified overbearing impact on neighbouring amenity and the latest revision has reduced the potential

impact over the originally proposed scheme. However, having had regard to the proximity between the proposed development and Lavender House and the design and orientation of the extension which would result in a two storey gable being presented towards the principle elevation of the neighbouring property which contains large windows serving main habitable rooms, it is considered that the level of impact has not been reduced to an acceptable level. In this regard the proposal is considered to be contrary to aims of Policy DM5 of the ADMDPD and the Householder SPD. Accordingly it is recommended that the proposal be refused.

## **RECOMMENDATION**

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

In the opinion of the Local Planning Authority, the proposed extension would result in a material overbearing impact on the neighbouring property, Lavender House, by virtue of the orientation of the proposed extension which presents a two storey gable towards the principle elevation of the neighbouring property which contains large windows serving main habitable rooms. In this regard the proposed development would dominate the neighbouring property and result in a material overbearing impact when viewed from both within the neighbouring property and the amenity space adjacent to the principle elevation. The proposal is therefore considered to be contrary to aims of Policy DM5 of the ADMDPD and the Householder SPD.

## **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.

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. However the District Planning Authority has worked positively and proactively with the applicant to make some revisions to the proposal. However, in this instance the revisions have not fully overcome the concerns raised.

## **BACKGROUND PAPERS**

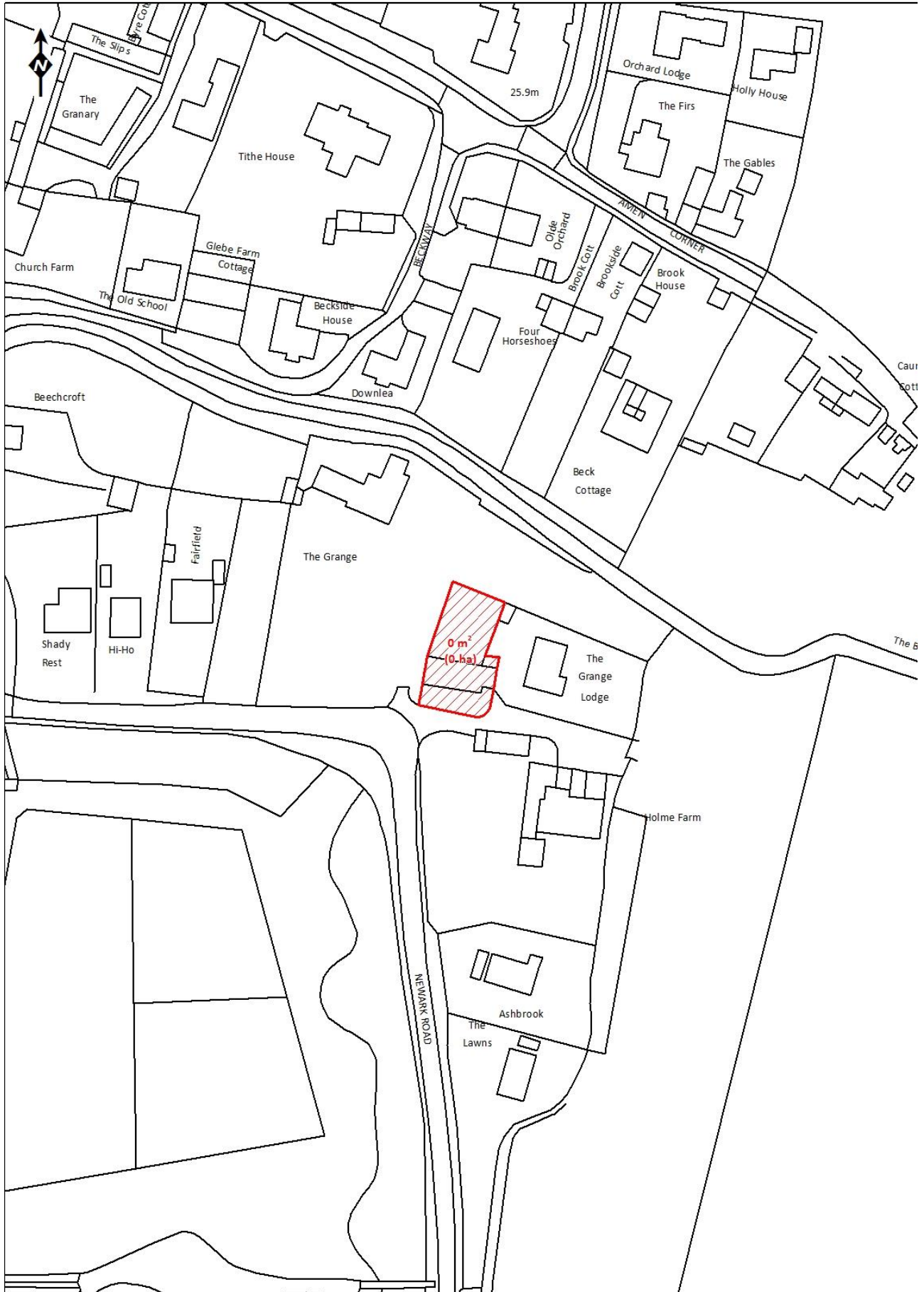
Application case file.

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**  
**Director of Growth and Regeneration**

Committee Plan - 19/00848/FUL



© Crown Copyright and database right 2019 Ordnance Survey. Licence 100022288. Scale: Not to scale





## PLANNING COMMITTEE – 6 AUGUST 2019

|                        |  |                                |
|------------------------|--|--------------------------------|
| <b>Application No:</b> | <b>19/00503/FUL</b>  |                                |
| <b>Proposal:</b>       | <b>Erection of 1 no. three bed dwelling</b>  |                                |
| <b>Location:</b>       | <b>The Academy<br/>62 Gainsborough Road<br/>Winthorpe<br/>Newark On Trent<br/>Nottinghamshire<br/>NG24 2NR</b> |                                |
| <b>Applicant:</b>      | <b>Mr And Mrs Paul And Rita Stevenson</b>  |                                |
| <b>Registered:</b>     | <b>14.03.2019</b>  | <b>Target Date: 09.05.2019</b> |
|                        | <b>Extension of Time Agreed Until 09.08.2019</b>   |                                |

**This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Winthorpe Parish Council has supported to the application which differs to the professional officer recommendation.**

### The Site

The application site forms a broadly rectangular plot of land approximately 0.07 hectares in extent to the west of Gainsborough Road in the village of Winthorpe. The site as existing forms part of the residential curtilage of the Grade II listed dwelling to the north known as The Academy. The Academy was previously the Dower House to Winthorpe Hall and in the early C19 a private school was run from the building, giving rise to its name. The southern boundary is also bounded by the residential curtilage of 68 Gainsborough Road. Land to the west forms a dense area of woodland protected by a Tree Preservation Order.

As well as the aforementioned listed building setting of the host dwelling, the site is also a designated heritage asset being within the Winthorpe Conservation Area.

The site as existing is characterized by significant tree cover forming an overgrown area with a mixture of mature trees and self-set holly and yew trees.

### Relevant Planning History

The planning history on the site is predominantly in relation to previous applications for works to trees none of which are considered directly relevant to the current application.

### The Proposal

The application seeks full planning permission for the erection of a single detached dwelling in the southern portion of the garden of The Academy.

The application has been significantly changed during the life of the application owing to Officer concerns with a suite of revised plans and documents received 5<sup>th</sup> July 2019 and subject to an additional round of re-consultation.

The proposed dwelling has been designed as a single storey dwelling with the majority of built form delivered under a flat sedum roof. There would however be an element of the dwelling towards the eastern boundary with a hipped roof of approximately 6.9m and eaves of approximately 4.6m. The side gable of this element has been designed to abut the road.

The dwelling would form a relatively linear plan with three bedrooms. The northern boundary of the site would be the northern elevation of the proposed dwelling which would form a blank brick wall allowing the internal areas of the dwelling to be served by windows on the south elevation and a single window on the eastern gable end.

The footprint of the dwelling would be approximately 184m<sup>2</sup>. The submitted Design and Access Statement confirms materials proposed are an orangey red soft brick with a slate finish roof to the hipped roof part of the dwelling and sedum roof to the flat roof element. Access to the site is proposed through the east boundary via Gainsborough Road with a turning area providing on-site parking.

The application has been considered on the basis of the following plans and documents:

- Revised Existing and Proposed Site Plans – 3527-01 Rev. D received 5<sup>th</sup> July 2019;
- Revised Proposed Plans and Elevations – 3527-02 Rev. D received 5<sup>th</sup> July 2019;
- Revised Site Location Plan – 3527-03 Rev. B received 5<sup>th</sup> July 2019;
- Revised Block Plan – 3527-04 Rev. C received 9<sup>th</sup> July 2019;
- Revised Design and Access Statement Rev. B received 5<sup>th</sup> July 2019;
- Revised Heritage Impact Statement Revision A received 5<sup>th</sup> July 2019;
- Biodiversity Survey and Report;
- Tree Survey.

#### Departure/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 2019)**

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

Core Policy 14 – Historic Environment

## **Allocations & Development Management DPD**

DM5 – Design

DM7 – Biodiversity and Green Infrastructure

DM9 – Protecting and Enhancing the Historic Environment

### **Other Material Planning Considerations**

- National Planning Policy Framework 2019
- Planning Practice Guidance (online resource)
- Winthorpe Conservation Area Appraisal

### **Consultations**

#### **Winthorpe Parish Council – *Additional comments received 23<sup>rd</sup> July 2019:***

We have reviewed the amended plans and have no objections to support the proposal subject to the property being built in keeping with the style of the village.

We would also request that the Highways Agency suggestion that the access be recessed by 5 metres be adhered to and that any tree removal is kept to a minimum as the development is in a conservation area.

#### ***Original comments 22<sup>nd</sup> March 2019:***

The Parish Council met last night and discussed the above application.

The Parish Council were in favour of the application with one abstain. There are some concerns, namely the access as the plot is on a bend which is not without its problems currently.

We would also hope that there would be the minimal removal of trees as possible.

#### **NCC Highways Authority – *Revised Comments received 16<sup>th</sup> July 2019:***

Further to comments dated 10 April 2019, revised drawings 01/D and 04/C have been received that show a resited access position. Whilst the new access location is potentially better than the previous proposal, its visibility splays rely on trees/vegetation being cut back towards the highway/site boundary.

The proposal includes a gate at the highway /site boundary. Ideally this should be set back at least 5m from the carriageway edge and open inwards so that drivers do not have to leave their vehicle stood in the road while opening/closing the gate.

The dwelling should also show parking for at least two cars.

Assuming the above issues can be resolved, no objections are raised subject to the following conditions:

The dwelling hereby approved shall not be occupied until the vehicle access is surfaced in a hard bound material (not loose gravel) for a minimum of 5 metres behind the highway carriageway edge. The surfaced access 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.).

The dwelling hereby approved shall not be occupied until a dropped kerb vehicular verge crossing is available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority. For the sake of clarity this will include the relocation of a lamp column and telegraph pole.

Reason: To protect the structural integrity of the highway and to allow for future maintenance.

The dwelling hereby approved shall not be occupied 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 obstructions, structures, vegetation or erections exceeding 0.6m in height.

Reason: In the interests of highway safety.

The dwelling hereby approved shall not be occupied until parking space for at least two cars is made available within the curtilage of the site.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking in the area.

*Notes to Applicant:*

The development makes it necessary to construct 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 the County Council's Agent, Via East Midlands tel. 0300 500 8080 to arrange for these works to be carried out.

*Original comments received:*

The access has been assessed for safety and visibility and whilst local concerns are acknowledged, a highway-related objection is not considered justified. A site visit revealed that the riskiest movement would be the right turn into the site. However, even with some on-street parking occurring, there is sufficient visibility in relation to expected vehicle speeds to allow this movement to take place with reasonable safety. This type of access arrangement already exists at the adjacent property.

In order to provide an adequate vehicle access, a street light and a telegraph pole will need to be relocated at the cost of the developer.

No objections are raised subject to the following conditions:

The dwelling hereby approved shall not be occupied until the vehicle access is surfaced in a hard bound material (not loose gravel) for a minimum of 5 metres behind the highway carriageway

edge. The surfaced access 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.).

The dwelling hereby approved shall not be occupied until a dropped kerb vehicular verge crossing is available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority. For the sake of clarity this will include the relocation of a lamp column and telegraph pole.

Reason: To protect the structural integrity of the highway and to allow for future maintenance.

Notes to Applicant:

The development makes it necessary to construct 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 the County Council's Agent, Via East Midlands tel. 0300 500 8080 to arrange for these works to be carried out.

**NSDC Conservation** – *Additional comments received 11<sup>th</sup> July 2019:*

#### Site analysis

The application is for a new dwelling within the current grounds of The Academy (Grade II listed). The site is located in Winthorpe Conservation Area. Originally designated in 1974 and extended in 2007. The focal point of the village is the small green area created by the junction of Gainsborough Road and Holme Lane.

Winthorpe has a remarkable number of high status houses, including two country homes with extensive parkland (Winthorpe Hall and Winthorpe House). In addition there are many 18<sup>th</sup> and 19<sup>th</sup> century villas. This gives Winthorpe a very unique character for a rural village in Nottinghamshire. The village's architecture and building form has a distinct style due to Winthorpe Hall estate cottages, designed with the same architectural details.

Winthorpe Hall Estate makes a significant contribution to the history and character of the conservation area. The Hall is the primary country house in Winthorpe and dates to c.1760. It is thought that the Hall was built to the designs of architect John Carr of York. Winthorpe Hall is of a typical Georgian design, using Classical style architecture on a grand scale and of particular note is the use of the *piano nobile*. This is a typical Classical feature giving emphasis to the first floor. At The Hall rusticated masonry distinguishes the ground floor from the smooth ashlar above and a double set of stairs wind up to a Venetian door at first floor. The Hall has formal gardens surrounding the house and stretching out to the west is extensive parkland, with swathes of grass and carefully placed specimen trees. These grounds were historically much more extensive than they are now, originally stretching right down to the River Trent.

The layout of the historic village as shown in the 1835 Sanderson's Map is very similar to that of the village today, the main exceptions being the C20 developments north of Hykenham Road and the creation of The Spinney. The Hall had an impressive array of associated buildings including stables, coach house, head gardeners house and a hunting lodge. They also employed a large

number of staff and the C19 and early C20 trade directories list several people employed as servants at The Hall.

The Academy was originally a Dower House, a moderately large house available for use by the widow of the previous owner of the estate. As the listing description identifies, the building dates to the 18<sup>th</sup> century, with some 19<sup>th</sup> century alterations. The dwelling is contemporary to Winthorpe Hall and with its social connection with the Hall it is clear that there is a significant relationship between the two buildings and the estate.

With the bends in Gainsborough road, The Academy was carefully orientated to allow for prominent views of its principle elevation when travelling north along Gainsborough Road. Although the view is slightly obscured by the existing trees, it is still possible to get glimpses of the property. The Academy is not one of the grandest buildings in Winthorpe, however its scale and rendered finish stands out from the red brick Victorian semi-detached villas within its proximity. The red brick Victorian villas 'Roslyn' and 'The Laurels' has an unusual relationship to The Academy. However, the use of the building as a school in the 19<sup>th</sup> century could be linked to the development of these properties in association to the school use in the 19<sup>th</sup> century.

The grounds of The Academy stretch to the south and north of the building. As the principle elevation is orientated to the south, this typically would have been the formal gardens. Currently the ground immediately to the south are the formal gardens, with a tree covered area further south.

Historically this tree area was part of Winthorpe Hall parkland, therefore within the historic setting of Winthorpe Hall. However, it is considered that this part of the parkland makes a low contribution to parkland. The treed area has been in the curtilage of The Academy since 1970 and is considered to be within the current setting of the listed building. The trees have been identified in the conservation area appraisal as a significant group of trees. Currently there is a low picket fence between the garden of The Academy and the Parkland belonging to Winthorpe Hall.

### Heritage assets

Near the application site are a number of listed buildings including;

The Academy is Grade II listed (LEN 1046000) in October 1984. The listing description advises;

*'House. C18 with c19 extensions and alterations. Colourwashed brick with ashlar dressings, pantile roof with coped gables and kneelers, single gable stack to the south and 2, ridge stacks. 2 storeys with irregular and varied fenestration. There are 10 windows to the ground floor and 8 to the 1st floor. A projecting C19 3 window splayed bay with parapet runs through both storeys. On the ground floor only is a C19 2 window projecting bay. All windows have glazing bars; there are hood moulds to 3 ground floor windows and to 7 1st floor windows. The double half glazed door and 12 windows have segmental arches over with small keystone. There are sections of string course to the bays and above the door and dogtooth decoration at the eaves. To the south is a single storey extension with C19 extensions to the rear.'*

Winthorpe Hall is grade II\* listed (LEN 1178886) in January 1967 the listing description advises;  
*'Country house, c.1760. Begun for Dr. Robert Taylor of Newark, completed for Roger Pocklington, the Newark banker. Probably to designs by John Carr of York. With a C19 addition to the east. Ashlar and brick with a hipped slate roof with lead flashing. 3 ashlar stacks, modillion cornice. Set*

on a plinth with thick plain band topping basement. 2½ storeys, 5 bays. The centre pedimented bay is slightly wider and projects slightly. The south' front has a basement of rusticated ashlar with a central blocked doorway flanked by single blocked windows, all with keystones. Each of the outer bays has a single glazing bar sash with splayed lintel and keystone. There is a central free standing rusticated perron on a plinth with central arch, giving access to the now blocked doorway. The perron, with iron railings leads to the central venetian doorway of the main floor. There is a double half glazed door with traceried fanlight under a moulded arch flanked by single pilasters, single glazing bar sashes with ballustrade under and further single pilasters. The pilasters support moulded architraves, with the arch springing from their inner edges. Each of the outer bays has a single glazing bar sash with lintel and keystone flush with the wall. The outer bays of the top floor have similar, smaller sashes. The central bay has a single venetian window, with lintels and keystones flush with the wall. In the centre is an oeil de boeuf with glazing bars. The C19 2 storey, 2 bay extension to the east has an ashlar basement and is brick above. The roof, with gable ashlar stack dated 1886, is hidden by a parapet with moulded cornice. There are 2 glazing bar sashes to each floor, those to the basement are smaller. The west facade has a 3 storey canted bay, with main floor sill band. The basement has 3 arched glazing bar sashes with lintels and projecting keystones. The main floor has 2 glazing bar sashes with lintels and keystones and a central arched and traceried glazing bar sash. The top floor has 3 glazing bar sashes with lintels and keystones flush with the wall. The north facade has a central canted bay corresponding to that of the west apart from the basement windows which are square headed. There are 2 bays either side, each floor having a glazing bar sash, apart from the basement which has an off-centre east doorway. The east facade has a Venetian window lighting the interior staircase. Various features such as urns and dormers were removed during recent restoration. Interior; 3 flight return, early C18 style, main staircase with 3 plain ballusters with knops per tread, with decorated' carved tread ends. Entrance hall with doric columned fireplace, ionic screen and modillion cornice. Saloon with late ciB decorated plaster ceiling, stone fireplace with ionic columns supporting a broken pediment containing a shell disgorging fruit. All ground floor door cases are moulded, mostly with pediments and panelled mahogany doors. The back stone staircase runs from basement to attic and has an iron ballustrade'.

Pennywise house is grade II listed (LEN 1045997) in October 1984. The listing description advises;

*'House. Late C18. Red brick with whitewashed ashlar dressings. C20 slate roof with coped gables and 2 brick gable stacks. 2 storeys, 3 bays with 1st floor ashlar band. Central doorway with panelled door and rectangular traceried overlight, having a single fluted wooden column either side set on a pedestal and supporting an architrave and flat hood. Flanking the doorway are single glazing bar sashes with ashlar lintels and keystones with 3 similar windows above. To the rear is a brick 2 storey wing'.*

Grange Cottage is grade II listed (LEN 1369951) in October 1984. The listing description advises;

*'Cottage. Late C18. Red brick with a hipped pantile roof and 2 brick stacks to the rear. 2 storeys, 3 bays. Central doorway with panelled door, 3 pane rectangular overlight and plain surround. Flanked by single glazing bar sashes under segmental arches, with 2 similar sashes above. To the south is a later brick extension with doorway and metal casement window'.*

#### 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, their setting and any architectural features that they possess. In addition, section 72 of the Act 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, and is a matter of paramount concern in the planning process.

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. Key issues to consider in proposals for additions to heritage assets, including new development in conservation areas, 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 16 of the National Planning Policy Framework (NPPF). Section 16 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. LPAs should also look for opportunities to better reveal the significance of heritage assets when considering development in conservation areas.

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.

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).

### Assessment of proposal

The proposal is for a three bed single storey dwelling situated behind a high brick boundary wall that will enclose the tree area of the site.

Part of the building will be a square building with a hipped roof located against Gainsborough Road. The rest of the dwelling is a single storey flat roofed angled linear modern element, which will sit below the brick wall.

Brick boundary walls is a feature that is seen throughout the conservation area, therefore will not appear completely out of character, however this will significantly alter the contribution this tree



area will make to Winthorpe Parkland, setting of the listed building and character of the conservation area.

As historically part of the Winthorpe Hall parkland there hasn't been a solid boundary between the parkland and the application site. Currently this site can still be read in association with the parkland, the brick boundary wall will permanently detach the site from the parkland. The parkland makes an important contribution to Winthorpe Hall and other associated buildings, including The Academy and the historical significance and character of the conservation area. As a subsequence The Academy is detached from Winthorpe Hall.

The building is replicating a gardener's store/workshop. Although it is likely that a building of this type would have been typical for this type of dwelling, it would not have been located to the front of the property. The gardens to the front would have been too formal and 'working' element would have been to the back, such as outbuildings and kitchen gardens. Therefore it is considered the development harms the setting of The Academy and results in an awkward relationship with the dwelling.

The flat roofed element will be visible from the highway, the significant amount of glazing, rectilinear form and depth of the building will be incongruous within this context in particular The Academy and architectural character of the conservation area.

Although there are very few trees that are being proposed to be removed. However the hard standing proposed for the driveway and patio, along with other elements such as washing lines and play equipment typically associated with dwellings will significantly alter the natural character of this tree area and its contribution it makes to the setting of The Academy and the character of the conservation area.

The conservation team objects to this application due to the harm caused to Winthorpe Hall parkland, the setting of The Academy and the character of the conservation area. The proposal is contrary to the objectives of preservation required under sections 16, 66 and 72 of the Act. In addition the proposal does not follow the heritage objectives contained within the Council's LDF DPDs and section 16 of the NPPF.

*Original comments received:*

#### Legal and policy considerations

Sections 16 and 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, their setting and any architectural features that they possess. In addition, section 72 of the Act 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, and is a matter of paramount concern in the planning process.

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. Key issues to consider in proposals for additions to heritage assets, including new development in conservation areas, 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 16 of the National Planning Policy Framework (NPPF – revised 2019). When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation, for example. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. In determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness. LPAs should also look for opportunities to better reveal the significance of conservation areas when considering new development (paragraph 200).

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.

Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3).

#### Significance of heritage asset(s)

The site is located within Winthorpe Conservation Area. Originally designated in 1974 and extended in 2007. The focal point of the village is the small green area created by the junction of Gainsborough Road and Holme Lane. Winthorpe has a remarkable number of high status houses, including two country homes with extensive parkland (Winthorpe Hall and Winthorpe House). In addition there are many 18<sup>th</sup> and 19<sup>th</sup> century villas. This gives Winthorpe a very unique character for a rural village in Nottinghamshire. The village’s architecture and building form has a distinct style due to Winthorpe Hall estate cottages, designed with the same architectural details.

Near the application site are a number of listed buildings including;

The Academy is Grade II listed (LEN 1046000) in October 1984. The listing description advises;

*‘House. C18 with c19 extensions and alterations. Colourwashed brick with ashlar dressings, pantile roof with coped gables and kneelers, single gable stack to the south and 2, ridge stacks. 2 storeys with irregular and varied fenestration. There are 10 windows to the ground floor and 6 to the 1st floor. A projecting C19 3 window splayed bay with parapet runs through both storeys. On the ground floor only is a C19 2 window projecting bay. All windows have glazing bars; there are hood moulds to 3 ground floor windows and to 7 1st floor windows. The double half glazed door and 12 windows have segmental arches over with small keystone. There are sections of string course to the bays and above the door and dogtooth decoration at the eaves. To the south is a single storey extension with C19 extensions to the rear’.*

Winthorpe Hall is grade II\* listed (LEN 1178886) in January 1967 the listing description advises;

*'Country house, c.1760. Begun for Dr. Robert Taylor of Newark, completed for Roger Pocklington, the Newark banker. Probably to designs by John Carr of York. With a C19 addition to the east. Ashlar and brick with a hipped slate roof with lead flashing. 3 ashlar stacks, modillion cornice. Set on a plinth with thick plain band topping basement. 2½ storeys, 5 bays. The centre pedimented bay is slightly wider and projects slightly. The south' front has a basement of rusticated ashlar with a central blocked doorway flanked by single blocked windows, all with keystones. Each of the outer bays has a single glazing bar sash with splayed lintel and keystone. There is a central free standing rusticated perron on a plinth with central arch, giving access to the now blocked doorway. The perron, with iron railings leads to the central venetian doorway of the main floor. There is a double half glazed door with traceried fanlight under a moulded arch flanked by single pilasters, single glazing bar sashes with ballustrade under and further single pilasters. The pilasters support moulded architraves, with the arch springing from their inner edges. Each of the outer bays has a single glazing bar sash with lintel and keystone flush with the wall. The outer bays of the top floor have similar, smaller sashes. The central bay has a single venetian window, with lintels and keystones flush with the wall. In the centre is an oeil de boeuf with glazing bars. The C19 2 storey, 2 bay extension to the east has an ashlar basement and is brick above. The roof, with gable ashlar stack dated 1886, is hidden by a parapet with moulded cornice. There are 2 glazing bar sashes to each floor, those to the basement are smaller. The west facade has a 3 storey canted bay, with main floor sill band. The basement has 3 arched glazing bar sashes with lintels and projecting keystones. The main floor has 2 glazing bar sashes with lintels and keystones and a central arched and traceried glazing bar sash. The top floor has 3 glazing bar sashes with lintels and keystones flush with the wall. The north facade has a central canted bay corresponding to that of the west apart from the basement windows which are square headed. There are 2 bays either side, each floor having a glazing bar sash, apart from the basement which has an off-centre east doorway. The east facade has a Venetian window lighting the interior staircase. Various features such as urns and dormers were removed during recent restoration. Interior; 3 flight return, early C18 style, main staircase with 3 plain ballusters with knops per tread, with decorated' carved tread ends. Entrance hall with doric columned fireplace, ionic screen and modillion cornice. Saloon with late c18 decorated plaster ceiling, stone fireplace with ionic columns supporting a broken pediment containing a shell disgorging fruit. All ground floor door cases are moulded, mostly with pediments and panelled mahogany doors. The back stone staircase runs from basement to attic and has an iron ballustrade'.*

Pennywise house is grade II listed (LEN 1045997) in October 1984. The listing description advises;

*'House. Late C18. Red brick with whitewashed ashlar dressings. C20 slate roof with coped gables and 2 brick gable stacks. 2 storeys, 3 bays with 1st floor ashlar band. Central doorway with panelled door and rectangular traceried overlight, having a single fluted wooden column either side set on a pedestal and supporting an architrave and flat hood. Flanking the doorway are single glazing bar sashes with ashlar lintels and keystones with 3 similar windows above. To the rear is a brick 2 storey wing'.*

Grange Cottage is grade II listed (LEN 1369951) in October 1984. The listing description advises;

*'Cottage. Late C18. Red brick with a hipped pantile roof and 2 brick stacks to the rear. 2 storeys, 3 bays. Central doorway with panelled door, 3 pane rectangular overlight and plain surround. Flanked by single glazing bar sashes under segmental arches, with 2 similar sashes above. To the south is a later brick extension with doorway and metal casement window'.*

## Assessment of proposal

The application is for a new dwelling within the current grounds of The Academy (Grade II listed). The Academy was previously a Dower House, a moderately large house available for use by the widow of the previous owner of the estate. It then became a private school in the 19<sup>th</sup> century. The proposed dwelling is within the setting of The Academy.

Historically the site was part of Winthorpe Hall parkland, therefore within the historic setting of Winthorpe Hall. However, it is considered that this part of the parkland makes a low contribution to the setting of the heritage asset.

The setting of a heritage asset is defined in the NPPF as;

*'The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral'.*

The location of the proposed dwelling is to the south of the formal gardens of The Academy. The orientation of the listed building and the bends in the road the principle elevation was meant to be viewed when travelling north along Gainsborough Road. Although the view is slightly obscured by the existing trees, it is still possible to get glimpses of the property. The development of this site will detract from this view and therefore have harm on the sitting of the listed building.

In addition, the architectural design, orientation and scale of the proposed dwelling does not reflect the character of the conservation area. Properties in this part of the conservation area are parallel to the road, are modest in scale and are of traditional architectural detail.

The proposed dwelling is perpendicular to the road, having gables front the road is not a characteristic of the conservation area. Although some modern approaches to architecture is acceptable within conservation areas the design still needs to take its cues from the character of the area. The design and access states the dwelling is designed to be a 'rural cottage', however it is not considered to have been successful in this with many details, in particular fenestration giving the dwelling a very urban character.

The proposal will harm to the character and appearance of the conservation area and the setting of the listed building. The proposal therefore is contrary to the objectives of preservation required under sections 16, 66 and 72 of the Act. In addition the proposal does not follow the heritage objectives contained within the Council's LDF DPDs and section 16 of the NPPF.

**Historic England** - Thank you for your letter of 22 March 2019 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.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.

**Tree Officer** – revised comments received 17<sup>th</sup> July 2019:

The proposal footprint is located tight against RPAs of surrounding trees allowing little room for foundations, construction activities, materials storage.

Proposed hard surfacing, access and boundary walls will be detrimental to tree roots unless specific construction methods are adopted. These methods may not be feasible due to differences in ground levels and the need to excavate/build up soils to achieve required levels.

No service runs/drainage or sewage options are shown but is likely any will adversely impact tree roots.

I am concerned that the dwelling will be heavily shaded with no useable amenity area which, combined with seasonal nuisance of leaf/berry/seed drop and perceptions over failure of tree /tree parts will result in increased pressure for the removal of further trees. Tree felling outside of the revised red line is still proposed which would have no relevance on this application.

*Original comments received 29<sup>th</sup> March 2019:*

Although a tree survey has been submitted with this application there appears to be little justification for removing a large number of trees that have been graded U category for no apparent reason.

I visited this site last year and inspected the roadside trees and considered that only the removal of the leaning pine T13 would be acceptable.

The remaining roadside trees have developed an adapted natural form due to light suppression from adjacent trees are not considered to require removing.

T12 is noted as having a cavity at the base but the cavity shows signs of partially callusing and adaptive growth as a response to this. No diagnostic or other evidence has been submitted to support the removal of this tree beyond a single line statement.

The yew and holly trees on site are all of a similar age form and condition but varies from b to c with the U category seemingly imposed on trees adjacent to the proposed dwelling.

This application will therefore result in the loss of a significant number of trees within the site that are healthy.

If constructed the dwelling would be dominated by the remaining trees which will continue to develop resulting in natural light loss, seasonal nuisance and concerns from any future occupants over potential failure of trees/tree parts.

Any further impact on remaining trees by new access requirements /service/drainage runs/proposed garage have not been fully evaluated.

**Trent Valley Internal Drainage Board** – The site is outside of the Trent Valley Internal Drainage Board district but within the Board's catchment.

The Board maintained Winthorpe Airfield Drain, an open watercourse, exists in close proximity of the site and to which BYELAWS and the LAND DRAINAGE ACT 1991 applies.

Surface water run-off rates to receiving watercourses must be increased as 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.

**Representations have been received from 5 local residents/interested parties in respect to the original application submission which can be summarised as follows:**

- The change of the vista of Gainsborough Road by the removal of nine mature trees and the introduction of a driveway will alter the appearance of the Conservation Area forever;
- The land is already being cleared of vegetation and trees and looks different from what it looked like last year;
- There are a number of near misses in recent times which would mean the driveway is unsafe;
- The current access should be considered or access via The Drive (off Holme Lane);
- Moving the access may cause concerns to current residents who park on the road including users of the Village Hall;
- The proposed driveway would have a lack of visibility on the S-bend;
- There are always a large amount of parked cars on Gainsborough Road making visibility worse;
- No objections but should be a minimal removal of trees;
- The proposal would have a big impact on the Conservation Area;
- It would also affect the wildlife and plants in the area;
- Preparation of the site seems to have already led to the felling of a number of trees;
- Winthorpe is characterized by large houses on large plots which is a fundamental part of the character and grain of the village;
- The Academy borders a Zone 3 flood area;

**An additional 5 letters of representation has been received in respect to the revised plans which can be summarized as follows:**

- It should be noted that 13 trees have already been removed over the last few years – reasons given were to reduce crown to improve other trees health which contradicts the application submission;
- When neighbouring properties have applied to raise the garden wall they were only allowed to build on the original wall;
- The dwelling would not be in keeping with the Conservation Area;
- The location for the dwelling is not appropriate;
- There has already been a noticeable loss of owls and bats since the tree removal;
- The revised access is still on a dangerous bend;
- During weekends and evenings there are parked cars;
- Original concerns also remain;
- The revised proposed driveway is still unsuitable;
- Neighbouring applications for revised driveways have been rejected;
- The plans do not take considerations of the setting of the listed building The Academy;

- The trees are identified as important in the Conservation area appraisal;
- The size of the building has increased which will have a greater impact on wildlife;
- The site is an important part of the Conservation Area;

### Comments of the Business Manager

#### Principle of Development

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.

The Adopted Development Plan for the District is the Core Strategy DPD (2019) and the Allocations and Development Management Policies DPD (2013). 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. Spatial Policy 1 (Settlement Hierarchy) of the Council's Core Strategy sets out the settlements where the Council will focus growth throughout the District. Applications for new development beyond Principal Villages as specified within Spatial Policy 2 will be considered against the 5 criteria within Spatial Policy 3 as assessed below.

#### *Location*

The first criterion of Spatial Policy 3 requires new development to be in villages, which have sustainable access to Newark Urban Area, Service Centres or Principle Villages and have a range of local services themselves.

Winthorpe is spatially close to the Newark Urban Area and despite the severance of the road network through the creation of the A1, the Urban Area is only a short travel distance from the village. Winthorpe also has a number of services including a public house; primary school; community centre and Parish Church.

The site is within the existing residential curtilage of the dwelling known as the Academy with other residential curtilages to the south; north east; and east of the site. In this respect the plot is considered to represent infill development. There is allowance in SP3 for the development of infill plots where villages do not meet the locational criteria but given that Winthorpe does have its own services, the development need not rely on this allowance to be acceptable as I am satisfied that the proposal would satisfy the locational criteria of SP3 in any case.

#### *Scale*

The requirement of SP3 is that new development should be appropriate to the proposed location and small scale in nature. The proposal relates to the erection of a single dwelling which is considered small scale in numerical terms when taken in the context of the size of the village. The scale of the proposal in respect to its design implications is discussed further in the Character section below.

### *Need*

The wording of the 2019 Core Strategy requires new housing to demonstrate that it would help to support community facilities and local services. Given the location of the site in the confines of the village, I am satisfied that the occupiers of the proposed dwelling would have sufficient opportunity to support and help sustain the longevity of the existing local services within the village.

### *Impact*

In some respects the Impact criterion lends itself to discussion in the context of other material consideration such as the impact on the highways network and neighbouring amenity (discussed in further detail below). In respect of local infrastructure, I am again satisfied that the development for a single dwelling could be accommodated for within existing village infrastructure without causing a detrimental impact.

### *Character (including in the Heritage Context)*

SP3 confirms that new development should not have a detrimental impact on the character of the location or its landscape setting. In order to properly fulfil this assessment, reference must be made to the existing character constraints to which the site is subject to, notably in the context of being within the designated Conservation Area but also falling within the setting of adjacent listed buildings.

The NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Policy CP14 of the Core Strategy requires continued preservation and enhancement of heritage assets. Local planning authorities need to have special regard to the desirability of preserving or enhancing the character or appearance of Conservation Areas and the setting of Listed Buildings.

Policy DM5 refers to the rich local distinctiveness of the District's character of built form requiring new development proposals to reflect their local surroundings. Policy DM5 also confirms that, where local distinctiveness derives from the presence of heritage assets, as in the case in the context of this proposal, development will also need to satisfy Policy DM9. The policy requires that development must promote local distinctiveness and protect heritage assets (including their setting).

Chapter 12 of the NPPF 2018 provides guidance in respect of achieving well-designed places confirming at paragraph 124 that, *'the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.'*

Section 72(1) also requires the LPA to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas.

The duties in s.66 and s.72 of the Listed Buildings Act do not allow a local planning authority to treat the desirability of preserving the settings of listed buildings and the character and appearance of conservation areas as mere material considerations to which it can simply attach such weight as it sees fit. When an authority finds that a proposed development would harm the setting of a listed



building or the character or appearance of a conservation area, it must give that harm considerable importance and weight.

This does not mean that an authority's assessment of likely harm to the setting of a listed building or to a conservation area is other than a matter for its own planning judgment. It does not mean that the weight the authority should give to harm which it considers would be limited or less than substantial must be the same as the weight it might give to harm which would be substantial. But it is to recognise that a finding of harm to a listed building, or harm to the setting of a listed building, or to a conservation area gives rise to a strong presumption against planning permission being granted. The presumption is a statutory one. The presumption is not irrefutable; it can be outweighed by material considerations powerful enough to do so. But an authority can only properly strike the balance between harm to a heritage asset on the one hand and planning benefits on the other, if it is conscious of the statutory presumption in favour of preservation and if it demonstrably applies that presumption to the proposal it is considering. This is a matter that has been considered in a number of recent court cases (in particular: *Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council* (2014); *The Forge Field Society v Sevenoaks District Council* (2014); and *Mordue* (2016)).

The application has been accompanied by a Heritage Impact Assessment in line with the requirements of paragraph 189 of the NPPF. The assessment identifies importance of the nearby listed buildings but focuses assessment on the impact to the host dwelling – the Grade II listed The Academy.

The revised proposal has been submitted on the basis of discussions with Officers during the life of the application owing to significant concerns which were raised with the original submission in respect that it was considered the original proposal would detract from the view of The Academy therefore harming its listed building setting.

The proposal as revised has been designed on the basis that the bulk of the dwelling would be hidden behind the walls of the northern and eastern elevations served by a flat sedum roof which sits below the maximum height of the wall. Other notable design features include large expanses of glazing to the southern elevation which would ultimately provide the vast majority of natural light for the proposed occupiers. These amendments are again a reflection of the concerns raised in respect to the original proposal.

The basis of the revised submission is that the traditional brick garden wall which will ultimately form the northern elevation of the dwelling would ensure that the modern volume of the proposed dwelling remains hidden from the host property. There would be approximately 35m in distance separating the proposed dwelling from the host property. On this basis it is submitted that the revised proposal can be considered as subservient to the original dwelling with further screening offered by the proposed retained tree cover.

The revised details have been assessed by colleagues in Conservation with the comments listed in full above. It is accepted that the use of a brick boundary wall would not appear completely out of character in the context of the area. However, there are still identified and significant heritage issues in developing this part of the site in principle. Although the revised design of the building, replicating a workshop is an improvement to the original proposal, the matter remains that these buildings would not have been located to the front of the host property. The development of this part of the site would therefore represent an awkward relationship which would harm the setting of the host dwelling.

Although the development as revised intends to remove very few tree specimens (a matter discussed in further detail below) the hard standing required for the dwellings parking, and indeed the domestic elements which would occur outside of the control of the planning system (e.g. washing lines) would significantly alter the natural character of this tree area and its contribution it makes to the setting of The Academy and the character of the conservation area. Moreover, the development would detrimentally alter the contribution this area makes to Winthorpe Parkland.

Even in the proposals revised form, the Conservation Team have identified that the development would amount to heritage harm. Having clarified with the Conservation Officer, the harm would be less than substantial in their view, albeit harm nonetheless. I would agree entirely with their assessment in this respect and therefore find it necessary to apply the balance outlined in the NPPF.

Paragraph 196 of the NPPF (2019) states that:

*'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'*

Whilst there would be a public benefit in terms of a contribution towards the Districts Housing Supply, it is my view that this would be a marginal contribution. Set in the context where the District has a five year land supply allowing for development in more sustainable settlements, the marginal contribution to housing supply is not considered to outweigh the heritage harm identified.

### Impact on Trees

Core Policy 12 of the Core Strategy and Policy DM7 of the Allocations and Development Management DPD (ADMDDPD) outline the importance of the protection and enhancement of the area's biodiversity and open spaces. The protection of individual sites is vital as part of the preservation of the overall 'Green Infrastructure' network of green spaces, landscapes and natural elements that intersperse and connect the District's settlements and surrounding areas.

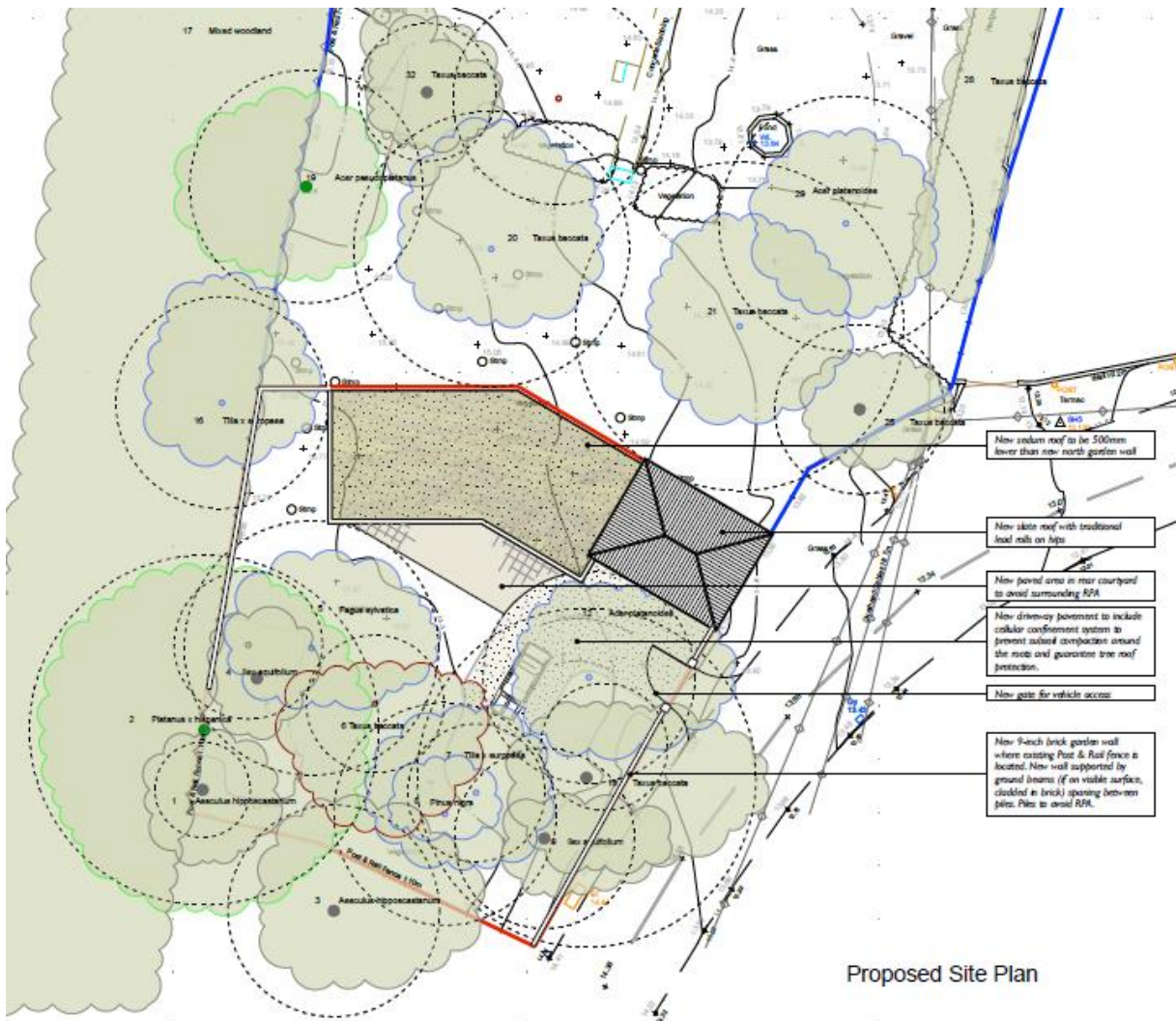
The submitted Design and Access Statement contends that the proposed dwelling would be located in an area of the site where no moderate or high quality trees would need to be removed or affected. Moreover, it is stated that special care has been taken to remove as few specimens as possible. It is notable that the impact on trees is referenced as a concern through the comments of the Parish Council.

The original application was accompanied by a Tree Survey dated 8<sup>th</sup> September 2018. The report states that the area of the south of the property (i.e. the development site) was originally planted with specimen trees but some of the original trees have been lost and it has become overgrown with self-set holly, yew and horse chestnut. Several of the trees lean heavily over Gainsborough Road where the frontage is dark and cluttered.

The revised proposed site plan details that 5 specimens would be removed within the site itself with another 5 specimens also proposed for removal within the wider blue line site of the applicants ownership. None of the trees marked for removal are above Category C albeit there are other Category A and B specimens on the site which are marked for retention. The tree works

proposed have been reviewed by the Tree Officer with full comments listed in full above. The original comments did raise concern with the validity of the submitted survey, a matter which has been discussed during the life of the application. Despite the attempts of the revised submission, the Tree Officer remains dissatisfied that the specimens intended for retention could be adequately protected given the proximity of the building to the root protection areas but also the impacts of the proposed hard surfacing, access and boundary treatments.

In addition to the above, I agree with the Tree Officer that a large proportion of the proposed garden for the dwelling would be occupied by tree cover as shown below by the revised block plan:



Given the orientation of the plot the retained specimens would shadow the rear of the house and lead to a potential demand for further felling in the future. It is acknowledged that the trees are protected by virtue of their presence within the Conservation Area and therefore any future applications for felling would be assessed on their own merits and potentially resisted if the condition and amenity value of the trees warranted such. It is stated that the intention is for the applicants to move into the proposed dwelling and that they are fully aware of the fact that they would be living amongst the trees which may amount to a degree of shading.

Unfortunately I do not consider that this would justify the sub-standard amenity provision for any proposed occupier (even if the intention is that the first occupiers would be the applicant). The revised proposal demonstrates that the dwelling would almost entirely be served (with the

exception of one window on the eastern elevation) by south facing windows. The rear garden of the plot would be almost completely occupied by the retained tree cover to a degree that the proposed dwelling would be afforded severely disrupted natural light and significant shadowing from the existing trees which are of a significant scale. It would not be appropriate to mitigate this through further tree removal given the value that these specimens offer to the wider character of the area including in heritage terms.

The modestly sized plot is therefore considered insufficient to deliver an appropriate amenity provision for any proposed occupiers contrary to the requirements of Policy DM5 and the wider sustainability aims of the NPPF.

It is noted that there is a large group Tree Preservation Order to the west of the site at the grounds of Winthorpe Hall. The dwelling would be set a sufficient distance from these specimens such that I have identified no adverse impact on the protected trees.

### 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.

The proposal site forms existing residential curtilage and therefore there is an implicit likelihood that any proposed development within the site would have a close spatial relationship with the host dwelling. It is noted that at the current time the site remains within the same ownership as the host dwelling but this is by no means a guarantee for the future and it is therefore necessary to ensure that the development can create an appropriate amenity relationship for the lifetime of the development.

In some respects the preceding section on the level of tree cover within the site has an impact on the resultant amenity too in that the retained trees would provide a level of screening to the proposed dwelling which would protect neighbouring amenity. The tree cover is also protected by virtue of the sites presence within the Conservation Area.

As is already referenced, the north elevation of the proposed dwelling would be separated from the host dwelling by a distance by approximately 35m. More notably however, the revised proposed does not feature any windows in the north elevation towards the host dwelling and therefore potential overlooking or overbearing impacts would not be experienced.

The separation distance between the south elevation and the neighbouring dwelling at no. 68 Gainsborough Road would be shorter at around 21m but this relationship would be rear elevation to side gable and therefore is considered an appropriate distance to safeguard neighbouring privacy particularly in the context of the level of retained tree cover which would continue to separate the dwellings.

The plot allows for appropriate separation distances and indeed the level of tree cover significantly reduces the opportunity for the proposed dwelling to create detrimental amenity impacts. However, this does not overcome the substandard level of amenity for the proposed occupiers as discussed in the preceding section.

### 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 and seeks to ensure no detrimental impact upon highway safety.

Access to the site would be created from Gainsborough Road in the eastern boundary of the site. The revised plans show that this would be from a gated access into a small turning area.

The Highways Authority has assessed the submitted application with their comments listed in full above. The local concerns in respect to the proposed access are acknowledged and indeed have been referenced by the comments of the Highways Authority. In making their assessment, including through a site visit, the use of the proposed access and its associated visibility is not considered to amount to a highways safety harm which would warrant resistance of the proposal. However, in the latest comments this is caveated on the basis that visibility splays would need to rely on trees and vegetation being cut back which would clearly amount to greater impacts on trees and heritage than envisaged by the submitted documents.

I noted during my site visit that there were cars parked on the highway which could affect visibility in and out of the access. However, I agree with the Highways Authority that it would be difficult to sustain a reason for refusal solely on this basis. The bends of the road will naturally slow the traffic and a precedent for similar types of vehicular access has been established by the existing neighbouring dwellings. No further details of visibility splays have been sought on the basis of the latest Highways comments given that the development is unacceptable in other respects and therefore it is not considered reasonable to put the applicant to further expense.

Notwithstanding this, if Members were minded to approve then subject to the imposition of conditions suggested by the Highways Authority which could reasonably be attached to any forthcoming permission, I have identified no conflict worthy of refusal against Spatial Policy 7 or the relevant elements of Policy DM5.

### Impact on Ecology

Core Policy 12 states that the Council will seek to conserve and enhance the biodiversity of the District and that proposals will be expected to take into account the need for the continued protection of the District's ecological and biological assets. Policy DM7 supports the requirements of Core Policy 12 and states that development proposals affecting sites of ecological importance should be supported by an up to date ecological assessment.

The NPPF incorporates measures to conserve and enhance the natural and local environment, including through Chapter 15. Paragraph 175 of the NPPF requires that in determining planning applications LPA's should apply principles relating to, amongst other matters, appropriate mitigation and opportunities to conserve or enhance biodiversity.

The application has been accompanied by a Protected Species Survey carried out by ecologists BJ Collins and dated October 2018. The ecology survey identified a very limited potential ecological impact from any proposal for a development on the garden, with the proposed new dwelling sitting in a landscape which is modified and maintained to a high ornamental standard. The habitats of value on the site include for native hedgerows, on the north-west and part north-east

boundary, as well as a range of non-native mature hedgerows with value for species such as nesting birds. There is an area of deciduous woodland to the southern side of the boundary which has ecological value for a range of mammals, birds and invertebrates.

Requirements for further ecological works are minimal and include mitigation such as undertaking works outside of bird breeding season which could be secured by condition if permission were to be otherwise forthcoming. The report also makes reference to three trees which have bat roosting potential however having cross referenced these specimens with the Tree Survey they are all proposed for retention and therefore I see no reason for further survey works / mitigation measures in line with the current application submission.

### Overall Balance and Conclusion

The applicant has responded to concerns raised by Officers during the life of the application to submit a revised scheme which has specifically attempted to respond to the relationship which the proposed dwelling would have with the host dwelling in the heritage context particularly. Whilst the revised design and its intentions are noted, the matter remains that the development of this part of the site would detract from the setting of The Academy. Moreover, currently this site can still be read in association with the parkland, but the development as proposed would permanently detach the site from the parkland. The parkland makes an important contribution to Winthorpe Hall and other associated buildings, including The Academy and the historical significance and character of the conservation area. On this basis the proposal would amount to less than substantial heritage harm.

In addition to the above, whilst the intentions to retain as much tree cover as possible are supported (and indeed necessary from a heritage perspective), this has detrimental consequences for any proposed occupiers of the dwelling in amenity terms. Almost the entirety of the curtilage associated with the dwelling would be covered by tree specimens, some being of significant scale and height. In the context of almost solely south facing windows, any proposed occupiers of the dwelling would suffer an unacceptable degree of overshadowing and overbearing.

The benefit of a marginal contribution to the Districts Housing Supply is in no way considered to outweigh the above identified harm and therefore the recommendation is one of refusal on the basis of the reasons below.

### RECOMMENDATION

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

#### Reasons

01

The application site is within the designated Conservation Area of Winthorpe. Moreover, the site is within the grounds of the Grade II listed dwelling known as The Academy and historically the site was part of Winthorpe Hall parkland, therefore within the historic setting of the Grade II\* listed Winthorpe Hall. The trees within the site have been identified in the conservation area appraisal as a significant group of trees. Currently there is a low picket fence between the garden of The Academy and the Parkland belonging to Winthorpe Hall.

The development as proposed would disrupt and significantly alter the contribution this tree area makes to Winthorpe Hall Parkland as well as the designated Conservation Area. Moreover, the positioning of the proposed dwelling, in front of The Academy would represent an awkward relationship with the host dwelling even in the revised form of the design which intends to represent an ancillary building form.

The proposal will also cause harm to the character and appearance of the conservation area as well as the setting of the Grade II listed The Academy and the setting of the Grade II\* listed Winthorpe Hall in respect to its associated Parkland. Whilst amounting to less than substantial harm, in line with paragraph 196 of the NPPF, this harm is not considered to be outweighed by the public benefits of the proposal, namely in respect of the contributing marginally towards the housing stock within the District and supporting local services. The proposal is therefore contrary to the NPPF which forms a material consideration as well as the local Development Plan namely, Spatial Policy SP3 (Rural Areas); Core Policy 9 (Sustainable Design); Core Policy 14 (Historic Environment); of the adopted Newark and Sherwood Core Strategy 2019, Policy DM9 (Protecting and Enhancing the Historic Environment); and Policy DM5 (Design) of the Allocations and Development Management DPD. The proposal is also contrary to the objectives of preservation required under section 72 of the Act and the Winthorpe Conservation Area Appraisal.

02

The proposed siting of the dwelling is in an existing area of dense tree cover. The proposal would amount to the loss of five trees specifically within the site albeit the quality of these trees does not warrant them worthy of specific retention.

Notwithstanding this, the proposed dwelling would have insufficient functional amenity space that would be completely dominated by surrounding trees intended for retention, the impact of which would be exemplified by the almost complete reliance on south facing windows for the dwelling which would lead to overshadowing and restricted natural light internally.

There would also be seasonal tree debris (from leaves, fruits, seeds etc) which could be seen as a nuisance as well as apprehension of occupants over the possible failure of trees/tree parts that are likely to be of concern to any future occupiers given the close proximity of large trees to their dwellings and this would also lead to pressure for repeat pruning and/or tree felling. Furthermore the space that the dwelling would have access to would be severely restricted and overshadowed with occupiers having to manage their space as woodland rather than garden. Overall it is considered that the proposal is contrary to Policies SP3 (Rural Areas), CP9 (Sustainable Design) and CP12 (Biodiversity and Green Infrastructure) of the adopted Newark and Sherwood Core Strategy (2019) and Policies DM5 (Design) and DM7 (Biodiversity and Green Infrastructure) of the adopted Allocations and Development Management DPD which together form the Development Plan, as well as the NPPF, a material planning consideration.

#### 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. 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. 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.

#### BACKGROUND PAPERS

Application case file.

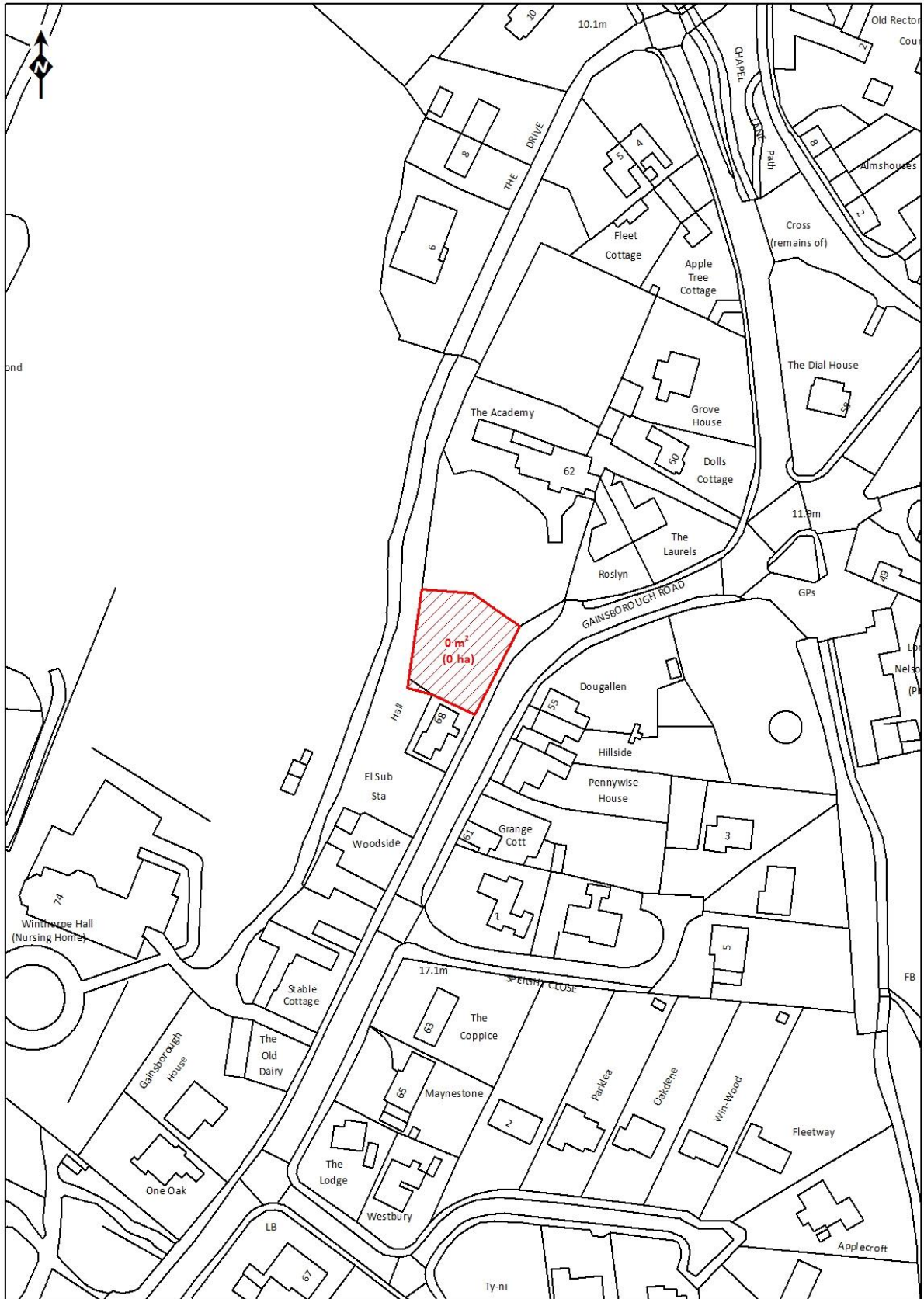
For further information, please contact Laura Gardner on ext. 5907.

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**  
**Director of Growth and Regeneration**



Committee Plan - 19/00503/FUL



© Crown Copyright and database right 2019 Ordnance Survey. Licence 100022288. Scale: Not to scale

## PLANNING COMMITTEE – 6 AUGUST 2019

|                        |  |                                |
|------------------------|--|--------------------------------|
| <b>Application No:</b> | <b>19/01129/FUL</b>                                    |                                |
| <b>Proposal:</b>       | <b>2 No. detached dwellings with integral garages.</b> |                                |
| <b>Location:</b>       | <b>2 Gainsborough Road<br/>Winthorpe<br/>NG24 2NN</b>  |                                |
| <b>Applicant:</b>      | <b>Ms Jane Goodridge</b>                               |                                |
| <b>Registered:</b>     | <b>24.06.2019</b>                                      | <b>Target Date: 19.08.2019</b> |

**This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Winthorpe Parish Council has objected to the application which differs to the professional officer recommendation.**

### The Site

The application site relates to an area of land just under 0.5 hectares in extent which as existing forms part of the existing residential curtilage of the dwelling known as High Leys. As such, the characteristics of the site are grassland and occasional tree specimens. The site is accessed from Gainsborough Road to the east of the site. The wider site within the applicant's ownership immediately to the north west of the site is formed of dense tree cover.

The host dwelling is a detached modern dwelling set back around 60m from the highways which has recently been renovated with extensions and alterations as detailed in the planning history section below.

Land to the south of the site forms residential curtilages within the village accessed from Woodlands and two dwellings from Woodham Cott. The designated Conservation Area for the village is some 120m to the south of the site boundary intervened by the aforementioned built form of the village.

The site itself is within Flood Zone 1 according to the Environment Agency maps albeit some of the land in the applicant's ownership to the north west is within Flood Zone 2.

### Relevant Planning History

There is no planning history in relation to the site itself other than householder applications for the host dwelling as follows:

**17/00478/FUL** - Householder application for erection of a triple garage (re-submission of 16/01970/FUL). *Application approved April 2017.*

**14/01803/FUL** - Householder Application for Side and Rear Extension and Alterations to existing dwelling and new Gates and entrance walling. *Application approved December 2014.*

## The Proposal

The application seeks full planning permission for the erection of 2 no. semi-detached; 3 bedroom dwellings set across two storeys. The dwellings would be positioned to the rear of the existing dwelling sharing the same vehicular access with Plot 1 positioned northwards and staggered slightly forwards of Plot 2.

Plot 1 would have an approximate floor space of 363m<sup>2</sup> with Plot 2 being slightly smaller at around 355m<sup>2</sup>.

According to the submitted statement the dwellings are designed as a contemporary interpretation of the arts and crafts movements characterized by low eaves and accommodation within the roof space facilitated by the inclusions of numerous roof dormers. Eaves heights are approximately 2.5m with maximum pitch heights of around 7.75m.

The application has been accompanied by the following plans and documents:

- Site Location Plan – 2119824;
- Topographical Survey – 18 – 122 – 01 Rev. A;
- Proposed Site Layout – 772H-14A;
- Plot 1 Floor Plans – 772H-15;
- Revised Plot 1 Elevations – 772H-16A;
- Plot 2 Floor Plans – 772H-17;
- Revised Plot 2 Elevations – 772H-18B;
- Arboricultural Method Statement – AWA Tree Consultants dated June 2019;
- Arboricultural Report and Impact Assessment – AWA Tree Consultants dated June 2019;
- Outline Sustainable Drainage Strategy dated June 2019;
- Preliminary Ecological Appraisal – delta simons dated August 2018;
- Supporting Planning Statement dated June 2019;
- Supporting letter from Globe Consultants dated 25<sup>th</sup> July 2019.

## Departure/Public Advertisement Procedure

Occupiers of 13 properties have been individually notified by letter.

## Planning Policy Framework

### The Development Plan

#### **Newark and Sherwood Amended Core Strategy DPD (adopted March 2019)**

Spatial Policy 1 - Settlement Hierarchy

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 & Development Management DPD**

DM5 – Design

DM7 – Biodiversity and Green Infrastructure

### **Other Material Planning Considerations**

- National Planning Policy Framework 2019
- Planning Practice Guidance (online resource)

### **Consultations**

**Winthorpe Parish Council** - The Parish Council objects to the proposal on the basis that it is outside of the village boundary and we feel that this will set a precedent for future developments.

The property is opposite the village school entrance and there is a safety concern about congestion with increased vehicles.

**NCC Highways Authority** – The access is sufficient to cater for the additional dwellings and meets Highway Design Guidance i.e. it is 5m wide for the first 5 metres. It is well constructed.

There will be negligible impact on the public highway. Therefore, no objections are raised.

**Archeological Advisor** - This site lies close to a potential Iron Age to Roman settlement. The adjacent field also appears to contain some slight but visible earthworks of unknown origins.

Given this I think it's appropriate to secure the recording of any archaeological finds and features revealed during the development by condition.

Recommendation: Prior to any groundwork 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 should 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) publically accessible.' Policy 199 National Planning Policy Framework (2018)'

An outline of the required work 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.

**Trent Valley Internal Drainage Board** – The site is outside of the Trent Valley Internal Drainage Board district but within the Board's catchment.

There are no Board maintained watercourse in close proximity to the site, however, the Environment Agency Slough Dyke is in close proximity and they should be consulted.

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 Environment Agency will be required).

Surface water run-off rates to receiving watercourse 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.

**Environment Agency** – There are no environmental constraints associated with the application site which fall within the remit of the Environment Agency. The Lead Local Flood Authority should be consulted on the proposals for their requirements regarding the disposal of surface water arising from the development.

If the proposal subsequently changes such that you feel it may pose a significant environmental risk then please do not hesitate to contact us and we will review our position.

**Three letters of representation has been received which can be summarized as follows:**

- The land is agricultural land;
- The houses are not suitable for first time buyers;
- There is an existing tree which prevents growth in a neighbouring vegetable plot – if permission is granted this tree should be conditioned to be felled;
- The site is outside the village boundary and development is understood to be restricted;
- Previous application for a garage was rejected on the grounds of over development;
- The proposed materials would be in keeping with the host dwelling but only because it has been changed from natural coloured brick;
- High Leas has already almost doubled in size;
- 2 more dwelling is not low key; subtle; or sensitively designed;
- The development is opposite a school entrance that is already very busy at certain times of the day;
- This could set a precedent for further development at the end of the village.

Comments of the Business Manager

Principle of Development

The Adopted Development Plan for the District is the Core Strategy DPD (2019) and the Allocations and Development Management Policies DPD (2013). 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. Spatial Policy 1 (Settlement Hierarchy) of the Council's Core Strategy sets out the settlements where the Council will focus growth throughout the District. Applications for new development beyond Principal Villages as specified within Spatial Policy 2 will be considered against the 5 criteria within Spatial Policy 3. However, Spatial Policy 3 also confirms that,

development not in villages or settlements, in the open countryside, will be strictly controlled and restricted to uses which require a rural setting. Direction is then given to the relevant Development Management policies in the Allocations and Development Management DPD.

The first assessment which is necessary as part of the current assessment is to determine whether the site can be considered in the village or falls outside of the village and therefore should be assessed as development in the open countryside.

I note the approach to this which has been taken in the Supporting Planning Statement that the site forms part of the built extent of the village on the basis that it forms part of the residential curtilage of the existing dwelling, therefore rendering the explanation text of the Amended Core Strategy Spatial Policy 3 relevant (underlined emphasis):

*4.25 In implementing Spatial Policy 3 its locational criteria supports the development of sites in sustainable accessible villages. In decision making terms this means locations within the existing built extent of the village, which includes dwellings and their gardens, commercial premises, farm yards and community facilities.*

I concur that the above paragraph is a clear indication of the intentions of the Inspector's modifications in agreeing the amended wording of Spatial Policy 3. Having visited the site, I am confident that the site can be reasonably considered as part of the extensive existing residential curtilage of High Leas. For the purposes of the locational criteria of Spatial Policy 3 therefore, the site is in the village. It is therefore necessary to assess the development against the five criteria of Spatial Policy 3 as undertaken below.

#### *Location*

The first criterion of Spatial Policy 3 requires new development to be in villages, which have sustainable access to Newark Urban Area, Service Centres or Principle Villages and have a range of local services themselves.

Winthorpe is spatially close to the Newark Urban Area and despite the severance of the road network through the creation of the A1, the Urban Area is only a short travel distance from the village. Winthorpe also has a number of services including a public house; primary school; community centre and Parish Church. On the basis of the above discussion that the site is in the village, the proposal would satisfy the locational criterion.

#### *Scale*

The requirement of SP3 is that new development should be appropriate to the proposed location and small scale in nature. The proposal relates to two dwellings which is considered small scale in numerical terms when taken in the context of the size of the village. The scale of the proposal in respect to its design implications is discussed further in the Character section below.

#### *Need*

The wording of the 2019 Core Strategy requires new housing to demonstrate that it would help to support community facilities and local services. Given the location of the site in the confines of the village, I am satisfied that the occupiers of the proposed dwelling would have sufficient opportunity to support and help sustain the longevity of the existing local services within the

village.

### *Impact*

In some respects the Impact criterion lends itself to discussion in the context of other material consideration such as the impact on the highways network and neighbouring amenity (discussed in further detail below). In respect of local infrastructure, I am again satisfied that the development for two dwellings could be accommodated for within existing village infrastructure without causing a detrimental impact.

### *Character*

The character element of Spatial Policy 3 confirms that new development should not have a detrimental impact on the character of the location or its landscape setting. This stance is carried to Policy DM5 which confirms that the rich local distinctiveness of 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 development. Of further relevance to this specific application is the confirmation that backland development will only be approved where they would be in keeping with the general character and density of existing development in the area, and would not set a precedent for similar forms of development, the cumulative effect of which would be to harm the established character and appearance of the area.

The proposed dwellings would be set back over 100m from Gainsborough Road using an existing access which at present serves the host dwelling solely. There is therefore no doubt that the development would be in a backland form. I have carefully considered the impacts of this in character terms. Firstly it is notable that backland development is not entirely foreign in the immediate vicinity of the site given the presence of the plot known as The Tallat at no. 4 Gainsborough Road which is a backland plot. Moreover, the residential development to the south of the site is formed of a cul-de-sac arrangement such that there is no defined building line which the development as proposed would contravene.

In terms of precedent, there are certain site circumstances which in my view would result in the strong resistance of further development. Any further development to the north of the site would be considered as open countryside and therefore resisted in principle. Any development to the west of the site would be in an area of dense woodland which would be resisted due to the character harm from its wholesale removal (the group of trees being Category A according to the submitted surveys). I therefore consider the risk of further backland development coming forward should this application be approved to be low on the basis that the site circumstances would be self-governing. The proposal is therefore considered to preserve the character of the area sufficiently to meet the requirements of Spatial Policy 3. The specific design implications of the dwellings as proposed is discussed in further detail below but for the avoidance of doubt, the overall principle of development against the Spatial Strategy is acceptable.

### Impact on Design

As is detailed above, design implications are governed by Policy DM5. In addition to this 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.

The submitted Statement claims that the design strategy which has been brought forward recognizes the transitional nature of the site from the distinction between the main built up area of the village and the open countryside. On this basis, the proposed dwellings have been designed to be 'low key and subtle' whilst at the same time delivering a distinct form and character. The overall design approach is claimed to be a contemporary interpretation of the arts and crafts movements.

It is my view that the approach taken is successful in the context of the site surroundings and I concur that the use of largely roof dormers (with the exception of forward projecting full height gables) gives the perception of an overall reduced height and scale (albeit the maximum pitch height at around 7.75m is relatively restrained for a two storey dwelling in any case). Whilst the development (in the rare instances that it is visually appreciated from the public realm) would appear as a modern interpretation, the nods to the design of the existing dwellings to the south of Gainsborough Road are appreciated and supported.

Exact details of materials have been sought during the life of the application to avoid the need for a potential condition however the agent has confirmed the acceptance of a condition to secure the exact details. The use of brick and render is considered acceptable noting that the positioning of the site is relatively discrete and therefore it is not considered crucial that the materials follow a particular established palette.

#### Housing Mix and Density

Core Policy 3 states that the District Council will seek to secure new housing development which adequately addresses the housing need of the District, namely: family housing of 3 bedrooms or more; smaller houses of 2 bedrooms or less; and, housing for the elderly and disabled population.

The development proposed is a windfall site and therefore would provide an added contribution towards the District's housing supply. Both dwellings proposed are large spacious three bedroom properties albeit the floor plans also indicate playrooms which could easily be used as a bedroom depending on occupiers preference. Nevertheless each of the dwellings have included a bedroom at ground floor and therefore I accept that the position that they could readily provide lifetime housing. On this basis the proposal would meet two of the requirements of Core Policy 3 and therefore would contribute positively to the housing offer of the District.

#### Impact on Trees and Ecology

Core Policy 12 of the Core Strategy and Policy DM7 of the Allocations and Development Management DPD (ADMDDPD) outline the importance of the protection and enhancement of the area's biodiversity and open spaces. The protection of individual sites is vital as part of the preservation of the overall 'Green Infrastructure' network of green spaces, landscapes and natural elements that intersperse and connect the District's settlements and surrounding areas.

The application has been accompanied by an Arboricultural Method Statement and Arboricultural Report and Impact Assessment dated June 2019. The area where the dwellings are proposed is largely laid to lawn with minimal tree cover in comparison to the rest of the wider site in the applicant's ownership which includes numerous specimens and dense woodland (surveyed as 55 individual trees and 5 groups of trees). The Tree Protection Plan shows that the development would necessitate the removal of just one specimen to facilitate the turning area for the southern plot. The details confirm this to be an apple tree of Category C quality and therefore there is no



objection in principle to its loss. The remaining trees to be retained would be protected by Tree Protection Fencing and a small no dig area along the drive which could be secured by condition. Taking into account the proposed additional planting (which has agreed to be secured by condition), it is considered that the development of the site offers the opportunity to enhance the biological value of the site. I note the neighbouring comments in respect to a tree preventing growth of vegetables in a neighbouring garden but I do not consider it would be reasonable or necessary to require this tree to be removed as part of this application.

A Preliminary Ecological Appraisal has also been submitted for consideration with the application dated August 2018. The report acknowledges that the scattered trees and shrub around the site provides opportunities for nesting birds. However, the site is not considered to support roosting bats with negligible potential for roosts including in the trees. The site does however provide suitable foraging and commuting habitat with connectivity to the wider landscape. The report does not warrant further surveys works but does suggest mitigation in terms of avoiding site clearance works in the bird breeding season. Given that the proposal relates to the removal of just one tree, I consider it would be more reasonable to construct a bespoke condition that if this tree is to be removed in bird breeding season, then it should first be surveyed for nests.

Overall the development of the site for two dwellings would not incur any harmful impacts to the ecological value of the site and would therefore accord with the requirements of Core Policy 12 and Policy DM7.

#### Impact on Residential 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.

The proposal site forms existing residential curtilage and therefore there is an implicit likelihood that any proposed development within the site would have a close spatial relationship with the host dwelling. Plot 1 would be closest but even this intervening distance would be approximately 36m from the principle elevation to the rear corner of the host dwelling. There is an intention to plant a hedge between the respective dwellings (and proposed plots) which, with the aforementioned distances, would mitigate against direct overlooking and loss of privacy.

Moving then to assess the other sensitive neighbouring receptors to the south of the site, the biggest impact likely would be from Plot 2 as proposed. However, given the orientation of the plot the closest element of built form would be the side elevation which does not feature any proposed windows and includes a hipped roof which would assist in moving the bulk of the built form away from the boundary. The submitted site plan annotates a distance of almost 20m between the respective dwellings which in taking account of the oblique line of site from the rear of the neighbouring dwelling closest and the existing tree cover along the boundary (shown to be retained) is considered sufficient to alleviate any harmful overbearing impacts.

The plots would be afforded a sufficient level of private amenity space. The proposal as a whole is therefore compliant with the amenity considerations required by Policy DM5.

#### Impacts 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 and seeks to ensure no detrimental impact upon highway safety.

The intention is for the proposed dwellings to use the same access as the host dwelling with internal garages and areas of hard standing for the parking and turning of vehicles. NCC Highways has assessed the application as the relevant highways authority and raised no objections that the existing access is already sufficient to cater for the additional dwellings.

I note the concerns of the Parish Council in respect to the proximity of the school entrance but I have identified no reason to disagree with the highways expertise and therefore have identified no highways harm which would warrant the resistance of the proposal.

### Other Matters

The Council's appointed archaeological advisor has commented on the scheme in respect to the sites proximity to a potential Iron Age to Roman settlement. It is suggested that the impacts of the development could be mitigated by an appropriately worded condition which has been agreed by the agent during the life of the application.

Trent Valley Internal Drainage Board and the Environment Agency both make reference to the need to agree matters of surface water drainage. This could be done via an appropriately worded condition.

### Conclusion

The development proposed represents a windfall development in a rural area. Having assessed the proposal against the relevant criteria of Spatial Policy 3, the dwellings proposed would be acceptable in principle in that they would support the local services of the village without imposing any resultant harmful impacts. The benefits of the scheme in terms of additional housing delivery must therefore be afforded positive weight. The remainder of the appraisal above assesses all other material planning considerations and does not identify any resultant harm which would outweigh the housing benefits. The proposal is therefore recommended for approval subject to the conditions as outlined below.

### RECOMMENDATION

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

#### Notes to Applicant

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 details and plans reference:

- Proposed Site Layout – 772H-14A;
- Plot 1 Floor Plans – 772H-15;
- Revised Plot 1 Elevations – 772H-16A;
- Plot 2 Floor Plans – 772H-17;
- Revised Plot 2 Elevations – 772H-18B;

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 above damp proof course shall take place until manufacturers details (and samples upon request) of the external facing materials (including colour/finish) 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.

Reason: In the interests of visual amenity.

04

Notwithstanding the details indicated on approved plan reference 'Proposed Site Layout – 772H-14A', 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 through the seeking of either a non-material amendment or a subsequent discharge of condition application.

Reason: In the interests of residential and visual amenity.

05

Notwithstanding the details shown on plan reference Proposed Site Layout – 772H-14A, 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.
- proposed finished ground levels or contours;

- car parking layouts and materials;

Reason: In the interests of visual amenity and biodiversity.

06

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 next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority. The approved hard landscaping shall be implemented on site prior to first occupation.

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

The development hereby approved shall be carried out in accordance with the Tree Protection measures outlined in Section 3 of the submitted Arboricultural Method Statement and associated Appendix 5. For the avoidance of doubt this includes the erection of protective fencing and a zoned Construction Exclusion area.

Reason: To protect the existing biological and ecological value of the site.

08

Should the removal of Tree 58 hereby approved take place in the bird breeding season (March to August inclusive) then the specimen should be surveyed prior to its removal by a suitably qualified ecologist to check the trees habitats immediately prior to works commencing to confirm that no nesting birds will be affected by the proposed works; works would then need to proceed within the following 24 hours. If nesting birds are found then works must halt immediately until the nest has been vacated.

Reason: To protect the ecological potential of the site.

09

Prior to any groundworks a Scheme of Archaeological Works (on the lines of 4.8.1 in the Lincolnshire Archaeological Handbook (2016)) shall be submitted to and approved in writing by the local planning authority. It is envisaged that this would involve monitoring of all groundworks, with the ability to stop and fully record archaeological features. The development shall thereafter be carried out in accordance with the approved scheme unless otherwise agreed in writing by the local planning authority.

Reason: In recognition of the archeological potential of the sites surroundings.

No part of the development hereby approved shall commence until a detailed surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. The scheme shall be implemented in accordance with the approved details prior to completion of the development. The scheme to be submitted shall:

- Demonstrate that the development will use SuDS throughout the site as a primary means of surface water management and that design is in accordance with CIRIA C753. The hierarchy of drainage options should be infiltration, discharge to watercourse and finally discharge to sewer subject to the approval of the statutory utility. If infiltration is not to be used on the site, justification should be provided including the results of infiltration tests (compliant with BRE365).
- Limit the discharge rate generated by all rainfall events up to the 100 year plus 40% (for climate change) critical rain storm to  $Q_{bar}$  for the developable area. The proposed rate within the FRA must be supported by hydraulic calculations.
- Provide detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods.
- Evidence of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure long term

Reason: A detailed surface water management plan is required to ensure that the development is in accordance with NPPF and local planning policies.

#### 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](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)

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

Should any works be required to be carried out within the public highway, they should be constructed to the satisfaction of the Highway Authority. You would, therefore, be required to contact VIA, in partnership with NCC, tel: 0300 500 8080 to arrange for these works to be carried out.

#### BACKGROUND PAPERS

Application case file.

For further information, please contact Laura Gardner on extension 5907.

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**  
**Director of Growth and Regeneration**



© Crown Copyright and database right 2019 Ordnance Survey. Licence 100022288. Scale: Not to scale

## PLANNING COMMITTEE – 6 AUGUST 2019

|                        |   |  |
|------------------------|---|--|
| <b>Application No:</b> | <b>19/00184/FULM</b>  |  |
| <b>Proposal:</b>       | <b>Change of use of land for equestrian use, extension of existing building to form Tractor shed, storage, Tack Room and 1 additional stable. Alterations to land levels.</b> |  |
| <b>Location:</b>       | <b>Field OS 8200 Marriott Lane Blidworth Nottinghamshire</b>  |  |
| <b>Applicant:</b>      | <b>Mr Steve Heidukewitsch</b>   |  |
| <b>Registered:</b>     | <b>3<sup>rd</sup> April 2019</b>  | <b>Target Date: 3<sup>rd</sup> July 2019</b> |
|                        | <b>Extension of time agreed until 7<sup>th</sup> August 2019</b>  |  |

**This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Blidworth Parish Council has objected to the application which differs to the professional officer recommendation.**

### The Site

This application relates to circa 2.051 hectares of agricultural land located to the northern side of an access track leading from Marriott Lane to the south east. The site is undulating sloping down from south to north and then sloping steeply northwards towards Norwood Hill Farm.

There is an L shaped block work building with corrugated tin roof comprising 4 stables with hardstanding to the front and a wooden shed

There is a gated access from the track to the south eastern corner of the site which serves an area of hardstanding with driveway serving the existing stable block.

The site is bounded by mature hedgerow, with laurel hedgerow screening the existing stables and shed from public view.

To the south east the site is adjoined by a single storey property with windows to the elevation facing the site. The site is also bounded to the east by the rear gardens of the row of two storey dwellings on Marriott Lane

The site falls within the Nottinghamshire Green Belt.

### Relevant Planning History

**14/00272/FUL** – planning permission was granted in April 2014 for the erection of a tractor shed –



this was not implemented.

**06/00291/FUL**– planning permission granted in June 2006 for the erection of a tractor shed (8m x 6m) – this was not implemented.

**96/50261/FUL** – Permission was refused in July 1996 for the erection of stables – appeal subsequently dismissed and the stables erected.

**94/50252/FUL** – Permission was refused in June 1995 for the erection of an agricultural building and construction of access track.

### The Proposal

During the lifetime of this application revised plans have been deposited which reduce the scale of the proposed extension to the stable. Full planning permission is now sought for the following development:-

- Change of use of the land for equestrian use.
- The erection of an additional stable and tack room attached to the existing stable block.
  - The proposed stable has maximum dimensions of 3.8m depth, 3.7m width and ridge height of 3.3m (eaves height 2.4m)
  - The tack room would have maximum dimensions of 3.3m depth, 5.7m width ridge height of 3.3m (eaves height 2.4m).

External materials would match those of the existing building.

An additional area of hardstanding circa 7m wide and 6m deep would be provided to serve the extended stables. This would have a stone sub base with wood bark finish.

It is also proposed to lower land levels immediately to the south of the extended block by a maximum of circa 1m with 2m deep slope at sides and 3m deep slope to the end.

A new hawthorne hedge is proposed to the south of the stable building along the ridge of the embankment

The application has been accompanied by:-

Revised Elevations and site layout – S Heidukewitsch / 18 / 3 REV E05 deposited 24<sup>th</sup> July 2019

Revised Floor Plans - S HEIDUKEWITSCH 18/2 REV EO4 deposited 3<sup>rd</sup> July 2019

A copy of a statement forwarded to neighbouring residents outlining the proposed use and the ethos of the development (received 6<sup>th</sup> June 2019)

### **Planning Policy Framework**

*Newark and Sherwood District Council Amended Core Strategy DPD (adopted March 2019)*

Spatial Policy 1 – Settlement Hierarchy  
Spatial Policy 4B – Green Belt Development  
Spatial Policy 7 – Sustainable Transport  
Core Policy 9 – Sustainable Design  
Core Policy 13 – Landscape Character

*Allocations and Development Plan Development Plan Document (Adopted July 2013)*

Policy DM5 – Design  
Policy DM12 – Presumption in Favour of Sustainable Development

*Other Material Considerations*

- National Planning Policy Framework (2019)
- National Planning Policy Guidance (on line resource)

### **Consultations**

#### **Blidworth Parish Council – comments received 14<sup>th</sup> May 2019**

Blidworth Parish Council considered the above referenced planning application at their ordinary meeting on 9th May 2019.

They voted to object to the proposal, vote as follows: -

3 Support 5 Objections 2 Abstentions

Councillors asked for the following be considered: -

- Increase in traffic
- Proximity to a children's play area

**NSDC Conservation – comments received 13 June 2019** - The site is outside of Blidworth Conservation Area however the natural rural setting adds to the character of the area.

The reduction in the scale of the building and hardstanding of the area helps minimise the engineered nature of the proposed development. It is considered that the proposals will no cause harm to the setting of the conservation area and reflects the objectives of preservation required

under section 72 of the Act. In addition the proposal follows the heritage objectives contained within the Council's LDF DPDs and section 16 of the NPPF.

#### **Nottinghamshire County Council Highways – Latest comments received 17<sup>th</sup> June 2019**

The applicant has confirmed by email dated 06/06/19 that this proposal is expected to generate one additional vehicle to the site, therefore, the Highway Authority would not wish to raise objection.

As stated in my previous comments dated 31/05/19, consultation should be carried out with the Rights of Way Officer at Via East Midlands/NCC for advice/approval.

**Comments received 12.06.19** - The applicant has confirmed by email dated 06/06/19 that this proposal is expected to generate one additional vehicle to the site, therefore, the Highway Authority would not wish to raise objection.

As stated in my previous comments dated 31/05/19, consultation should be carried out with the Rights of Way Officer at Via East Midlands/NCC for advice/approval.

#### **Nottinghamshire County Council Rights of Way – comments received 17<sup>th</sup> June 2019**

Confirm that Blidworth Public Footpath No. 2 runs along the access track to the site. The Rights of Way team have no objection to the proposal providing that the following are met:

- The footpath should remain open for public use during the works as far as is practicable. If the safety of footpath users cannot be guaranteed during the works then the applicants will be required to apply for a Temporary Traffic Regulation Order (TTRO) to temporarily close the footpath. A minimum notice period of 6 weeks is required to facilitate a TTRO. Further information is available from the Countryside Access team, on 0300 500 80 80 or countrysideaccess@nottscc.gov.uk.
- The surface of the Public Footpath should not be disturbed. Any subsequent damage to the surface of the lane over which the footpath passes is the responsibility of those with private vehicle rights along the lane.

**Ramblers Association comments received 26 April 2019** - Although we have no formal objection to this development it needs to be kept in mind that the access track is a public right of way (Blidworth Footpath 2). Pedestrian safety needs to be guaranteed during construction.

#### **Environment Agency – comments received 9 April 2019**

We have reviewed the submitted documents and on this occasion the Environment Agency has no formal comment to make regarding the submission as there are no environmental constraints associated with the site which fall within our remit.

#### **NSDC Environmental Health – 26 April 2019**

I refer to the above application and provided there is no commercial use I would have no concerns. Could this be conditioned on any consent given?

**Representations from 1 local resident/interested party has been received all objecting on the following summarised grounds:**

1 The track is unmaintained and I have recently spent a great deal of money levelling and surface dressing the lane after digging soak away tracks to prevent my property flooding (this was happening regularly).

2 The Parish Council have one of their main play grounds and football fields less than 20 meters from this application, so consideration needs to be taken when vehicles are driving the lane for children. A great many unaccompanied children run up and down the lane.

3 All vehicles should be asked to drive on to the land no be left on the lane, as I have a right of passage to my property. Also the lane is used by walkers, cyclists during a good weather day 70 to 100 people a day walk the lane.

4 Noise is a concern as this area is both a green belt area and a conservation area due to my property being a bungalow sleeping on the ground floor means people arriving before and after work to feed and muck out horses will have noise impact, I am aware a number of people will stable horses here 4 stables to now 5 equals at least 5 cars moving around twice daily. With the main vehicular access inside the land passing my bedroom and lounge patio doors by less than 10 feet. (the width of a driveway).

5 The existing 4 Stables have not been in use for a great many years and then not often mainly by one man as storage, so the impact on the area will intensify greatly now being used as a business

6 Currently the services to the stable block are not operational (as have previously run from a property some distance away now sold separately). I have been informed by the owner that a new electric and water services will have to be run all the way down the lane from the metaled road meaning the lane will have to be dug up so impact and noise on my property will be in question. Will terms be in place to put the lane back to a passable standard for my property access, pedestrian and horses.

7 Commercial vehicles using the lane could again be a noise problem and a risk to pedestrians, I'm considering building material deliveries, feed lorries, straw and hay lorries, Muck removal skips and Horses transport lorries/trailers.

**Appraisal**

**Principle of Development/Green Belt Considerations**

The site is located outside of the main built-up area of Blidworth within the Nottinghamshire-

Derby Green Belt. In accordance with Spatial Policies 1 and 4B, development within these parts of the Green Belt will be assessed in line with national guidance.

Spatial Policy 4B states that appropriate development in the Green Belt will be judged according to national Green Belt policy.

The NPPF identifies the protection of the Green Belt as a core planning principle. It states that one of the fundamental aims of the Green Belt is to keep land permanently open, and openness and permanence are its essential characteristics. Inappropriate development is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight must be given to any harm to the Green Belt, and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Paragraph 145 of this document states that the construction of new buildings in the Green Belt is inappropriate, with some exceptions including:

- the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it; and
- the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;

As noted above the NPPF provides that a change of use of land for outdoor recreation is considered appropriate development. I am therefore of the view that the proposed change of use of the land for personal equestrian use as confirmed in supporting documentation deposited with the application and which can be secured by condition is acceptable in this instance.

Turning to the proposed extension to the existing stable block to provide a store and tack room, under current policy there is no definitive percentage of floor space increase considered to be appropriate development within the Green Belt and as such, it is one of judgement for the LPA.

Generally, and as a rule of thumb where other local planning authorities have set thresholds within development plan policies these typically range between 30 to 50% (volume and/or floorspace increase) in determining whether extensions are disproportionate to the original building.

However, I am mindful that neither the NPPF nor the policies within the Core Strategy set out a specific percentage when considering what constitutes an addition to an existing building being disproportionate. Consideration therefore also needs to be given to the design of the proposal and whether its scale, form, mass and layout result in a property which would have an acceptable impact on the openness of the Green Belt.

As the table below indicates the proposed extension to the existing stables would fall within the 50% upper threshold guidance used by the Local Planning Authority.

|                              | <b>Existing</b>    | <b>Proposed addition</b> | <b>Percentage increase</b> |
|------------------------------|--------------------|--------------------------|----------------------------|
| <b>Footprint/floor space</b> | 65.1m <sup>2</sup> | 32m <sup>2</sup>         | 49%                        |
| <b>Volume</b>                | 180m <sup>3</sup>  | 90m <sup>3</sup>         | 50%                        |

Being mindful of this I am satisfied that the proposed extension in terms of its scale is on the cusp of proportionality. In terms of scale the ridge height of the new stable and tack room, this would be in line with that of the existing stable.

The proposed external materials (painted block work and corrugated sheeting to the roof) would also reflect those of the existing stables.

The regrading of the land levels results in the development being set in line with the existing buildings and at a lower level than the highway to the south. This together with the undulating landscape and the existing boundary hedgerows and the existing hedgerow around the stables screen the development screen the building and reduces any impact. Replacement hedgerow is also proposed along the crest of the slope formed as result of the changes in land levels immediately to the south of the extended building and additional surfacing which assists in assimilating the development into the Green Belt setting of the site.

I am mindful of the proposed additional hardsurfacing around the extension of the building to serve the extended stable block. This has been reduced in depth from 9m to 7m and would be a stone sub base with wood bark surface to soften any impact. This is considered to retain the rural setting of the site and would in officer opinion assist in retaining the character and appearance of the Green Belt

Taking the above into account it is considered that the proposal would be an appropriate form of development in the Green Belt and would not significantly impact on its openness or character.

### **Impact on Amenity**

Impact on amenity is a long standing consideration of the planning process and relates both to the impact on existing development as well as the available amenity provision for the proposed occupiers.

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 of the DPD states that development proposals should ensure no unacceptable reduction in amenity including overbearing impacts and loss of

privacy upon neighbouring development. In addition consideration should be given to the potential for crime and anti-social behaviour.

I am mindful that the immediately adjoining property to the south east (1A The Meadows Marriott Lane) has principle room windows which directly face the access drive serving the site, separated from this boundary by a 3m drive way.

Given that the proposal would only increase the number of stables on the site from 4 to 5 and I note that the applicant has confirmed that the site would be solely for personal use and not for any commercial activity. Although the stables are currently vacant, they could readily be brought back into their approved use and on balance it is not considered that the level of activity from 1 additional stable and the use of field as a paddock would be so significantly greater to justify refusal on these grounds. The stables themselves are some 20m from the boundary with this adjacent property.

Given the separation distances between the development with other residential properties to the south east of the site (circa 40m) and that the level of activity to and from the site would be low given that the proposal is for personal use only it is not considered that the proposal would result in any undue impact on residential amenity.

The proposal is therefore considered to accord with Policy DM5.

### **Impact on Highway Safety**

Policy 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. This is reflected within the emerging policy SP7.

The comments raised with regards to the proximity of the playground and playing fields to the site and highway and pedestrian safety are acknowledged.

However, as noted in the consultation section of this report, the Highway Authority has raised no objections to the proposal. The applicant has confirmed that the level of traffic to and from the site would equate to circa 1 additional vehicle. Given that the proposed equestrian use and development would be solely for personal and not for any business purposes the level of traffic to and from the site is not expected to increase so significantly so as to impact on highway safety and to justify refusal.

The comments of the Rights of Way and Ramblers are noted. It is considered reasonable that their comments are attached as an advisory note should members be minded to grant permission.

I note the comments received with regards to the parking of vehicles on the lane. Officers are satisfied that there is appropriate parking provision for vehicles within the site. Personal Rights of passage along the lane are not a material planning consideration but are a private legal matter.

The proposal is therefore considered to accord with policies Spatial Policy 7 and policy DM5.

### **Trees and Ecology**

Policy DM5 states that in accordance with Core Policy 12, natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced. Wherever possible, this should be through integration and connectivity of the Green Infrastructure to deliver multi-functional benefits.

The site has been used as an agricultural field for a number of years. It is therefore not considered that the proposed use as a paddock nor the reuse and extension of the stable block would detrimentally impact on any protected species which may or may not be present. It is therefore considered that the proposal therefore accords with Core Policy 12.

### **Impact on Character**

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. It adds that proposals creating back land development would only be approved where they would be in keeping with the general character and density in the area.

The proposed development is not unusual within the Green Belt or a rural setting.

The proposed development would bring back into use an existing stable block. The proposed extension to the building is proportionate to the existing stables and would reflect their external materials. Although the proposal would result in a total of 5 stables, which officers consider would be on the cusp of being small scale, the applicant has confirmed that the stables and paddock would be solely for personal and not for any commercial use which can be secured by condition. As such the level of activity associated with the development and an additional stable would not be so significant as to unduly impact on the character of the site nor its wider setting. The areas of new hardstanding would be softened by the proposed external materials.

It is therefore considered that the proposal would accord with Policy DM5

### **Other Matters**

Issues raised with regards to the maintenance of the track and rights of way would be a private legal matter.



## **Conclusion**

It is considered that the proposed change of use of the land for personal equestrian use falls within one of the exceptions of development within the Green Belt considered to be appropriate. It is also considered that the proposed extension would be a proportionate addition to the existing stables and therefore meets an exception of appropriate development in the Green Belt.

The proposal would not have an unacceptable impact on visual or residential amenity, flood risk, highway safety or trees and ecology and as such is acceptable.

## **RECOMMENDATION**

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

### Notes to Applicant

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 details and plans reference:

Revised Elevations and site layout – S Heidukewitsch / 18 / 3 REV E05 deposited 24th July 2019

Revised Floor Plans - S HEIDUKEWITSCH 18/2 REV EO4 deposited 3rd July 2019

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 for private use only and shall not be used for commercial purposes.

Reason: In the interests of highway safety and in the interests of residential amenity and the character and appearance of the area.

04

The development hereby permitted shall be constructed entirely of the materials to match the existing building as submitted as part of the planning application unless otherwise agreed in writing by the local planning authority.

For clarity the materials shall be as follows:

External Elevations: Concrete blocks with Timber (Larch) cladding boards over.

Roofs: Metal profile sheet coverings.

Reason: In the interests of visual amenity and the character and appearance of the conservation area.

05

Prior to the new stable and tack room hereby approved being brought into use full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:

- full details of every tree, shrub, hedge to be planted (including its proposed location, species, size and approximate date of planting) and details of tree planting pits including associated irrigation measures, tree staking and guards, and structural cells. 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; and
- proposed finished ground levels or contours.

Reason: In the interests of visual amenity and biodiversity.

Notes to Applicant

Notes

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 not payable on the development hereby approved as the development type proposed is zero rated in this location.

02

The 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 proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

03

Blidworth Public Footpath No. 2 runs along the access track to the site. You are advised the following:

- The footpath should remain open for public use during the works as far as is practicable. If the safety of footpath users cannot be guaranteed during the works then the applicants will be required to apply for a Temporary Traffic Regulation Order (TTRO) to temporarily close the footpath. A minimum notice period of 6 weeks is required to facilitate a TTRO. Further information is available from the Countryside Access team, on 0300 500 80 80 or [countrysideaccess@nottscc.gov.uk](mailto:countrysideaccess@nottscc.gov.uk).
- The surface of the Public Footpath should not be disturbed. Any subsequent damage to the surface of the lane over which the footpath passes is the responsibility of those with private vehicle rights along the lane.

#### BACKGROUND PAPERS

Application case file.

For further information, please contact Bev Pearson on extension 5840.

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**  
**Director of Growth and Regeneration**



## PLANNING COMMITTEE – 6 AUGUST 2019

|                        |   |                                  |
|------------------------|---|----------------------------------|
| <b>Application No:</b> | <b>19/00746/FULM</b>  |                                  |
| <b>Proposal:</b>       | <b>Residential redevelopment of former farm complex comprising 5no. self-build plots and the residential conversion of a traditional stone barn. Resubmission of 18/00071/FUL</b> |                                  |
| <b>Location:</b>       | <b>Bankwood Farm, Oxton Road, Thurgarton</b>  |                                  |
| <b>Applicant:</b>      | <b>J and B Cressey and sons</b>   |                                  |
| <b>Registered:</b>     | <b>25 April 2019</b>  | <b>Target Date: 25 July 2019</b> |

**This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Thurgarton Parish Council has supported the application which differs to the professional officer recommendation.**

### The Site

Bankwood Farm is a relatively large parcel of land in the open countryside between the settlements of Thurgarton and Oxton. The site is accessed via a long private driveway track which runs from the Southwell/Oxton Road to the north and connects to Thurgarton to the south. It sits between the two main roads of the A612 to the south and B6386 to the north from which the site is accessed via a 12.5km long private road from the B6386. This private road currently serves Hollybeck Nurseries, a garden centre, situated close to the B6386, as well as a number of isolated farms and dwellings that stretch out along the road, including, Thurgarton Quarters, Bankwood Lodge and Bankwood Farm Cottages. The private road runs through the site and then continues southwards and serves Bankwood Barn, Bankwood Farm Cottages and Dumble House. The road is tarmacked and is predominantly single track in width with a number of speed-restricting bumps along its length.

The surrounding area comprises numerous agricultural buildings as well as other residential premises of both modern and traditional character to the north. Immediately adjacent to the site to the north-west, there are residential dwellings (Bankwood Farm Cottages and Bankwood Lodge) and to the south there is Bankwood House.

The site is largely flat and surrounded by open countryside with significant long distance views, particularly to the south and south-east. The site is currently occupied by 6 large modern agricultural buildings and 1 traditional stone threshing barn. As the buildings are modern, the layout does not create any traditional crew yard with no intimate U, C or E-shaped grains. The layout is fairly arbitrary arranged either side of the central access that runs through the centre of the site. There are no boundary treatments between the buildings themselves but boundaries in the wider area around surroundings fields are hedges.

The site lies within flood zone 1 of the Environment Agency's flood risk maps. The site is not within a Conservation Area, it does not contain any Scheduled Monuments; it is not within a SSSI, safety hazard area or a military explosives storage area. The buildings are not listed, are not within an

AONB, not within an Area specified by the SOS under Section 41(3) of the Wildlife and Countryside Act 1981, a National Park or World Heritage Site.

### Relevant Planning History

19/00541/CPRIOR - Notification of a Prior Approval for the Proposed Change of use of existing agricultural building to Use Class B1 (Business). Granted 10 May 2019.

18/02033/CPRIOR - Notification for Prior Approval for a proposed Change of Use of 3 Agricultural Buildings to 5 dwellinghouses (Class C3) and for associated operational development. Approved 28.02.2018.

18/01115/CPRIOR - Notification for Prior Approval for a Proposed Change of Use of 3 Agricultural Buildings to 5 dwellinghouses and for associated operational development, refused 07.08.2018 on the grounds that it failed the qualifying criteria under Class Q of the Town and Country Planning (General Permitted Development) Order 2015.

18/00071/FUL - Residential redevelopment of former farm complex comprising 5 No. self-build plots and the residential conversion of a traditional stone barn – withdrawn.

16/01740/CPRIOR – Notification for Prior Approval for proposed change of use of agricultural buildings to three dwellinghouses Class C3 – Approved 05.12.2016.

08/00527/AGR – Erect grain store – Approved 19.05.2008

### The Proposal

Planning permission is sought for the demolition of the farm complex and the subsequent erection of five new dwellings (each containing 5 bedrooms) and one conversion of an existing barn to form a dwelling (4-bed).

Four of the proposed dwellings would be positioned on the eastern side of the access road and are set within their own curtilage. Plots one and two would be configured to face the side of plot 3 where they are served by a feeder driveway from the access road which intersects the site. Plots 3 and 4 would front face the access road with an intervening space allowing for a garden and driveway.

Plot five would be positioned on the western side of the access track between the existing stone barn and the edge of the application site near to Bankwood Cottages to the northwest.

The demolition of the buildings attached to the existing threshing barn would expose the building and would comprise a detached dwelling set back from the access road.

#### **Plot 1 - 529.5 sqm**

This dwelling would comprise a two storey dual pitched building which measures 23 metres in width by 18.4 metres in depth. The building would project 9 metres in height to the roof ridge and would have front first floor skylights set into the roof plane and large patio doors leading onto rear balconies serving the bedrooms. The ground floor is articulated with large window openings and

an emphasised front design feature that identifies the front door. An integral garage is adjacent to the front door leading onto the driveway which also serves plot two.

**Plot 2 - 579 sqm**

Plot two comprises a twin dual pitched two storey building measuring 19 metres in width by 26 metres in length. The roof ridge covering the habitable first floor projects 8.2 metres in height and the lower ridge sits 6.4 metres above ground level. The building is configured in a linear arrangement at first floor with three of the bedrooms leading out onto a large north-easterly facing balcony which is partly covered by the lower roof. The garden wraps around the north and south easterly side of the building and would have access to a jetty and the pond to the northeast.

**Plot 3 - 568 sqm**

Plot three, broadly square in plan, measures 21.6 metres in width by 19 metres (25 metres including the front ground floor garage section). The property would have a twin dual pitched roof with the gable end containing the first floor window openings facing the access road and its rear garden. This plot would have access to a separate jetty on the northeastern pond.

**Plot 4 - 415 sqm**

This property distinctly changes in design and style where the footprint would be arranged into a 'C' shape covering an area of 21 metres by 17.4 metres. The front of the property would face onto the access road set back by approximately 5 metres from its edge and project approximately 8 metres to the roof ridge. Two rear wings then extend to the rear of variant heights (still lower than front section) would create an enclosed immediate garden which then opens out to continue to the north-easterly boundary.

Set to the rear of the southern wing along the boundary with plot 3 is a detached open frontage garage measuring 5.6 metres in width by 7.2 metres in length. The garage would project 4.65 metres and is constructed with a pitched roof.

**Plot 5 - 322 sqm**

Plot 5 is similar to plot 4 in respect of its general design but is arranged into an 'L' shape footprint with the two principle elevations facing a northerly and easterly direction. The principle elevations measure 23 metres and 20.5 metres respectively with the depth measuring 6.5 metres. The property, again has been designed with a pitched roof of variant heights of the pitched roof with the highest projecting 8 metres from ground level.

A section of the westerly ground floor section of the property has been designed to allow vehicles to enter the rear garden where the driveway leads to a detached garage at the rear boundary. The garage measures 8.3 metres in width by 6 metre in depth projecting 4.7 metres in height. The garage is constructed with a pitched roof.

**Stone barn - 357 sqm**

The removal of the existing side sections results in a linear form of accommodation based over two floors. All the existing openings would be utilised for light and outlook with a large opening on the northern elevation used for the main access into the building.

One new ground floor window would be inserted into the southern elevation with 12 roof lights inserted into the roof plane.

A new detached garage would be positioned in-between the barn and the southern boundary. The garage would be accessed from the east and measure 9.5 metres in width by 8.85 metres in overall depth. The garage constructed with a pitched roof projects 5.5 metres in height to its ridge.

The proposed development can be grouped into three types of construction. Plots one, two and the barn's detached garage comprises more traditional materials using facing brick, tiled roofs, rendered sections and window detailing. Plots three, four and five would represent a modern palette using materials comprising timber and timber cladding interspersed with aluminum framed fenestration, timber louvres and standing seam roofs. The two garages for plot's four and five are a timber construction with a tiles roof. The fronts of the garages are open sided.

The boundaries to the plots are demarcated by a combination of stone walls and post and rail fence.

The planning application has been considered against the following plans, documents and specifications:

Design and Access Statement  
Flood Risk and Runoff Assessment  
Heritage Statement  
Protected Species Report  
Structural Inspection Report  
Location Plan - Drg No. 17/238-100  
Existing Site Plan - Drg No.197-D-03  
Existing Site Photos - Drg No.197-D-01  
Aerial View - Drg No. 197-D-13  
Visualisation 1 - Drg No 197-D-14  
Visualisation 2 - Drg No. 197-D-15  
Visualisation 3 - Drg No. 197-D-16  
Visualisation 4 - Drg No. 197-D-17  
Visualisation 5 - Drg No. 197-D-18  
Bankwood Farm Evolution - Drg No. 197-D-02  
Existing Barn Plans and Elevations - Drg No.17/238-101  
Location and Block Plans - Drg No. 197-D-00 Rev A  
Proposed Site Plan - Drg No. 197-D-04 Rev A  
Proposed Floorplans - Plot 1 -Drg No. 197-D-05  
Proposed Elevations - Plot 1 -Drg No. 197-D-06  
Proposed Floorplans - Plot 2 -Drg No. 197-D-07  
Proposed Elevations - Plot 2 -Drg No. 197-D-08  
Proposed Floorplans - Plot 3 -Drg No. 197-D-09  
Proposed Elevations - Plot 3 -Drg No. 197-D-10  
Existing Barn – Proposed Plans and Elevations -Drg No. 17/238-102  
Existing Barn – Garage Plan and Elevations -Drg No. 17/238-103  
Plot 4 Proposed Plans and Elevations -Drg No. 17/238-104 Rev A  
Plot 4 Garage Plan and Elevations -Drg No. 17/238-106  
Plot 5 Proposed Plans and Elevations -Drg No. 17/238-105  
Plot 5 Garage Plan and Elevations -Drg No. 17/238-107  
Proposed Site Elevation -Drg No. 197-D-11



Proposed Site Section -Drg No. 197-D-12

### **Public Advertisement Procedure**

Occupiers of seventeen 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 - Thurgarton Neighbourhood Plan**

Policy 1: New Development  
Policy 2: Residential Development  
Policy 3: Transport Impact of Development  
Policy 6: Historic and Natural Environment

#### **The Development Plan - Newark and Sherwood Amended Core Strategy DPD**

Spatial Policy 1 – Settlement Hierarchy  
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 10 – Climate Change  
Core Policy 12 – Biodiversity and Green Infrastructure  
Core Policy 13 – Landscape Character  
Core Policy 14 – Historic Environment

#### **The Development Plan - Allocations & Development Management DPD**

DM4 – Renewable and Low Carbon Energy Generation  
DM5 – Design  
DM7 – Biodiversity and Green Infrastructure  
DM8 – Development in the Open Countryside  
DM9 – Protecting and Enhancing the Historic Environment  
DM10 – Pollution and Hazardous Substances  
DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2019
- Planning Practice Guidance (on-line resource)
- Newark and Sherwood Landscape Character Assessment SPD
- Conversion of Traditional Rural Buildings Supplementary Planning Document, November 2014
- Historic Environment Good Practice Advice in Planning Note 2 – ‘Managing significance in Decision-Taking in the Historic Environment’ and Note 3 ‘The Setting of Heritage Assets’
- Historic England Advice Note 2 ‘Making Changes to Heritage Assets’ Consultations
- Natural England Guidance Note: European Protected Species and the Planning Process Natural England’s Application of the ‘Three Tests’ to Licence Applications

- The Conservation of Habitats and Species Regulations 2017
- Circular 06/2005: Biodiversity and geological conservation – Statutory obligations and their impact within the planning system

**Thurgarton Parish Council** received 07 May 2019 - Support the application on the basis of para 55/79 of the NPPF, subject to planning conditions requiring access to be via Oxton Hill only, not through to Priory Road.

**Southwell Town Council** received 3 May 2019 - No comment, deferral to the parish where to development is located.

**Ramblers association** received 09 May 2019 - There is no specific mention in the documentation of Thurgarton Footpath 4, a public right of way, which approaches this site from the south-west and joins the track linking Thurgarton to Hollybeck Nurseries. It is unclear from the site maps whether or not this footpath lies outside the development area.

**NSDC Environmental Health** received 26 April 2019 - No objection in principle and recommends a condition to require a land contamination investigation is undertaken given the existing/ previous agricultural use of the land.

**NSDC Conservation** received 20 May 2019 - Of heritage interest on this site now lies only the impressive stone threshing barn, which has itself seen modern extensions on both the front and back. While its original form has been preserved within these extensions they have greatly detracted from its legibility and aesthetic qualities. I therefore welcome a scheme which sees these elements removed and the building effectively restored. The original context of this structure, which would have once related to a period farmhouse and other historic farm buildings, has been lost. The historic farmhouse has been replaced by a large faux Georgian new build, the farm buildings are all (mostly large) modern concrete and crinkly asbestos sheeted buildings, in addition to two inter-war semi-detached houses at the site.

I note the currently proposed conversion of the stone barn is the same as previously submitted, as such I resubmit my earlier comments:

The proposed conversion of the stone barn looks pretty good, with only one new window in the facade. There are a number of new rooflights, but they seem to be acceptable to facilitate the conversion of such a large building. I am pleased to see the preservation of existing breathers and openings. I note their Heritage Statement says there is currently a first floor running all across the building, so its part removal (which is proposed) to reveal the full height of the former threshing entrance internally will be a good heritage gain.

I did look inside the building, the ground floor is all lined and divided up for animal stalls and has no apparent historic features. At the upper floor large roof trusses survive and I understand these will be retained.

Generally speaking the proposed conversion of the threshing barn will be an improvement to its appearance and will better reveal its significance.

In term of impact on its setting from the other proposed replacement structures overall I do not think there will be any harm.

The current modern agricultural buildings detract from the setting of the historic barn, having an unkempt, discordant and incongruous appearance. While I accept the new modern warehouse-like houses are in themselves large modern structures, I understand these as a modern interpretation of the later farm buildings and I think they are likely to preserve the setting at least and there will be some benefit from removing the element of neglect here.

I note the new modern warehouse houses may be taller than the threshing barn? I think given the separation distances, the strong impact the modern agricultural sheds currently have on the barn, the noticeably different built form of the old and new here, and the robust nature of a large threshing barn like this I do not think I would sustain an objection on the modern warehouse houses being marginally taller at their tallest point.

Plots 4 and 5 are designed in a more traditional fashion. I appreciate from the earlier application the revision of plot 4 to remove the faux full height threshing barn entrance, which I specifically wanted to avoid in order to retain the primacy of the historic threshing barn. While I accept these more traditional looking houses are in a faux barn style, their design is a fairly innocuous modest farmhouse and outbuildings. I accept this may cause some confusion in terms of authenticity, but I do note that the site already houses a large faux Georgian farmhouse, and that the context of this stone barn has long since been lost, so again I do not think the use of a pastiche here in this form is necessarily harmful.

**NCC LLFA** received 10 May 2019 - No comment in relation to flood risk.

**NCC Highways Authority – 22 July 2019** - This proposal is the resubmission of a previously withdrawn application (18/00071/FUL). The site is to be served from Oxton Road (B6386) by a private driveway, which is a bridleway, and also serves an existing garden centre/tea rooms and a number of residential dwellings. A previous application for this site, ref. 18/02033/CPRIOR, was approved for 5 dwellings subject to the provision of signage and two passing bays along the driveway, which alleviated previous concerns. These have now been provided. Therefore, as this is a resubmission and improvements have been carried out to the bridleway to the satisfaction of the Rights of Way Officer, the Highway Authority would not wish to raise objection to this application.

**Environment Agency** received 26 April 2019 - No formal comment as there are no environmental constraints associated with the site.

**Candent Gas** received 2 May 2019 - No objection to the application

**Natural England** received 26 April 2019 - No comments to make on this application.

**Nottinghamshire Wildlife Trust** received 30 April 2019 - You will be aware that it is your duty under the NPPF and the NERC Act to ensure that you can determine applications based on a sound understanding of the ecological implications and the adequacy of any proposed mitigation or compensation.

### Representations

As a result of the publicity one representation has been received and is summarised as the following:

- It is felt the previous comments from NCC highway Authority has not been resolved and access from Oxtan Road still poses a safety risk to pedestrians, horses, and other road users that use the private road (Bridleway);
- The provision of passing bays does not address the problem;
- Raise concerns with the cost of maintenance of the private road and there is no mention within the application of a contribution to future costs especially given the potential increase in traffic.
- If access to the proposed site was via Priory Road there would be no objection to the application.

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

#### **The Principle of Development**

The Council has a 5 year housing land supply and for the purposes of decision making the Development Plan is considered to be up-to-date.

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 16 May 2017 Newark and Sherwood District Council adopted the Thurgarton 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 this instance the most relevant policies in the Neighbourhood Plan are listed above and are considered against the relevant aspects of this appraisal.

Spatial Policy 1 of the Core Strategy sets out the Settlement Hierarchy for new development within the District of Newark and Sherwood and identifies settlements that are central to new growth and development. Outside of these settlements, SP1 states that within the rest of the District, development will be considered against the sustainability criteria set out in Spatial Policy 3 Rural Areas.

SP3 states that local housing need will be addressed by focusing housing in sustainable, accessible villages. It goes on, "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 Agriculture and Forestry."

Given the remoteness of the site it would fail the locational criteria of Spatial Policy 3 in that it is not 'in' a village or settlement and therefore constitutes development in the open countryside. In this regard SP3 directs to the policies set out in Allocations & Development Management DPD, most notably Policy DM8.

Policy DM8 which relates to Development in the Open Countryside states "Planning permission will only be granted for new dwellings where they are of exceptional quality or innovative nature

of design, reflect the highest standards of architecture, significantly enhance their immediate setting and be sensitive to the defining characteristics of the local area.”

The NPPF also provides an exception criterion to be considered for development in the countryside. Paragraph 79 states:

“...Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;
- d) the development would involve the subdivision of an existing residential dwelling; or
- e) the design is of exceptional quality, in that it:
  - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
  - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

The NPPF also sets out a core planning principle that in decision-taking, Local Planning Authorities should encourage the effective use of land by re-using land that has been previously developed, provided that it is not of high environmental value. However, the glossary defines previously developed land as excluding agricultural buildings. 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 confirmed at the development plan level under Policy DM12 of the Allocations and Development Management DPD.

The main issue is to establish whether or not the proposed development is of truly outstanding or innovative design, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas **and** also significantly enhances its immediate setting and be sensitive to the defining characteristics of the local area (emphasis added). This forms the basis of the following assessment. It will be then necessary to assess all other material planning considerations to ascertain if there are any factors of the proposal which would balance the proposed development against the policies set out in the Development Plan and the NPPF.

*Is the design truly outstanding or innovative and represent the highest standard in architecture?*

In the absence of an independent design review the proposed development has been considered on the basis of the submitted plans and the applicant’s Design and Access Statement.

The proposed development would result in the demolition of the cluster of agricultural buildings with a replacement of a residential development that comprises a mixture of modern and traditional buildings to form a nucleus around the retained converted threshing barn. The modern buildings would combine the use of standing seams roofs, zinc cladding and timber cladding in a scale which is not too dissimilar with the existing buildings that are present on the site. The

buildings through the arrangement of overhanging roofs, emphasized fascia and soffits, recessed fenestration and material combination do have a good standard of architectural design but do not possess the highest standard of architecture to constitute the scheme being truly outstanding. The applicant's case is silent in articulating how the modern buildings are truly outstanding or innovative. There is also no persuasive evidence to say how their construction is innovative and although suggesting the dwellings will be highly insulated and utilise renewable materials/technologies does not set out the precise methodology.

By contrast Plots 4 and 5 are of a more traditional ilk and whilst occupying large footprints set within generous curtilages they are constructed with conventional materials that could be argued are similar with the vernacular of the surrounding area. Although they represent a good design, it is difficult to consider how the two houses would be truly outstanding or indeed innovative.

The massing and position of the proposed buildings and the way the existing structures have been removed from the threshing barn do improve the setting to the non-designated heritage asset and open up views of the building. There are clear benefits with placing a renewed emphasis on the threshing barn and the way the scheme has been designed to enhance its setting. However, by their own admission the applicant acknowledges that there have been examples of stone built barns conversion in the area which would conflict with their view that this scheme is particularly innovative.

The applicant's D&A Statement acknowledges the emphasis of DM8 and the NPPF and attempts to set out a case in which to demonstrate how the scheme is outstanding and innovative (rather than the either or option set out in Paragraph 79). Whilst the applicant has instructed architectural practices to develop the scheme and engaged with the Local Planning Authority there are no reasons how the scheme can be considered as truly outstanding or innovative to satisfy DM8 and Paragraph 79 of the NPPF.

*Would the design significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area?*

Notwithstanding the above the NPPF also requires designs to significantly enhance their immediate setting. The surrounding area is prominently rural and has been appraised by the Newark and Sherwood Landscape Character Assessment. The site falls in Policy Zone MN PZ 39 'Thurgarton Village Farmlands with Ancient Woodlands'.

The Landscape Character Area (LCA) identifies the area to be gently undulating with rounded topography that allows for medium distance views frequented by wooded skylines. There is a mixture of arable fields with defined headlines leading to being considered as having a high landscape sensitivity and visibility value. This then translates into a 'conserve' action where development is expected to conserve the rural character of the landscape by concentrating new development around existing settlements and respect the local architectural style and local vernacular.

The incorporation of brickwork, pan tiles, stone walls and timber cladding would be sympathetic and sensitive to the surroundings. Furthermore plots 4 and 5 are a traditional build which would have traits of the vernacular in the area. There are elements to the scheme, particularly on plots 1 – 3 which add visual interest to the local area, nevertheless this would run contrary to the conserve action recommended by the LCA.

It is noted all the existing buildings would be demolished, however, it is considered the applicant has failed to articulate how the proposed development would significantly enhance the immediate setting. As discussed above there would be an enhancement to the setting of the threshing barn but there remain significant doubts on the significance of the enhancement of the remainder of the site and on the immediate setting and whether or not the full amount of development required by this development is required to enable this enhancement to occur. Indeed, it is considered that the removal of the existing agricultural buildings which are typical to an open countryside location and setting and replacement with 5 new build dwellings, would represent a more incongruous and alien form of development in this location by its very nature (further discussed in the section below).

Whilst the proposed development is similar in height and massing to the existing agricultural buildings which are present on the site, this factor can be given very little weight. Other than the threshing barn, none of the other agricultural buildings proposed for demolition are of any heritage value or considered worthy of retention. As the buildings are not located on previously development land, it follows that their replacement is not considered essential and their replacement with new buildings can not therefore be considered to enhance the immediate setting in this respect. The development would radically change the character of the site to one of a more suburban nature and would be harmful to the rural character of the surrounding countryside.

In respect of the landscaping, the applicant advocates that the scheme would not be overly domestic but would preserve the rural feel of the site. Indicative planting has been shown on the plans and exemplified on the visuals within the site, relying on the imposition of planning condition to show the precise details. The scheme is also absent in how the development would integrate with the pond outside of the application, other than indicatively showing a jetty and post and rail fence.

Therefore given the high requirement advocated by DM8 and the NPPF and weight to the LCA the application does not demonstrate how significantly the proposed development would enhance the immediate setting. Furthermore, the development would also represent an alien and incongruous suburban development in this open countryside setting which would be harmful to the visual amenity of the surrounding rural area.

#### *Discussion of the strength of a fallback position*

Turning back to the principle policy (DM8) and Paragraph 79 in the NPPF it should be acknowledged that the site is located in the open countryside and as such there is an incredibly high bar of exceptional quality and innovative design to be satisfied to allow planning permission to be granted for residential development.

There are elements of the proposed development which are clearly beneficial and weigh in favour of the scheme and have been set out above. However, they are not at an exceptional level. It is considered the proposed development is not truly outstanding or innovative and does not significantly enhance the immediate setting or is wholly sensitive to the characteristics in the local area.

However, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, to the extent that development plan policies are material, planning decisions must be taken in

accordance with the development plan unless material considerations indicate otherwise. This requirement is reiterated in Paragraph 11 of the National Planning Policy Framework (NPPF).

A material consideration is a judgement made in a judicial review where in *Mansell v Tonbridge And Malling Borough Council -2017 EWCA Civ 1314*, the court dismissed the appeal and thereby did not quash the Council's grant of planning permission, however three issues arose in this appeal. The first two concerned the interpretation of Class Q GPDO rights and the materiality of the fallback position. The Court also considered whether the council incorrectly applied the tilted balance towards sustainable development in paragraph 14 (now 11) of the National Planning Policy Framework, given the Development Plan was up to date.

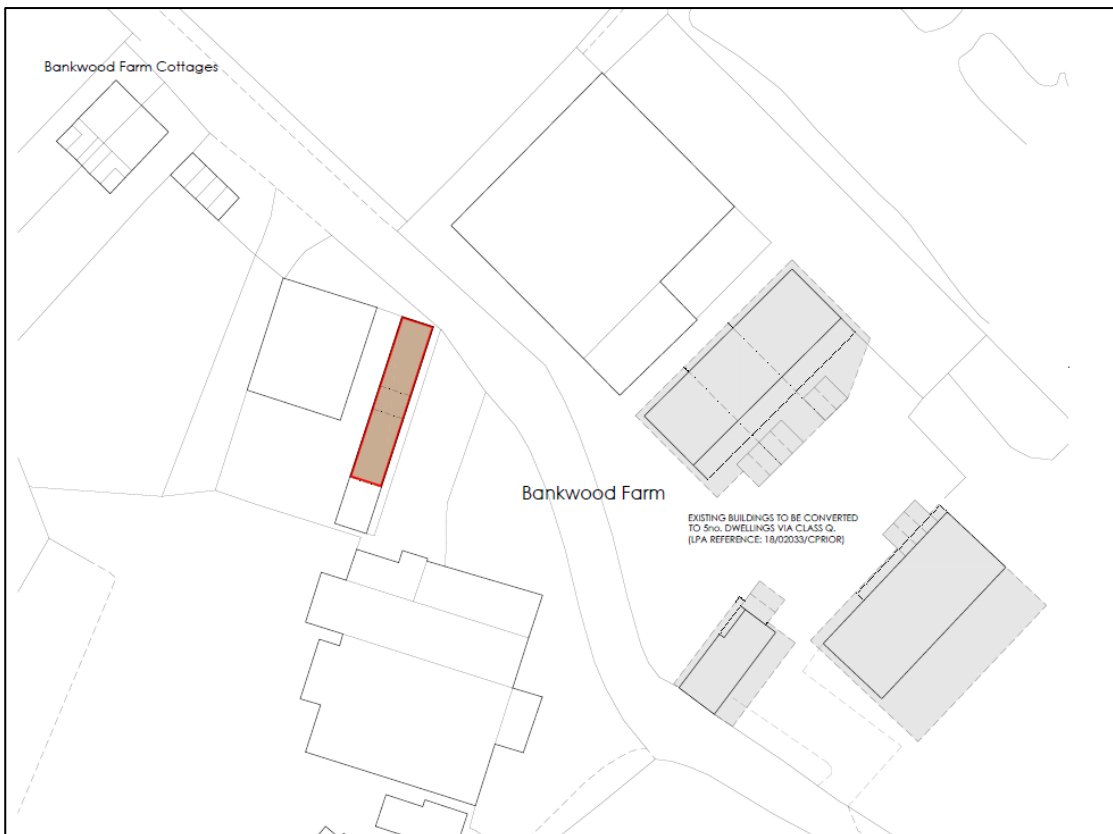
Notwithstanding the interpretation of General Permitted Development Order (GPDO) rights the second challenge concerned whether there was a 'real prospect' of development under the Class Q GPDO rights on the lack of contemporaneous evidence that the landowner had contemplated such development.

It was held that in determining the materiality of a fallback position the basic principle is that for a prospect to be a "real prospect", it does not have to be probable or likely: a possibility will suffice.

In other words whether there is a possibility of an alternative development to the proposed development that can be carried out on the application site should planning permission be refused.

Turning back to the planning history there are two decisions under the prior approval route which set out a possible alternative development and could be implemented as permitted development should planning permission be refused. Firstly one of the existing building benefits from conversion to an office (19/00541/CPRIOR) and the second conversion of three of the agricultural buildings to form five dwellings (18/02033/CPRIOR). Figure 1 shows the office conversion in outlined in red with the residential conversion in light grey. The existing buildings would remain in situ including the extensions to the threshing barn (outline can be seen below the office conversion).





For clarification the alternative scheme would comprise:

- Five dwellings which range between 100 square metres and 330 square metres where the buildings would be refaced with vertical timber cladding on a brick base covered with corrugated roof panels. A curtilage would be closely formed around the buildings with parking located to the front/ rear and side of the buildings.
- The office building, owing to the previous use as stables would retain the blockwork appearance with windows formed in the existing openings.

The site currently comprises an accumulation of varying sized buildings that are synonymous with an isolated farmstead set into the open countryside. Given the undulating landform and the surrounding field pattern the existing farmstead is considered to be appropriate in its setting and a significant contributing factor to the prevailing character of the surrounding area. The fallback position would in this instance reinforce the prevailing character of the area by retaining the height, scale, massing and typical arrangement of agricultural buildings within the open countryside. The visual alterations to the existing buildings in their conversion and formation of modest curtilages would be still read against the backcloth and in the context of the existing farmstead.

In contrast the proposed development would result in the removal of all the buildings that contribute to the farmstead setting and the wider character of the surrounding area. Whilst this would exposed the threshing barn the proposed development would irreversibly alter the character from an agricultural setting to predominantly residential to the detriment of the wider area. The rationalisation of a new residential setting would be further reinforced by the large curtilage area associated with each dwelling, which inevitably, would introduce and encroach domestic paraphernalia into the open countryside significantly above what currently is presence around the application site.

Whilst a fallback position exists, this is in a completely different scale and layout to this proposal. This fallback relies on retaining existing building whereas this proposal demolishes these building and erects new; arguably a wholly less sustainable form of development. As such, I do not consider direct comparisons can be drawn and I do not therefore consider a there to be a real prospect of a fall back scheme similar to that currently proposed being brought forward. It is therefore considered that the potential for an alternative fall back scheme does not outweigh the harm of inappropriate residential development in the open countryside in this instance.

### **Effect on non-designated heritage asset**

In relation to the works and formation of the dwelling in the threshing stone barn the conversion of existing buildings is also covered by Policy DM8 and states that

“...In the interests of sustainability, consideration should be given to the conversion of existing buildings before proposing replacement development. Proposals should investigate and assess alternative uses for buildings in accordance with the aims of the Spatial Strategy and present a case for the most beneficial use. Planning permission will only be granted for conversion to residential use where it can be demonstrated that the architectural or historical merit of the buildings warrants their preservation, and they can be converted without significant re-building, alteration or extension...”

The threshing barn is considered to be a non-designated heritage asset and a structural report submitted by the applicant sets out the building can be converted without significant re-building. A Heritage Statement has also been submitted and duly assesses the archaeological, architectural, artistic or historic interest of the building and the implications of the proposed development.

Policies CP14 and DM9, 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, including new development in conservation areas, 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). LPAs should also look for opportunities to better reveal the significance of heritage assets when considering development in conservation areas (paragraph 137).

It is considered the proposed conversion of the threshing barn will be an improvement to its appearance and given the removal of the existing structures flanking the original building will better reveal its significance. Given the proximity to the proposed buildings it is considered they would preserve the setting and although they are modern design they would not be harmful to the threshing barn.

The resulting conversion would is relatively modest in nature with sympathetic interventions into the building. As such this aspect is acceptable and favourable weigh should be applied in respect of the effect on the historic nature of the building.

## **Highway Impact**

In respect of the location and sustainability Spatial Policy 7 seeks to encourage and support development proposals which promote an improved and integrated transport network and an emphasis on non-car modes as a means of access to services and facilities. Development proposals should seek to minimise the need for travel.

It is quite clear the site is in a remote location with a considerable distance to any local service or transport connections. Prior approval has been granted under The Town and Country Planning (General Permitted Development) (England) Order 2015 (as Amended) for the conversion of six agricultural buildings to form an office and five dwellings. Although the proposed scheme results in six substantial dwellings the amount of traffic would not be too dissimilar to what could occur should the prior approval consents be implemented, in addition to the resultant traffic from the retained buildings.

Spatial Policy 7 of the Core Strategy seeks to secure 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.

The prior approval application sought to address the highway concerns by installing two passing bays and signage along the access road on land within the applicant's control between Hollybeck Nurseries and the existing farm complex. It has been confirmed these works were completed before issue of the 2018 prior approval.

In terms of the movement within the proposed development there is sufficient space for off road parking of vehicles within each of the respective curtilages. It is considered there is sufficient visibility for vehicles to manoeuvre on and off the central access road without having a harmful effect to other users of the bridleway, such as walkers, cyclists and horse riders.

As such, taking into account the representations and the comments from the Highway Authority it is considered development would not harm the level of highway safety to recommend refusal of the application.

## **Impact on amenity**

CP9 sets out an expectation that development is of a high standard and that contributes to a compatible mix of uses. Policy DM5 requires that all proposals be assessed to ensure that the amenity is not adversely affected by surrounding land uses and where this cannot be mitigated should be resisted. The NPPF seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.

### *Existing neighbouring properties*

It is noted that Bankwood House is adjacent to the application site and shares the southern boundary. It is considered the proposed development would not have a significant effect on the level of amenity currently enjoyed. The removal of the southern section of the barn structure would remove the massing immediately on the shared boundary which would be beneficial. Although the removal of the structure would expose the existing barn given the new openings in the southern elevation are at ground floor and within the roof plane a loss of privacy afforded to

Bankwood house would be minimised. Together with the intervening degree of separation between the two buildings, any overlooking would be within an acceptable tolerance.

There is a detached garage proposed on the southern boundary, however, this structure has been positioned adjacent to Bankwood House's detached garage. As such an impact has been mitigated by the presence of the neighbouring existing garage on Bankwood House.

Turning to Bankwood Farm Cottages plot 5 has been orientated to offset a direct view of the neighbouring property. Although the windows would have a view of the neighbouring garden there is an adequate separation to avoid a significant loss of privacy. There are no windows proposed in the gable end of the house or the attached garage which would result in a loss of privacy to the neighbouring property. Taking the relationship of the two properties into account it is considered there would not be a significant loss of daylight or sunlight to the neighbouring property.

#### *Future occupiers*

The proposed dwellings have been designed and orientated to maintain a good standard of privacy and light into windows. Where side windows are proposed, these are mainly at ground floor and either face onto a blank elevation of a neighbouring property, or where windows are present they lead to non-habitable rooms.

It is noted a first floor balcony (plot one) would face towards plot two. However, there are no windows in the side of plot two which would be affected and it is considered there would not be a loss of privacy to the garden space for plot two given the offset obstructed view.

Keeping with plot two the front elevation would face the side boundary of plot three. Although the first floor front facing opening would not result in a significant loss of privacy there is a balcony which would introduce an untoward vantage point which laterally would overlook the privacy amenity space for plot three. However, this has been treated with louvre cladding to the first floor which prevents an outlook directly over plot three.

#### **Impact on Ecology**

Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM5 of the DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced.

I am mindful that the NPPF states at paragraph 175 that if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Equally I am aware that paragraph 99 of Government Circular 06/2005 states that:

*"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the*

*decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances...”*

An ecological survey has been submitted to support the application. The report identifies the following:

- Buildings 1,3, 4, 6, 8, 9 and 10 were all assessed as having negligible roosting potential for bats. However, Buildings 2, 5, and 7 were identified as having features that offered potential to support roosting. Further surveys were recommended for these buildings. These surveys conclude that Building 5 has low potential for roosting bats although Buildings 2 and 7 (the threshing barn) were found to contain roost and potentially a small maternal site for the common pipistrelle. An impact EPS licence would be required before any development takes place;
- A single barn owl was observed entering Building 8, however, the daytime assessment revealed no evidence of barn owl using the site such as urine splashing's, pellets or nesting. It is therefore considered that the barn owl recorded was opportunely using the site as a day perch and that it is not currently nesting on site.

Local Planning Authorities are required to consider the likelihood of a license (required if bats are found) being granted when determining a planning application and would need to have in mind the three tests set out in Regulation 55 of the Habitats Regulations if required, namely:

- i. The consented operation must be for “preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment”; and
- ii. There must be “no satisfactory alternative”; and
- iii. The action authorised “will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range

In so far as the first test is concerned, the public interest generated by the proposal can be of a social, environmental or economic interest. Although I have found in favour of the proposal in relation to better reveal the heritage significance of the threshing barn (Building 7) the same justification is not relevant to Building 2. Having regard to development plan policies, the development overall would not meet any of the exceptions for new build dwellings within the open countryside and the proposal would result in an adverse impact on the rural setting of the surrounding countryside.

In relation to the second test, I am not aware if the applicants have considered the retention of Building 2 as part of the development and I am not aware whether or not the building has been marketed for alternative uses that does not involve its demolition. As such, I cannot be satisfied that alternative solutions that would result in the protection of the existing bat habitat could not be achieved. The proposed development would thus fail the second test.

With regards to the third test, the appellants have submitted a Protected Species Report which includes a number of mitigation and compensation recommendations. This includes

- Before works commence on site, all site workers will be inducted by the licensed ecologist on site;

- An ecologist will check Buildings 2 and 7 before construction works commence and supervise all critical works such as roof removal etc. Where a bat is found during these works, they will be carefully removed and placed in a translocation roost box;
- Prior to any work commencing on site and during the initial construction phase, a temporary roost translocation site containing three Schwegler 2FN bat boxes will be erected on suitable nearby buildings.

I would therefore conclude in relation to the third test that the proposed development could be implemented in such a way as to ensure no harm would occur to the protected species.

Overall, the proposal fails to meet the derogation tests and I conclude that the proposal would have an adverse effect on ecology and that it would conflict with Core Policy 12, DM5 and DM7 , which aim to safeguard protected species. These policies are consistent with paragraph 175 of the Framework and carries significant weight.

### **Flood Risk**

Core Policy 10 of the Core Strategy requires development to be located in order to avoid both present and future flood risk. Core Policy 9 requires new development proposals to proactively manage surface water. The site is located within Flood Zone 1 according to the Environment Agency's flood risk maps and is therefore at low probability of flooding from river and coastal sources. However, as has already been mentioned, any scheme should carefully consider the disposal of surface water within any submission. Depending on the size of the development site, a Flood Risk Assessment may be a validation requirement in any event.

The applicant has submitted a report which identifies that there are no other residual risk that will directly affect the site and therefore residential development is suitable for this location. The development would see a reduction in the impermeable area and weighs in favour of the proposal in respect of flood risk. Whilst a SUDS drainage system is suggested given the anticipated underlying ground conditions this may not be the most sustainable course of drainage.

In this instance, given the low level of flood risk the imposition of a planning condition would provide the applicant to explore the drainage options and establish the most appropriate way of managing surface water runoff. It is therefore considered this approach would address Core Policies 9 and 10.

### **Ground conditions**

This application includes the construction of a new residential dwelling on a former farmyard. Agriculture is a potentially contaminative land-use and such land can possibly be used for a wide variety of potentially contaminative activities including: non-bunded fuel storage, repair and maintenance of agricultural machinery/vehicles, storage of silage and other feed, slurry tanks/lagoons, disposal of animal waste and disposal of asbestos.

There is clearly the potential for the site to have been contaminated from this former use. In the absence of a desktop study/preliminary risk assessment it is considered expedient in requiring an assessment by planning condition.

### **Housing Need**

Of particular note, the application does not promote the provision of market housing to suit the specific needs identified in a current Housing Needs Survey (or other subsequent evidence) in accordance with the aims of Policies 1 and 2 of the Neighbourhood Plan. Even if there was a housing need for such dwellings, this would not be the right location for them given the isolated location. The 2015 Housing Needs Survey for Thurgarton identified a market preference for one x 4 bed house, a demand that has since been met by the granting of other schemes 'within' the village.

### **Planning Balance and Conclusion**

The Local Planning Authority can robustly demonstrate a 5 year supply of housing, and therefore the Development Plan is up to date for the purposes of decision making in terms of the supply of housing.

The application proposes new housing development in the open countryside. The Development Plan and the NPPF seeks to control and avoid new isolated homes in the countryside, unless there are special circumstances. Having assessed the scheme against the Development Plan I have concluded that the scheme does not meet any of the exceptions listed within Policy DM8 as to why development away from the built settlement should be permitted. This is equally the case when assessed against the NPPF, a material consideration, albeit the Development Plan should in any event be the primary decision making tool.

The applicant has purported a case advocating, amongst other factors, that the proposed development is both exceptional and innovative to exceed the expectation set out in DM8 and Paragraph 79 of the NPPF. The key element the applicant appears to rely on is the 'fallback' position of converting the 5 modern barns to dwellings. However it is my view that this should be given little weight given this relies on converting barns whereas this scheme seeks to demolish the buildings; arguably a far less sustainable form of development and in any event the new build dwellings are visually more intrusive in this countryside location.

As set out in this report the bar of expectation is set extremely high and although there are factors in favour of the development they do not outweigh the conflict with the aforementioned Development Plan Policy DM8 and the NPPF. A comprehensive case has been submitted by the applicant; however, this does not tip the balance in favour of the proposed development. The applicant has failed to advance a true enabling argument or a convincing argument as to why 5 new build dwellings are required and why these are all 'innovative' or 'exceptional' as is required by policy. No case has been advanced that the retention of the non-designated asset/historic barn relies on the new build dwellings in order to be retained.

As a consequence of the scheme not being acceptable in principle, the proposal fails to meet the three tests set out in Regulation 55 of the Habitats Regulations and I conclude that the proposal would have an adverse effect on ecology.

Whilst there are some benefits of the scheme, the harm identified clearly outweighs this and as such it is recommended that planning permission is refused.

### **RECOMMENDATION**

That planning permission is refused for the following reason:

01

The proposed development by reason of its location would constitute an isolated residential development comprising 6 dwellings in the open countryside where development is strictly controlled by Policy SP3 (Rural Areas) of the adopted Newark and Sherwood Amended Core Strategy (2019) which states that development away from built up areas will be strictly controlled and by acting as a signpost to Policy DM8 (Development in the Open Countryside) of the adopted Allocations and Development Management Development Plan Document (2013) which mirrors this control and provides that development in the countryside is limited to a number of exceptions.

The proposal does not accord with any of the exceptions listed and does not therefore represent sustainable development contrary to the aim of promoting a sustainable pattern of development within the District. The design fails to be of exceptional quality in that it is not truly outstanding nor innovative which would not significantly enhance its immediate setting or be sensitive to the defining characteristics of the local area. The proposed development would irreversibly alter the character from an agricultural setting to a more incongruous and alien form of residential development to the detriment of the rural character of the surrounding area. It is considered that the adverse impacts of new dwellings in an open countryside location would not be outweighed by the benefits of the proposal which include the revealing of the significance of a historic barn.

Given that the development is not considered to be acceptable in principle, the proposal as a consequence fails to meet all of the three tests set out in Regulation 55 of the Habitats Regulations and it is therefore concluded that the proposal would have an adverse effect on ecology.

As such, the proposed development would fail to comply with the provisions of Spatial Policies 1 and 3 and Core Policies 12 and 13 of the Amended Core Strategy (2019), Policies DM5, DM7 and DM8 of the Allocations & Development Management DPD (2013) and Policies 1 and 2 of the Thurgarton Neighbourhood Plan (2017). In addition, the development would not comply with the aims of the Newark and Sherwood Landscape Character Assessment SPD, the National Planning Policy Framework, Circular 06/2005 and The Conservation of Habitats and Species Regulations 2017 which are material planning considerations.

### 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.

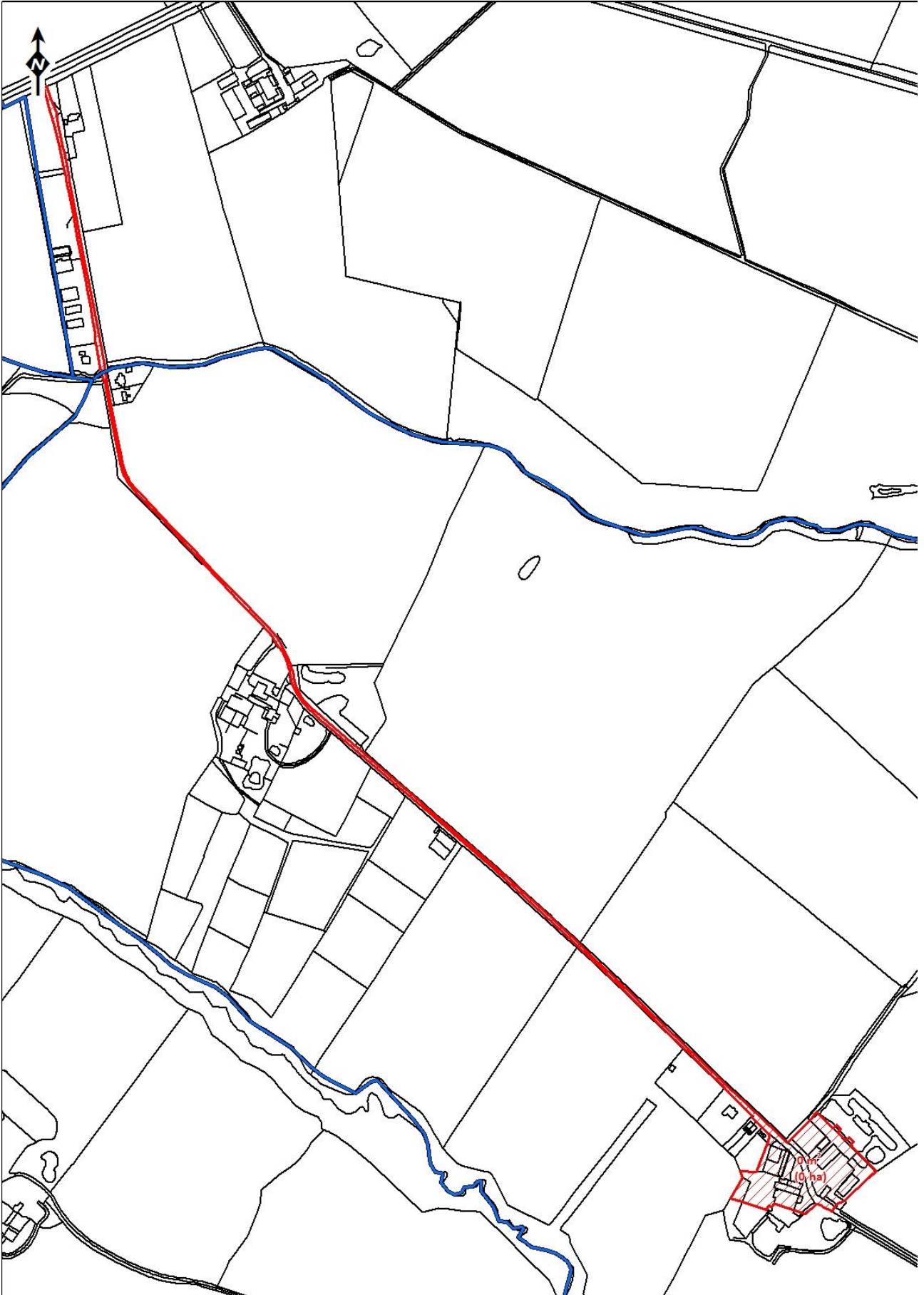
Background Papers

Application Case File

**For further information, please contact Richard Byrne on ext 5793.**

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**  
**Director Growth and Regeneration**



## PLANNING COMMITTEE – 6 AUGUST 2019

|                        |   |                                |
|------------------------|---|--------------------------------|
| <b>Application No:</b> | <b>19/01230/FUL</b>   |                                |
| <b>Proposal:</b>       | <b>Replacement 3 bedroomed, single storey dwelling (Resubmission of 19/00701/FUL)</b> |                                |
| <b>Location:</b>       | <b>Sawmills Farm<br/>Rufford Lane<br/>Ollerton<br/>NG22 9DG</b>                       |                                |
| <b>Applicant:</b>      | <b>Mr And Mrs D Bower</b>   |                                |
| <b>Registered:</b>     | <b>03.07.2019</b>   | <b>Target Date: 28.08.2019</b> |

**The application is being presented to Members at the request of the Chair on the basis of the planning history on the site.**

### The Site

The application site forms a rectangular plot and its associated vehicular access from Rufford Lane to the south. As existing the site forms the residential curtilage of a single residential unit approved through the change of use from an agricultural building (as detailed in the site history below).

The wider site within the applicants ownership includes a stable building (approved for retention as detailed in the planning history below) as well as mobile field shelters and an unauthorised residential caravan and static mobile home.

The nearest residential neighbours are a cluster of properties either side of Rufford Lane before Rufford Lane crosses the Ford adjacent to the Grade II Listed Rufford Mill Complex. The site is situated within the open countryside with the defined settlement boundary of Ollerton being approximately 1.4km north east of the site. There is a public right of way immediately to the east of the site.

Immediately surrounding the site are open fields within an undulating and sparse landscape. Rainworth water runs in a broadly north south direction to the west of the site. Beyond this the landscape is defined by the road network of the A614 and dense areas of woodland, particularly in association with the Rufford Abbey complex and Registered Park and Garden with its defined boundary on the opposite side of Rufford Lane.

### Relevant Planning History

**19/00701/FUL** – Replacement dwelling.

*As referred to above this application was refused by Members at the June Meeting contrary to Officers recommendation for a single reason as follows:*

The existing dwelling is present solely due to a consent via a change of use prior approval process. The replacement dwelling proposed would add an additional first floor to this dwelling, which would represent a floor space increase of approximately 40%. This increase in size and resultant scale, which fails to minimise visual impact, is considered contrary to Policy DM8 (Development in the Open Countryside) in that it would not be of a similar size and scale to that being replaced. Moreover, it replaces a dwelling only recently constructed, via a prior approval process which would not otherwise permit a dwelling at this location, a matter which weighs against the sustainability of the scheme. This would reduce availability of modestly sized housing stock in the open countryside contrary to the intentions of Policy DM8. The development would also be contrary to the NPPF which forms a material planning consideration.

**18/02364/FUL** - Proposed retention of stables and change of use of land from agriculture (former poultry units) to (domestic) equestrian use ancillary to the residential dwelling approved under LPA reference 17/01026/CPRIOR (retrospective).

*Application approved February 2019 albeit this application is on land within the applicants ownership rather than the site itself.*

**17/01026/CPRIOR** - Notification for Prior Approval for a Proposed Change of Use of Agricultural Building to dwellinghouse and for associated operational development.

*Application approved July 2017 thus the conversion works approved remain extant.*

**16/00041/CPRIOR** - Application for prior approval for change of use of an existing agricultural building to Class C3 (dwellinghouse) including creation of domestic curtilage and vehicle parking area.

*Application refused and dismissed at appeal.*

**14/01843/CPRIOR** - Prior Approval of Proposed Change of Use of Agricultural Building to a Dwellinghouse (Use Class C3).

*Application refused and dismissed at appeal.*

**11/01500/FUL** - Erection of a New Stable Block with Fenced Paddock Area to Provide Part DIY Livery and Partly for Applicant's Own Use.

*Application refused and dismissed at appeal.*

### The Proposal

The current proposal is a re-submission of the previous application in a direct attempt to overcome the harm identified through the above stated reason for refusal. For the avoidance of doubt, the application continues to promote the complete demolition of the existing dwelling and its replacement with a detached residential unit.

The scheme now for consideration has been reduced in scale through the omission of first floor accommodation such that the three bed unit would now be entirely delivered at ground floor with

a footprint of approximately 336m<sup>2</sup>. The proposed ridge height would be approximately 6.3m with an eaves height of 2.55m. Materials proposed are brick work with an oak lintel and porch detailing and non-interlocking clay pantiles.

The application is being considered on the basis of the following plans and documents:

- Site Location Plan received 29<sup>th</sup> June 2019;
- Existing Layout Plan – 19 284 102;
- Proposed Layout Plan – 19 284 103;
- Existing Plan and Elevations – 19 284 104;
- Amended Proposed Elevations – 19 284 105 Rev. A;
- Proposed Floor Plans – 19 284 106;
- Elevations Comparison – 19 284 107;
- Design and Access Statement.

#### Departure/Public Advertisement Procedure

Occupiers of 8 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 Amended Core Strategy DPD (adopted March 2019)**

Spatial Policy 1 - Settlement Hierarchy  
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 13 – Landscape Character  
Core Policy 14 – Historic Environment

##### **Allocations & Development Management DPD**

DM5 – Design  
DM8 – Development in the Open Countryside  
DM9 – Protecting and Enhancing the Historic Environment  
DM10 – Pollution and Hazardous Substances

##### Other Material Planning Considerations

- National Planning Policy Framework 2019
- Planning Practice Guidance (online resource)

##### Consultations

**Ollerton Town Council** – No comments received.

**Rufford Parish Council** – Rufford Parish Council considered this application at its meeting on 16 July 2019. The councillors unanimously decided that they had no objection to the proposal.

**NCC Rights of Way** – No comments received.

**Ramblers Association** – No comments received.

**NSDC Environmental Health (contaminated land)** - The application site has been the subject of an Enhanced Phase I Geo-Environmental Desk Study Report submitted by HSP Consulting Engineers Limited under a previous application (18/02364/FUL).

Following intrusive sampling, none of the analytical results exceeded the relevant screening criteria for the proposed residential use and the report deemed the site to be low risk.

As this application forms part of the same site as the previous application, I do not consider that any further investigation is required at this stage. However the environmental consultant commented previously that there remain further risks associated with the wider site that were not assessed as part of this earlier application. I would therefore expect that a contamination condition will need to be attached to any planning consent for any areas of the site that did not form part of this earlier application, should they be developed in future.

**Two letters of representation has been received which can be summarized as follows:**

- The revision is still significantly larger in bulk than the existing permitted development;
- The development would greatly contribute to a sense of residential over-development in a rural location;
- The existing building is in keeping with the open countryside;
- The curtilage would increase;
- It would be difficult to control loft conversions;
- The proposal does not accord with Policy DM8 as it is not a similar scale;
- The PC comments do not reflect the views of the majority of residents on Rufford Lane (the local councilor who would best represent was not present);
- The proposal would still represent a 85% increase in height and 53% increase in length;
- Planning appeal decisions relating to replacement buildings have concluded that replacement buildings with a larger bulk and increased curtilage have a greater detrimental impact on openness and visual amenity than agricultural buildings converted under Class Q PD;
- The increased roof height is unnecessary to accommodate ground floor living space;
- Class Q permitted development rights were introduced as a way of turning unused agricultural building stock into [mainly] rural housing in a manner that minimised its impact on the open countryside. It is essential that the LPA upholds this intention and rejects this 'by-the-backdoor' new residential planning proposal;
- Any decision should lie with the Planning Committee as this application has not adequately addressed their concerns.

### Appraisal

The current re-submission relates to a reduction in scale and amended design of the proposed replacement dwelling in comparison to the previously refused scheme. There are therefore a

number of similarities in the assessment from the previous application. Where these are a direct repetition, the text is italicised below.

### Background

*As is alluded to above, the existing dwelling on the site has been delivered through the prior approval 'Class Q' procedure which National Government introduced in order to allow provision for agricultural buildings to be converted to dwellings subject to certain conditions and restrictions. It is worthy of note however that the dwelling as built does not conform strictly with the approved plans insofar as there are not as many windows as was originally shown on the plans.*

*The drive behind this part of the legislation was to allow the re-use of redundant agricultural buildings to contribute towards the national housing crisis. Whilst allowances through the legislation are subject to conditions (including a requirement to complete the works within 3 years of the approval) there is no reference to whether or not it becomes appropriate for a converted agricultural building to be considered a lawful dwelling for the purposes of further planning applications (such as this one).*

*Given the infancy of these types of applications (Class Q was introduced in 2015) there is little case law on the matter to assist. Clearly, the concern for Officers is that if treated as a lawful residential dwelling which ultimately may be acceptably replaced by the current Development Plan in principle, then there is a risk that the original intentions of the Government in bringing back into use vacant agricultural buildings would be lost to a housing stock of new replacement dwellings more often than not in countryside locations.*

*Officers are aware of an appeal example in 2018 where the Inspector granted permission for a completely new house partially because of the 'fall-back' position of a barn being converted. Whilst there were other material considerations in the appeal scheme and every application must be assessed on its own merits, Officers are minded to attach some weight to this decision given that there is a lack of advice to the contrary. Given that the building has already been converted to residential use (albeit not entirely in accordance with the approved plans) unfortunately it is considered that there would be even more of a case of a strong fall-back position at this site such that it would be difficult to resist the principle of a replacement dwelling purely because the original dwelling has arisen through the change of use prior approval process.*

It is notable that Members referred to the change of use prior approval process in the reason for refusal through the following sentence:

*"Moreover, it replaces a dwelling only recently constructed, via a prior approval process which would not otherwise permit a dwelling at this location, a matter which weighs against the sustainability of the scheme".*

This is clearly not something which the applicant can address in any revised submission given that this is a matter of fact. Officers remain of the view that there is inadequate policy justification to refuse an application for a replacement dwelling solely because the extant dwelling was delivered through the prior approval process.

### Principle of Development

On the basis of the above, the proposal falls to be assessed against the Development Plan as adopted. The Adopted Development Plan for the District is the Core Strategy DPD (2019) and the Allocations and Development Management Policies DPD (2013). 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. Spatial Policy 1 (Settlement Hierarchy) of the Council's Core Strategy sets out the settlements where the Council will focus growth throughout the District. Applications for new development beyond Principal Villages as specified within Spatial Policy 2 will be considered against the 5 criteria within Spatial Policy 3. However, Spatial Policy 3 also confirms that, development not in villages or settlements, in the open countryside, will be strictly controlled and restricted to uses which require a rural setting. Direction is then given to the relevant Development Management policies in the Allocations and Development Management DPD.

Policy DM8 outlines a number of types of development that will be potentially accepted in an open countryside location. Policy DM8 accepts the principle of replacement dwellings subject to the following:

*'Planning permission will be granted where it can be demonstrated that the existing dwelling is in lawful residential use and is not of architectural or historical merit. In the interests of minimising visual impact on the countryside and maintaining a balanced rural housing stock, replacement dwellings should normally be of a similar size, scale and siting to that being replaced.'*

This has been addressed by the submitted Design and Access Statement and Officers would concur with the stance that the existing dwelling is not of any particular architectural or historical merit which would warrant its retention.

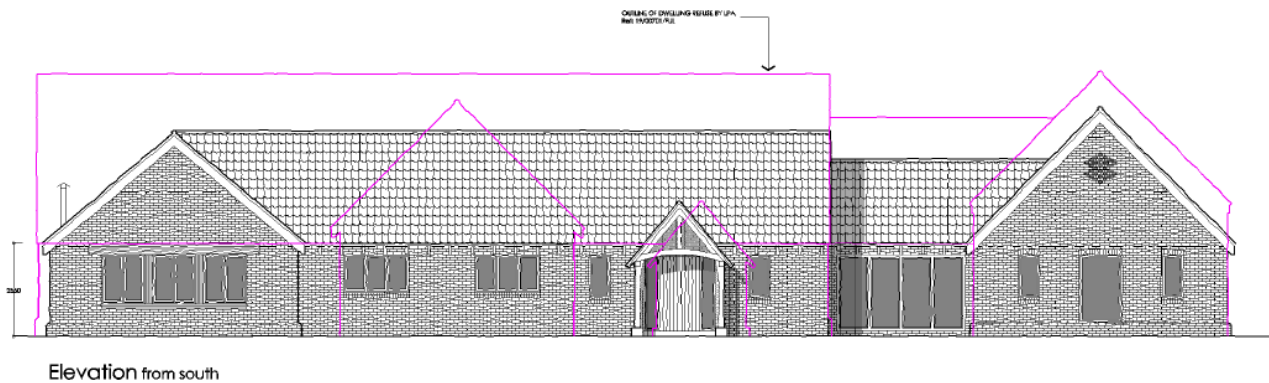
The latter point of the policy, whether or not the replacement dwelling is of a similar size and scale to the existing, is clearly the key point for determination in this application given the planning history of the previously refused application in June. The applicant has submitted the current re-submission in direct response to the reason for refusal making changes to reduce the size and scale of the proposed replacement. The table below is presented to assist assessment in this respect:

|                                    | <b>Existing Dwelling approved by 17/01026/CPRIOR</b> | <b>Previously Refused Scheme 19/00701/FUL</b> | <b>Currently Proposed Scheme 19/01230/FUL</b> |
|------------------------------------|--|---|---|
| <b>Foot Print (m<sup>2</sup>)</b>  | 283  | 293   | 336   |
| <b>Floor Space (m<sup>2</sup>)</b> | 283  | 395   | 336   |
| <b>Height (m)</b>                  | 3.4  | 7.2   | 6.3   |

The proposed dwelling would now represent an approximate 19% increase in floor space and foot print and 82% increase in overall height.

The differences between the replacement dwelling now proposed and the previously refused scheme is illustrated as follows with the purple line being the previously refused scheme:





The previous decision is a material consideration to the current determination. Regardless of the previous Officer advice, the following assessment is made on the basis that the LPA have already determined that a 40% increase in floor space with a ridge height of 7.2m instead of 3.4m is not acceptable. It therefore falls to assess whether the reduction to a 19% increase in floor space and reduction in height by 0.9m to 6.3m has done enough for the replacement dwelling to now be assessed as being 'similar' in size and scale to the existing dwelling. Other notable changes from the previous refusal are the removal of full height glazed gables and the balcony in an attempt to reduce the overall prominence and domestication of the dwelling. The agent also makes the case that the proposed dwelling would deliver three bedrooms and a work from house office which is the same as the existing dwelling and thereby cannot be considered to affect modestly sized housing stock in the countryside.

Officers are conscious that the existing dwelling represents a realistic fallback position for a dwelling in the open countryside. A replacement with a floor space increase of 19% eliminating entirely any first floor space is considered to represent a marked change from the previously considered scheme. Whilst the increase in height by 82% is notable, this is more a reflection of the extremely modest height of the existing building which has a very low pitched roof due to the wide footprint of the building.



6.3m would still be a relatively modest height for the proposed dwelling. However it is recommend that permitted development rights for any alterations to the roof or insertion of dormer windows is removed to reduce the potential of a first floor being added internally without LPA control.

Officers are of the view that the applicant has reduced the size and scale of the proposed replacement building to a degree which would sufficiently overcome the previous reason for refusal. It is accepted that there is an extant dwelling within the site. The Council's policy for development in the open countryside (Policy DM8) does accept that it may be appropriate for existing dwellings to be replaced and in the case of the revised scheme, the proposal is considered to conform with the restrictions of this policy.

#### Impact on Character

*Policy DM5 refers to the rich local distinctiveness of the District's character of built form requiring new development proposals to reflect their local surroundings. Policy DM5 also confirms that, where local distinctiveness derives from the presence of heritage assets, as in the case in the context of this proposal, development will also need to satisfy Policy DM9. The policy requires that development must promote local distinctiveness and protect heritage assets (including their setting).*

*Chapter 12 of the NPPF 2018 provides guidance in respect of achieving well-designed places confirming at paragraph 124 that, 'the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.'*

*The heritage context of the site comes in the form of the Registered Park and Garden, the boundary of which is the opposite side of Rufford Lane to the site access. Nevertheless, the replacement dwelling would be set back approximately 150m from Rufford Lane and thus the opportunity for the dwelling to affect the setting of the Park and Garden is significantly limited. Owing to the modest overall height of around 6.3m (which has notably been reduced in height from the previously refused scheme by 0.9m), and indeed the context of the existing site which has previously accommodated a poultry farm and its associated agricultural buildings, the proposed development would not impose any detrimental impacts to the setting of the nearby listed assets. It therefore satisfies the requirements of Core Policy 14 and Policy DM9. This conclusion has been verbally discussed with internal conservation expertise.*

*Moving then to assess the overall design of the replacement dwelling, it is notable that the Design and Access Statement adopts the approach that the new dwelling offers the potential to enhance the character of the site. Whilst I appreciate the case made in terms of the consolidation of a purpose built dwelling, my view is that this would amount to having a neutral character impact as the replacement dwelling in its modern form would have a greater degree of prominence in comparison to the existing building which clearly still takes reference from its agricultural past. Nevertheless, the landscape has been interrupted through the built form of agricultural buildings for some time and more recently through the acceptance of the retention of a stable block to the south of the site on land within the applicant's ownership. When accepting that there is already a dwelling on site, the modern design presented in a replacement is not considered fatal in principle.*

*Core Policy 13 of the Core Strategy addresses issues of landscape character. It states that development proposals should positively address the implications of the Landscape Policy Zones in which the proposals lie and demonstrate that such development would contribute towards meeting the Landscape Conservation and Enhancement Aims for the area.*

*The District Council has undertaken a Landscape Character Assessment to assist decision makers in understanding the potential impact of the proposed development on the character of the landscape. The LCA provides an objective methodology for assessing the varied landscape within the District and contains information about the character, condition and sensitivity of the landscape. The LCA has recognised a series of Policy Zones across the 5 Landscape Character types represented across the District.*

*The site borders two policy zones within the Sherwood Policy Zone. The first is PZ 14 (Rainworth Water Meadowlands with Plantations) is identified as having a good landscape condition with few detracting features and a moderate landscape sensitivity. One of the landscape actions in terms of built features is to 'reinforce the sense of plan of the built environment by using materials and design that reflect the local character of the area around Rufford Mill.'*

*The proposed material palette of red brick thereby offers the opportunity to conform to the landscape actions for built form. Officers have sought clarification on the exact use of materials during the life of the application but the agent has requested these details be agreed by condition.*

#### *Impact on 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.*

*Owing to its positioning with the open countryside, the site is relatively isolated in respect to residential neighbours. The nearest properties are to the south of Rufford Lane over 150m away. By virtue of this separation gap, it is not considered that there are any adverse impacts upon the amenity of nearby occupiers.*

*In terms of the amenity provision for the end occupiers of the dwelling, the site layout plan demonstrates a modest outdoor amenity provision. This is based on (albeit is slightly bigger than) the restrictions of the change of use prior approval process whereby the amenity space is restricted to the size of the building to be converted. Given the circumstances in which the existing dwelling has come about, the modest amenity space is considered beneficial to limiting the impact on the open countryside (i.e. if it were bigger a wider proportion of the area would become domesticated). Officers are conscious that there are wide expanses of the adjacent land within the applicants ownership and therefore to mitigate the risk of future encroachment, further details of the boundary treatments to define the residential curtilage as presented have been requested. The agent has confirmed that these details could be agreed by a suitably worded condition.*

#### *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 and seeks to ensure no detrimental impact upon highway safety.*

*The change of use prior approval process allows for the consideration of Highways access. The existing access from Rufford Lane has been found acceptable for the occupation of a single residential unit and given that the current application relates to a replacement dwelling, it is not envisaged that there will be any perceivable impact on the Highways network.*

#### *Impact on Contamination*

*The previous site use (prior to residential conversion) was a poultry farm. As is confirmed by the comments of Environmental Health listed in full above, the applicant has already done exploratory works to meet the requirements of a contaminated land condition which was imposed on the original change of use permission. On the basis that the replacement dwelling occupies the same position within the site, no further works would be required to allow for the replacement dwelling as proposed.*

#### *Other Matters*

*It is noted that as existing there are unauthorized residences in the form of a mobile home and a residential caravan. These have been discussed with the agent acting on behalf of the application and it has been confirmed that these are in situ during the renovation works of the existing building which whilst habitable is not yet complete. This is a reasonable justification and indeed one that is readily accepted through permitted development rights. Nevertheless, Officers will continue to monitor the status of the site through their enforcement powers regardless of the outcome of this application.*

### Overall Balance and Conclusion

*The complex planning history which affects this site is noted. However, in the absence of any specific case law that a change of use prior approval dwelling cannot be considered as a lawful residential dwelling (and in fact the case law directs to the contrary) there is no reason to resist the replacement of the existing dwelling in principle.*

The revised application is a direct attempt to overcome the previously identified harm of the previous application whereby the LPA resisted a replacement dwelling with a 40% floor space increase. The scheme now for consideration seeks a reduced increase of 19% but also offers other amendments such as the reduction in height of the building and the entire omission of first floor accommodation. Officers consider that the proposal as now presented would comply with the requirements of Policy DM8 and in doing so has acceptably overcome the previously identified harm. The recommendation is therefore one of approval subject to conditions as outlined below.

### **RECOMMENDATION**

**That planning permission is approved subject to the conditions shown below:**

#### 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 details and plans reference:

- Proposed Layout Plan – 19 284 103;
- Amended Proposed Elevations – 19 284 105 Rev. A;
- Proposed Floor Plans – 19 284 106;

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 above damp proof course shall take place until manufacturers details (and samples upon request) of the external facing materials (including colour/finish) 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.

Reason: In the interests of visual amenity.

04

Prior to the occupation of the development hereby permitted, details of all boundary treatments shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented on site and shall then be retained for a minimum of five years.

Reason: In the interests of residential and visual amenity.

05

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 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.

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.

#### 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

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

Should any works be required to be carried out within the public highway, they should be constructed to the satisfaction of the Highway Authority. You would, therefore, be required to

contact VIA, in partnership with NCC, tel: 0300 500 8080 to arrange for these works to be carried out.

#### BACKGROUND PAPERS

Application case file.

For further information, please contact Laura Gardner on extension 5907.

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**  
**Director of Growth and Regeneration**





## PLANNING COMMITTEE – 6 AUGUST 2019

|                        |   |  |
|------------------------|---|--|
| <b>Application No:</b> | <b>18/00799/FUL</b>   |  |
| <b>Proposal:</b>       | <b>7 no. New Dwellings with garages and access road utilising existing vehicular access off Main Street</b> |  |
| <b>Location:</b>       | <b>Land Off Main Street, Coddington</b>   |  |
| <b>Applicant:</b>      | <b>Ablehomes Limited - Mr David Shaw</b>  |  |
| <b>Registered:</b>     | <b>26/04/2018</b>   | <b>Target Date: 21/06/2018</b><br><b>Extension of Time: 09/08/2019</b> |

**This application is being presented to Planning Committee given that Members have previously considered the scheme and deferred the application for revisions to be made.**

### Update to Planning Committee

**Members at December 2018 Planning Committee agreed to defer the application in order for Officers to negotiate a reduction in the size and scale of the scheme more in line with Coddington Parish Councils suggestions.**

**As a result of revisions to the scheme since this time, the number of dwellings proposed on site has reduced from 9 to 7 no. dwellings and the description of development has therefore been amended accordingly. A full reconsultation with consultees, neighbours and interested parties has taken place. Coddington Parish Council support the amended plans (albeit with concerns set out in full below).**

**For the avoidance of doubt, the report remains the same as previously presented at December Planning Committee other than updates arising from the amended scheme and additional consultation responses received (shown in bold and italic text).**

### The Site

The 0.31ha site relates to land to the rear of Post Office Row on the north side of Main Street within the settlement of Coddington. The site is located within a Conservation Area and is currently vacant land containing overgrown shrubs and weeds. The Grade II\* Listed Building of All Saints Church is visible from the site and located approximately 80 metres to the east.

Access to the site is from the south to the west side of Post Office Row between No. 18 Post Office Row and No. 19 Brownlows Hill. Both of these properties (in addition to No. 20 Post Office Row) also use this access for private rear parking/driveways areas to the rear of each property with their side gardens containing hedgerow bordering the access to the site.

Post Office Row contains a number of two storey terraced dwellings backing onto the site. The rear of these properties is not uniform and benefit from a mixture of rear extensions and curtilage buildings. No. 9-13 Valley View are two storey terraced dwellings located to the north west of the site with the back/side of these dwellings backing onto the application site. The Scout Hall and associated curtilage is located immediately to the east of the site, with the Village Hall just

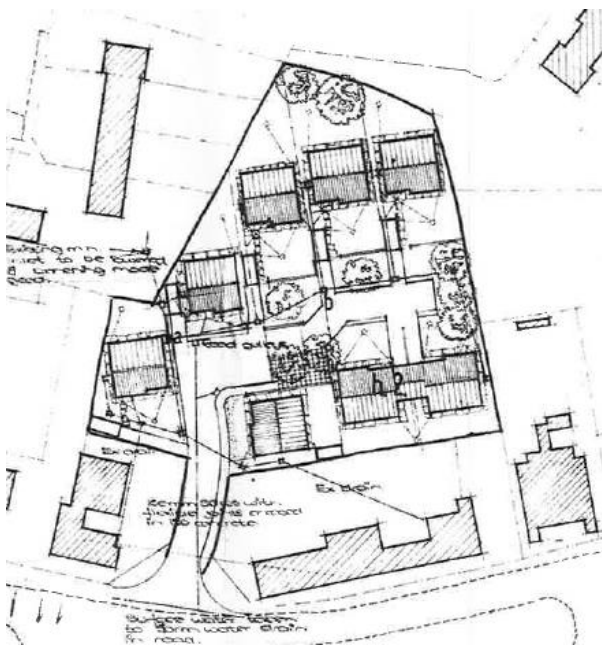
beyond. No. 1 - 3 Church Cottages (Almshouses) and the Old Vicarage are also located to the north east of the site.

Boundary treatments bordering the site contain a mixture of close boarded fences, solid walls, trees and hedgerow.

The topography of the land is generally flat although there appears to be a slight drop in gradient in a south to north direction.

**Relevant Planning History**

7/693/75/574 Residential development (six detached and two semi-detached bungalows – 8 units in all) – permission granted on 10.12.1975. There is evidence on file that the Local Planning Authority confirmed in 2008 that there has been a lawful commencement of development on site pursuant to this permission. An extract of the approved site layout is below:



7/693/75/574 Proposed Site Layout

**The Proposal**

The application seeks full planning permission for the erection of **9 7** no. dwellings. ~~Six~~ **Two** of the dwellings would have detached garages, **three dwellings would have integral garages and two dwellings would have no garage.**

**All but two of the dwellings** Each dwelling would be detached and have between 2-4 bedrooms and an area of private garden space. The housing mix proposed is set out in the table below:

| House type                     | No. of units          |
|--------------------------------|-----------------------|
| 2-bed bungalow                 | 1                     |
| 3-bed bungalow 1.5 storey      | 1                     |
| 3 bed <b>2 storey</b> dwelling | <del>5</del> <b>2</b> |
| 4 bed <b>2 storey</b> dwelling | <del>2</del> <b>3</b> |
| <b>Total</b>                   | <del>9</del> <b>7</b> |

The plans have been amended during the lifetime of the application to overcome the concerns of the both the Case Officer and Conservation Officer, in relation to both residential amenity and heritage impacts. Revised plans were received on 06.09.2018 with alterations to the proposed layout, increasing the number of units proposed from 8 to 9, reducing the no. of larger 4-bed dwellings proposed and substituting Plots 2 and 3 with bungalows. An ecology survey was also submitted on 17.10.2018 at the request of the Case Officer.

Proposed materials set out in the application form comprise facing brickwork and pantile or flat interlocking tiled roofs.

The proposed access would utilise the existing access off Main Street and off street parking would be provided for each dwelling.

### **Submission Documents**

The application is accompanied with the following:

- Supporting Statement Incorporating Heritage Impact Assessment
- Ecology Survey
- ***Design Revision Document June 2019***
- ***P01 Site Location Plan***
- ***812.1113.6.PL02 Proposed Site Plan***
- ***812.1113.6.PL03 Plots 1 and 2***
- ***812.1113.6.PL04 Plot 3***
- ***812.1113.6.PL05 Plot 4***
- ***812.1113.6.PL06 Plot 5***
- ***812.1113.6.PL07 Plot 6***
- ***812.1113.6.PL08 Plot 7***

### **Public Advertisement Procedure**

24 neighbours notified individually by letter and re-consulted on amended plans. A site notice has been posted and a press notice published in the local press.

### **Planning Policy Framework**

#### **The Development Plan**

#### **Newark and Sherwood District Council *Amended* Core Strategy DPD (adopted March 2011~~9~~)**

- 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 14 – Historic Environment
- NAP1 – Newark Urban Area

## **Allocations and Development Plan Development Plan Document (DPD) Adopted July 2013**

- 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 (NPPF) 2018~~9~~
- Planning Practice Guidance (PPG) 2014
- ~~Newark and Sherwood Amended Core Strategy DPD 2017~~
- ~~Spatial Policy 3 Guidance Note 2013~~
- NSDC Housing Market & Needs Assessment – Final Report 2014 – Reported to Homes & Communities Committee 26th January 2015
- Planning (Listed Buildings and Conservation Areas) Act 1990

## **Consultations**

**Coddington Parish Council –**

***Comments received 23.07.2019:***

***The Parish Council voted in support of the revised plans by a majority of 4 in favour with 3 against. The amended plans are seen as an improvement, but the Council still has major concerns which should be addressed:***

- 1. Safety at the exit from the development. Visibility is severely limited by cars parking on Main Street and Brownlow's Hill, and the new access road will create a staggered crossroads at an already busy junction.***
- 2. The height of the development overlooking Valley View is exaggerated by the change in ground level which creates issues of perspective and privacy for existing dwellings.***
- 3. The proposed fencing should be replaced by softer boundaries and landscaping in keeping with the Conservation Area.***

***Comments received 05.10.2018:***

Coddington Parish Council would like to add the following comments to the original submission sent in May - all of which still apply.

Coddington Parish Council does not object to the principle of residential development on this site. However, it does share the Conservation Officer's view that the proposed development does not enhance the Conservation Area. Bearing in mind the location of the site at the heart of the old village, the highest standard of design and respect for that character should be required. The layout represents over-development and in no way has regard to the contribution of the openness of the site to the immediate character of the area. The "landscaping" is derisory with space only being available for the smallest of shrubs. The small detailed dwellings do not reflect the traditional built form of the village.

The Parish Council makes two proposals which it considers could improve the design and make it more agreeable, though by no means ideal:

- Firstly, properties 8 and 9 should be omitted. This would allow for an open, grassed area to be provided, planted with substantial trees. This would enhance the quality of the development itself and also create an attractive view from Main Street.
- Secondly, properties 5, 6 and 7 should be combined into a two-storey terrace of small starter homes (towards the Eastern boundary of the site) which would be far more in keeping and character established on Post Office Row and Valley View.

If these two proposals are incorporated into the design, there would be a significant reduction in overlooking of properties in Valley View, and the Parish Council would be minded to support the proposals. On the basis of the present design, the Parish Council objects for the reasons set out above.

*Comments received 18.05.2018:*

While accepting that there was planning consent on this site for eight bungalows many years ago, which was started but not completed, the Parish Council objects to the above application on the following grounds:

#### 1. Planned Development

The houses planned for sit on a spur of significantly higher base level (around a metre) than the houses directly bordering the site on Valley View and Chapel Lane. The design of the proposed houses includes heightened ceilings and a high pitched roof, where the adjacent houses are of standard height with low pitched roofs. The houses will sit significantly higher than surrounding houses giving rise to intrusion on the houses bordering on Valley View and Chapel Lane and making significant visual impact. Line of sight into gardens and conservatories and upstairs windows would provide further intrusion. In terms of intrusion the closeness of the dwellings to the boundaries of Post Office Row would be equally intrusive, where height would be less of an issue the physical proximity would significantly impact on privacy and loss of light.

#### 2. Conservation Area

The previous extant planning permission is now more than 30 years old and was granted prior to the site falling within a conservation area. Any extant planning permission is now significantly dated (although there is no time limit on extant planning), however, even at the time of the original application permission was granted only for bungalows. The new application is for houses and this should be examined as a separate matter within all of the restrictions of building within a conservation area.

Unfortunately the very detailed analysis of the heritage merits of the area around the application site makes no reference to boundaries with The Old Vicarage, 1 Chapel Lane and the Almshouses, also on Chapel Lane. All these properties have common boundaries with the application site and are of some architectural merit. It is suggested that the boundaries of the site which abut these properties should be a brick wall, of a brick sympathetic to the buildings referred to.

The designation as a Conservation Area requires a development to preserve and enhance that area. On this very important site in the heart of the Conservation Area, a design comprising a suburban type cul-de-sac of undistinguished houses does not meet these requirements. A design

reflecting the agricultural heritage of the village, perhaps similar to that of farm redevelopments at Manor Farm off Main Street and at The Courtyard off the southern end of Drove Lane might serve as examples. The considerable care taken by the conservation officers of the District Council in respect of other developments in the vicinity of the application site would lead to the hope that the same insistence on a design which would enhance the Conservation Area will prevail in relation to this application.

### 3. Access

Access to the site is narrow, being of single lane status. This causes some safety concerns during construction and in occupation. Should a vehicle be entering the site at the same time as one is exiting this would leave a vehicle protruding onto Main Street. The designated turning area on the site being situated some distance within the site rather than near the entrance/egress. There is very limited vision of traffic approaching from either direction when exiting the site, this is exacerbated by the entrance being on the brow of a hill often with cars parked on the road, the busy adjacent T-junction, and the natural built environment already in situ. There is expected to be a further increase in on-street parking from visitors to this site, and from displaced cars that current park on the access road.

### 4. Local Development Plan

The council has an adopted LDP which does ask for the provision of affordable housing in developments of this size. There is no provision for any such affordable housing on this site. Nationally there are issues with smaller, more affordable dwellings being built within villages to enable young people within the village being able to remain within the area they were brought up. The style, size and design of these houses are clearly within the 'executive' bracket and therefore do not meet the nationally identified need nor the adopted LDP.

### 5. Density

The development is very dense and will not allow for any substantive landscaping internally within the site. Unfortunately the applicant's environmental assessment failed to note the predominance and importance of trees within Coddington, the area around the application site being no exception regarding the trees in Coddington House grounds, and in gardens along Chapel Lane. Suggest we request trees to be planted along all the site boundaries to soften the impact of the development on surrounding properties and to maintain the character of the area.

Coddington Parish Council objects to the application on the grounds set out above.

The Parish Council would welcome a revised planning application which provided for:-

- Less intrusive houses both in height and designs suitable for the Conservation Area.

- A proportion of dwellings which are designated affordable An amendment to site layout to enable a passing place near as possible to the entrance to the site Suitable safety measures to ensure safe access and egress to the site Improved arrangements for parking and vehicle flow to accommodate the increases in on-street parking expected from this and nearby developments already approved If any application is approved for this site, to ensure the safety of residents, school children and workers, a condition should be placed such that no development shall take place until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
  - i. the parking of vehicles of site operatives and visitors;
  - ii. loading and unloading of plant and materials;
  - iii. storage of plant and materials used in constructing the development;
  - iv. the erection and maintenance of security hoarding;
  - v. reinstatement of boundaries;
  - vi. wheel washing facilities;
  - vii. measures to control the emission of dust and dirt during construction;
  - viii. a scheme for recycling/disposing of waste resulting from construction works;
  - ix. delivery, and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development. Such a condition was applied in a recent appeal decision on another site in Coddington, and the same standards should be applied to this development which is nearby and on the same road.

**NCC Highways Officer** – This site has an extant permission for 8 dwellings and has an existing access that is 4.8m wide with a service strip of about 0.8m on the east side.

The visibility splays measure 2.0m x 30m to the east and 2.0m x 37m to the west. These are commensurate with 85th percentile vehicle approach speeds of 24mph and 27mph. Speed readings have not been taken; nor submitted with the application, but given the road width, alignment and the regular presence of parked vehicles on the north side of Main Street, it is considered that approach speeds of around 24-27mph are likely.

The presence of parked cars on Main Street has both a detrimental and beneficial impact on the safety of the access arrangement. Whilst they can block visibility, they also help to slow vehicles and provide a carriageway space in the 'shadow' of the parked cars, at the mouth of the junction, to allow car drivers leaving the development site to edge out slowly and safely.

The parking provision and access layout appear to be adequate.

Since the access will remain private, a bin collection point should be identified and provided within a reasonable distance of the junction with Main Street. Also, the Planning Authority may wish to consider whether or not access drainage and lighting should be provided and approved beforehand.

On balance and given the site history, I consider that no objections should be raised.

**NCC Lead Local Flood Authority** - 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.

**Trent Valley Internal Drainage Board** – The site is outside of the Trent Valley Internal Drainage Board district but within the 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 site drainage systems must be agreed with the Lead Local Flood Authority and Local Planning Authority.

**Historic England** – 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 Conservation Officer** –

**Comments received 16.07.2019:**

*To recap, Conservation has found harm with the principle of the residential development on this land within Coddington Conservation Area. However, it has been established that a previous approval is extant, which was approved before the Conservation Area was designated. I have already stated that I think it is imperative that the current scheme is no more harmful than the extant scheme, and arguably it should be better, considering the designation of the Conservation Area and high statutory duty bearing upon this decision.*

*My expectations of the new scheme were stated as,*

*‘I would like to see a layout which avoided the curving alien form of the suburban hammer head drive currently submitted, but which reverted to the extant scheme in so much as it created a parallel ‘back lane’ with simple linear cottages either side of this.*

*The modest nature of Post Office Row should be reflected in simple detailing and overall size, noting particularly the narrow gable widths and modest height of Post Office Row.*

*I would expect to see a reflection of the local vernacular building materials and style, so that a glimpse of red brick and pantile on a modest simple row here would not look incongruous.’*



*The general layout was then revised and improved and with further amendments to the design I was content the scheme was better and, by Sept 2018, had no further objections.*

*When the report went to Committee I believe Members raised issues of density, amenity and design generally.*

*There has then been various informal re-designs to resolve these issues which have been the subject of internal consultation and have resulted in the plans now submitted.*

*Generally the new site layout shows a more condensed approach to the built form, locating it in a stronger plan form around the access road and giving more greenery around the edges. A linearity to the planform has been retained, which I think is the right approach here.*

*In terms of the revised site plan I see a new 'row' of two buildings arranged in a linear form behind Post Office Row. I think this creates the 'back lane' effect I was after. These two buildings are plot 6 and 7, which have been designed as a traditional single storey cottage and simple traditional outbuilding respectively. The single storey nature I believe helps address potential amenity issues with Post Office Row. I note some limited accommodation in the roof of plot 6 served by raking dormers, which are traditional features. The modest depth of these buildings then creates a traditional roof pitch and the use of traditional features generally, like the segmental arches to windows and brick verge detail, give these an overall appearance which will complement historic Coddington.*

*Plots 1 and 2 are those seen from the access lane and will have the most impact from the public realm. Again, they have been laid out parallel to Main Street and address the new access lane. These have been designed as a simple, modest and traditionally detailed cottages, which again have traditional features like chimneys, traditional proportions to window openings set under segmental arches and a traditional roof pitch. They are similar in form, mass and status to the historic cottages of Post Office Row. A simple walled garden enclosure to the front of plot 1 helps with a traditional form and setting to this building, and light landscaping lining the drive will also soften the approach.*

*Plot 5 has been designed as the most high status building in this 'yard' type development and has the appearance of an attractive traditional farmhouse, again using similar detailing to create a complementary design. Plot 3 has a very similar appearance.*

*Plot 4 has been designed more like an outbuilding, mirroring the outbuildings which would have served a historic farmhouse. The building has a barn like references executed in a contemporary fashion. The contemporary elements are controlled and sit within a building which generally has the correct proportions for a traditional building and its overall bulk has been broken up to avoid it being over imposing. I think the use of contemporary detailing works here as it is in careful combination with other complementary elements.*

*Overall I think this is an improved layout and I can see the design considerations gone into balancing the different needs and constraints of this site. This is undoubtedly a better scheme than the extant scheme and, I believe, is an improvement over the last formal plans. The buildings here will mirror a traditional layout and form and by their design, materials and colour pallet should complement the surrounding Conservation Area.*

Comments received 14.09.2018:

This is now an improved scheme over the previous submission. The overall block plan layout shows a simpler and more linear alignment, relating better to the existing Main Street. The building designs are also more attractive, having segmental arches to windows and smaller paned windows. On a more minor note the sprocketed eaves and corbelled chimneys as now submitted, while not unattractive features in their own right are not a particularly traditional feature locally. Ideally something like a dentilated eaves and a flush gable stack should be used, but perhaps these could be controlled by condition?

Putting aside Conservation's in-principle concerns with development on this land, I do not have any objections specifically about the scheme submitted.

*Comments received 07.06.2018:*

If this approval from 1975 is extant I accept that *this* particular scheme could be fully implemented, and as such I do agree that, in these terms only, it would be hard to reject *all* schemes for redevelopment here.

However, there has been a number of significant changes at this site since the 1975 scheme was considered and approved, which would affect the benchmark against which the current scheme should be considered.

The main difference is that since 1975 Coddington Conservation Area has been designated, in 1992. In addition we now have the 1990 Planning (Listed Buildings and Conservation Areas) Act 1990, bringing with it the statutory duty to give special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. This Act is then reflected in the current government guidance (NPPF & NPPG) and our local plan policies, as well as best practice enshrined in Historic England guidance documents.

The fact that there may be an extant scheme does not change the fact that there would be heritage harm resulting from the proposed scheme (as there would be if the extant scheme was built out) and I have already outlined my justification and level of harm in my previous comments.

What has changed is that, in making a balanced decision, weight may need to be given to the fact that an extant scheme could be built out.

I think it is imperative that the current scheme is no more harmful than the extant scheme, and arguably it should be better, considering the designation of the Conservation Area and high statutory duty bearing upon this decision.

In comparing the site layout of the two schemes, the 1975 scheme benefited from creating a new 'back lane' type arrangement, parallel to Main Street, and then creating two rows of housing either side of this, reflecting in this way the orientation of Post Office Row. In addition, the footprint of the house were quite simple, avoiding obvious projecting gables, allowing this linear character to (presumably) be better reflected in elevation.

I would like to see a layout which avoided the curving alien form of the suburban hammer head drive currently submitted, but which reverted to the extant scheme in so much as it created a parallel 'back lane' with simple linear cottages either side of this.

The modest nature of Post Office Row should be reflected in simple detailing and overall size, noting particularly the narrow gable widths and modest height of Post Office Row.

I would expect to see a reflection of the local vernacular building materials and style, so that a glimpse of red brick and pantile on a modest simple row here would not look incongruous.

I trust this explains why the current scheme is, in my opinion, more harmful than the (possibly) extant scheme and why the LPA should be only be accepting the very best scheme in this sensitive location.

*Comments received 18.05.2018:*

The land identified for this proposed development is within the Conservation Area of Coddington. It sits behind an attractive row of local interest buildings called Post Office Row. The proposal is for 8 new houses with detached garages and a new access road.

Some of the plot is visible from the public realm, down the access lane next to Post Office Row, and this makes an attractive green vista between low scale historic buildings. However, most of the site is not so visible in the public realm and the dis-use of the land means most of the site is currently of no particular aesthetic value, in itself. However, there is an aesthetic value in having a green and open backdrop to the attractive historic buildings on this road, and this is partly derived from this land parcel.

In addition, I think there is a particular importance of this land to the character of the Conservation Area, in terms of what it means to the history and development of Coddington as a rural, agrarian village. Looking at the map regression this land always seems to have been open (with the exception of minor transient outbuildings) and it was once part of the Thorpe Oak Estate Lands, which encompassed much of the land around the village. I acknowledge that this land parcel is not marked as being an important open area in the Conservation Area Appraisal, and note that those areas which are marked do make a stronger contribution in terms of setting to historic/listed buildings or by being more readily appreciable from the public realm. However, it does not follow that this land is of no value to the significance and character of the Conservation Area.

The Design and Access Statement has included a useful map regression, and demonstrates that this parcel of land sat behind the main street once leading through Coddington and was part of the rural hinterland of the village, giving way to open fields. Undeniably, the creation of the bypass in the 1940s truncated the village and divorced this land from the wider countryside around it, but crucially it remained undeveloped and is a very clear vestige of the village's historic plan form. That the Conservation Area's boundary still goes beyond the by-pass shows that the bypass may have altered and harmed the setting and plan form of the village, but has not destroyed it. While the creation of the school and council housing off Brownlow Hill have further hemmed the site in, it nevertheless remains a parcel of land which has essentially remained open and undeveloped, probably since the village was first formed.

While Coddington Conservation Area gets a lot of its significance from the good survival of historic buildings, it also gets significance from the setting of these structures, and this includes the rural setting of the village. The village was once a small, rural village and despite the bypass, infill and expansion, can still be read as such. The more open aspect of the land to the south of village most readily conveys this rural origin, but a look at the village plan form today shows that there is

actually a good preservation of open and undeveloped land to the north of the Main Street. While the bypass has altered the village, the fact remains that the historic village plan form south of the bypass is actually clearly legible and in many ways very little altered, which includes the undeveloped nature of the land to the north of Main Street. Section of the Appraisal does note the importance of the fields both surrounding Coddington and those that penetrate into the village, which contribute to the village's rural feel.

I think this parcel of land is a clear survivor of the village's once open, rural and agrarian setting, it contributes positively in both a sense of openness and greenery on Main Street and is part of a pleasing green vista next to Post Office Row.

I think the proposed development would be read as back land development, which would contrary to the historic grain of the village. It would suburbanise this part of Main Street and give a clear vista down to a curved estate road with offset detached houses, which would sit at odds to the simple linear feel of Main Street. This view would replace the simple green open view next to Post Office Row, which currently helps convey the rural character and low density feel of this part of Main Street. It would infill an area that gives 'breathing space' to Main Street, currently giving it a green and open backdrop. It would also take away an important vestige of the village's rural setting and be harmful by eroding its historic plan form, which contributes directly to the village's character and significance.

There is nothing I inherently object to about the proposed design of the houses (although they would not enhance the Conservation Area in their design), however, the windy nature of the estate road is particularly out of character given the linear nature of Main Street and its structures. However, I do not see this as a site that is capable of development without causing harm so would stress that a different layout would not remove the harm.

In terms of the significance of the Conservation Area as a whole, I think the harm from this proposal would be less than substantial, but toward the middle of this and is far from inconsequential. I note the Agents also accept harm, but describe this as 'negligible', which for the reasons above I would disagree with.

I also think it could also set a harmful precedent for backland development, which may have a very real likelihood of coming forward, given the services Coddington has, its location and proximity to Newark.

The Decision Maker must give special weight to this harm, which conflicts with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering the planning balance.

For clarity, I do not think there would be any impact on the setting on the village's listed buildings, due to proximity, terrain, screening and height of the proposed development.

**NSDC Archaeological Officer –**

*Comments received 22.05.2018:*

I looked again at the evidence, or lack thereof that I used for my recommendation. This site is outside of the core of the medieval village and evidence suggests that this area and the area around it remained undeveloped until recently. The civil war defences are to the south and there is no indication that this extended in any way into the development site.

The Historic Environment Record, which is what I use to appraise potential archaeological sites had no records of Roman pottery or any other evidence of potential archaeology on this site so I could clearly not take this into account when making my recommendations.

Given this I wish to reiterate my original recommendation of no archaeological input required.

*Comments received 14.05.2018:*

No archaeological input required.

**Coddington History Group -**

Notts County Council archaeologists appear not to have been invited to comment.

Heritage Assessment Section 8.9 Para 4, Archaeology states that nothing of interest remains.

The 1875 map shows a curving boundary within the site that encloses the church on the north side and forms the north edge of Coddington House's access road. This looks to be of historical interest and the History Group would appreciate it being investigated before it is destroyed.

We have shown it to NCC's Community Archaeologist who considered it worthwhile of some investigation especially since Roman Pottery has been found in an adjacent garden.

**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, and that consideration be given to incorporating 'accessible and adaptable' dwellings within the development. 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 dwellings and on all floors 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 proposals.

In particular, 'step-free' access to and into the dwellings is important, with reference to the topography of the site, and an obstacle free suitably surfaced firm level and smooth 'traffic free' accessible pedestrian pavement route is essential to and into the dwellings 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 inclusive approach, ramps, level flush thresholds, generous doorways, suitably wide corridors etc. all carefully designed to facilitate easy access and manoeuvre are important considerations. Switches and sockets should be located at suitable heights and design to assist

those whose reach is limited to use the dwellings together with suitable accessible WC and sanitary provision etc.

It is recommended that the developer make separate enquiry regarding Building Regulations matters.

**Neighbours/Interested Parties** - 10 letters of representation received prior to receipt of revised plans on 06.09.2018. Main issues raised include:

Principle

- The extant planning permission predates the designation of the Conservation Area, the doubling in the size of the school and increase in traffic;

Visual Amenity/Conservation:

- The original proposal included bungalows unlike the current 2-storey dwelling that would overshadow existing houses on Post Office Row;
- Relative heights of existing and proposed dwelling with proposed houses likely to site higher than surrounding houses;
- The dwellings detract from the architectural heritage of the existing buildings in both character and layout;
- Potential archaeological remains;
- The curving nature of the access road and layout of houses is not in keeping with the village setting, nor is the modern estate design of the houses themselves;
- Some of the photos in the Heritage Assessment are very old and states that the site was recently cleared of 'rubbish and undergrowth'. This site was actually valuable for wildlife and has/had wildflowers/hedgehogs;
- Owners have decimated the site and now it looks like a wasteland with tree removal already occurred.

Residential amenity:

- Light pollution from new dwellings.

Ecology:

- Fencing/walls should allow for wildlife access;
- The site has been cleared impacting on hibernating hedgehogs which has reduced a field of wildflowers to a brown desert with intermittent heaps of dying vegetation.

Highways:

- Vehicles emerging from the site would be a hazard due to low visibility;
- Surrounding roads are too narrow and the demand for on—street parking would increase;
- Cumulative impact of this and other development in the vicinity in terms of traffic volume and stress of parking space. A circulatory traffic scheme could easily be implemented thus creating a one-way, East-to-West flow of vehicles along Main Street and Brownlows Hill;
- Access to the site is not wide enough for 2 cars to pass.

Other:

- Some existing boundary treatments are in need of replacement – will they be replaced as part of the development?

- the western boundary that faces onto 3 – 7 Church Lane Almshouses should be a minimum of 1.8 metres close boarded fencing or mature hedging;
- Could access be created to the north to enable narrow access road to be avoided and also provide an opportunity for passers-by to interact with the new residents?
- The proposed cul-de-sac creates a long walk from the site to the pubs/areas of the village – can a shortcut on land belonging to the village charity be created?
- No provision of affordable housing. 2 bed bungalows for people wishing to downsize but stay in the village should be built.

Only 1 letter of representation was received post receipt of the revised plans. The main issues raised include:

- the road is too dangerous for all the vehicles that is going to use it.

***One letter of representation has been received from Neighbours/Interested Parties since the reduction in the scheme from 9 to 7 dwellings and reconsultation on the associated revised plans which commenced on 02.07.2019. Main issues raised include:***

- ***impact of the amount of cars coming from and to an obscured access and an already busy junction;***
- ***as many trees as possible should be retained at the back of Post Office Row;***
- ***development needs to respect wildlife and local residents.***

Comments of the Business Manager

### **The Principle of Development**

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 and policies of the Development Plan are considered up to date for the purposes of decision making.

The Allocations & Development Management DPD was adopted in July 2013 and, together with the **Amended** Core Strategy DPD (Adopted 2014~~9~~), forms the Development Plan for Newark & Sherwood. There is no neighbourhood plan for Coddington. 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.

~~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. 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 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.~~

It is worth also noting that the site benefits from extant planning permission for 8 bungalows (as set out in the Relevant Planning History section above). As such, the principle of residential development on this land has already been accepted and this fall back position must be given full weight in determining this application.

Below is an assessment of the application against each of the criteria within SP3:

#### *Location*

The first criterion 'Location' ~~currently~~ states 'new development should be ~~within built-up areas of~~ **in** villages, which have **sustainable access to local services and access to Newark Urban Area, Service Centres or Principal Villages** **and have a range of local services themselves which address day to day needs.**' I consider the site to fall within the built-up area of the village of Coddington.

Coddington is one of the District's larger rural villages with a variety of local services as outlined by the submitted Planning Statement which include a Primary School, Community Centre, two Public Houses, a Church and Village Hall. Coddington also shares good links with the wider Newark Urban area. The proposal for additional dwellings in the village would therefore conform with the first criterion of Spatial Policy 3.

#### *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 **New development should be appropriate to the proposed location and small scale in nature** which is discussed further in the 'Impact on Visual Amenity' section below. The current proposal represents one **less** ~~additional~~ dwelling **below** ~~above~~ the fall back position of 8 dwellings. Overall, it is considered that Coddington is of such a size that it could accommodate an additional **seven** ~~nine~~ additional dwellings without representing a disproportionate increase in the village size.~~

#### *Need*

~~Policy SP3 currently states support could be forthcoming for new housing where it helps to meet identified proven local need. Spatial Policy 3 Guidance Note (September 2013) states that proven local need must relate to the needs of the community rather than the applicant. Assessments should be based on factual data such as housing stock figures where the need relates to a type of housing or census data where the needs relate to a particular population group. The onus is on the Applicant to provide evidence of local need. No Needs Assessment has been submitted with the application and Coddington does not have an up-to-date Local Needs Survey (prepared in conjunction with the Parish Council) as far as I am aware.~~



***New housing will be supported where it helps to support community facilities and local services. Housing schemes of 3 dwellings or more should meet the mix and type requirements of Core Policy 3. Core Policy 3 states that the District Council will seek to secure new housing development which adequately addresses the housing need of the District which includes family housing of 3 bedrooms or more and smaller houses of 2 bedrooms or less.*** The Housing Market Needs Sub Area Report (2014) provides the most recent breakdown of size of property needed in the market sector for existing and concealed households. Within the relevant sub area, this indicates a market sector demand for 4% 1-bed, 34% 2-bed, 40% 3-bed and 22% 4-bed+ properties. As such, there is clearly greatest demand for 2 and 3-bed dwellings and a lesser demand for 4 bed+ dwellings. The application proposes ~~11~~ **14%** 2-bed, ~~67~~ **43%** 3-bed and ~~22~~ **43%** 4 bed dwellings which I do consider to be broadly consistent with the housing mix demand set out in the 2014 Report **and Core Policy 3.**

~~I am also 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 section above). This states that new housing will be considered where it helps to support community facilities and local services. I consider the proposed dwellings are likely to support community services and facilities within Coddington. 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*

Policy SP3 states new development should not generate excessive car-borne traffic from out of the area. New development should not have a detrimental impact on the amenity of local people and not have an undue impact on local infrastructure, including drainage, sewerage systems and the transport network. These matters are dealt with in the relevant sections below.

#### *Character*

Policy SP3 states new development should not have a detrimental impact on the character of the area. This matter is dealt with in the relevant section below.

#### **Impact on Visual Amenity including the Character and Appearance of the Conservation Area**

The site is located within Coddington Conservation Area. As such, the local planning authority must have regard to the desirability of preserving or enhancing the character and appearance of the area in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Policy CP14 of the Core Strategy requires continued preservation and enhancement of heritage assets. Local planning authorities need to have special regard to the desirability of preserving or enhancing the character or appearance of Conservation Areas. This is supported by the NPPF which states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

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 Conservation Officers' comments are set out in full in the 'Consultations' section above. The Conservation Officer raises no objection to the most recent set of revised plans which **they not only consider to be a better scheme than the extant scheme but also an improvement to the latest plans considered at December 2018 Planning Committee. The proposal shows a more condensed approach to the built form, locating it in a stronger plan form around the access road and giving more greenery around the edges whilst** ensuring that the site layout is simpler with a more linear alignment, relating better to the existing Main Street. This is subject to conditions relating to the submission and approval of detailed design elements (including the eaves and chimney). ~~The building designs have also been improved with segmental arches to windows and smaller paned windows.~~ The Conservation Officer originally raised concerns with regards to the principle of the proposed development however this view altered in acknowledgement of the extant planning permission for housing development on the site and the fact that the current proposal represents the opportunity to secure a better design solution from a heritage perspective than the extant scheme.

The main difference between the extant scheme and the current application is that Coddington Conservation Area was designated in 1992 and the Planning Policy Framework (including other material planning considerations) for determining the application has changed. In addition, the site area has slightly reduced in size (as it does not include land immediately to the rear of No. 19 Brownlow's Hill), the number of dwellings has ~~reduced~~ **increased** by one and only ~~one~~ **two** bungalows ~~are~~ **is** proposed with the rest of the dwellings being **1.5/2** storey (as opposed to 8 bungalows on the extant scheme).

Overall, I do not consider the difference proposed result in any **additional** heritage harm **above and beyond the fall-back position. Indeed the proposal is considered to result in less harm than the extant scheme** and I concur with the Conservation Officer view that the development would preserve the character and appearance of the Coddington Conservation Area in accordance with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Whilst the development represents a form of backland development, the layout proposed is considered to be in-keeping with the general character and density of the existing development in the area particularly when having regard to the fall back position.

It is not considered that any harm to the setting of the Grade II\* Listed Building of All Saints Church would result from the proposed development.

Subject to a number of conditions relating to details and materials, it is considered that the proposed development would enhance the character and appearance of the Conservation Area in the interests of visual amenity and in accordance with the NPPF, Core Policy 14 of the **Amended** Core Strategy and Policy DM9 of the Allocations and Development Management Development Plan Document (DPD).

### **Impact on Archaeology**

Core Policy 14 sets out that the Council will seek to secure the continued preservation and enhancement of the character, appearance and setting of the District's heritage assets and historic environment including archaeological sites. Policy DM9 states that development proposals should take account of their effect on sites and their settings with potential for archaeological interest.

I note the concerns raised by Coddington History Group in relation to archaeological potential. However having shared these views with the Council's archaeological advisor they recommend no further archaeological investigation. The full views of the Archaeology Officer are set out in the 'Consultations' section above. As such, I am satisfied that the development has taken into account the potential for archaeological interest in accordance with Policy DM9.

### **Impact on Residential 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. The NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Access to the site is to the west side of Post Office Row between No. 18 Post Office Row and No 19 Brownlows Hill. No. 18 contains no windows in its side facing elevation but No. 19 contains a ground and first floor window. Both of these properties also use the application access to private rear parking/driveways areas to the rear of each property with their side gardens containing hedgerow bordering the access to the site. These hedgerows partially screen the access road and it is not considered that any material adverse impact would result upon the living conditions of the occupiers of these two dwellings as a consequence of the increased use of the access.

Post Office Row contains a number of two storey terraced dwellings backing onto the site. The rear of these properties is not uniform and benefit from a mixture of rear extensions and curtilage buildings. ~~Plot 1 would be a two storey dwelling and its side elevation would directly face the rear elevations of 18 and 19 Post Office Row with a separation gap of at least 16.5 metres between the windows within the rear of Post Office Row and the side elevation of Plot 1. Plot 1 would also be located at least 3 metres from the rear garden of these dwellings with the existing car parking/driveway areas also located in between. These separation distances are considered adequate and it is not considered that any adverse impact would result upon the occupiers of residents along Post Office Row by virtue of any overbearing or overlooking impact from the erection of Plot 1.~~

~~Plots 2 and 3~~ 7 would be a bungalow (with ~~Plot 2~~ also containing a single garage close to the boundary) **and Plot 6 would be 1.5 storey dwelling** located directly to the rear of no's 2018-24 Post Office Row. **The south facing rear elevation of Plot 6 would have the appearance of a bungalow with a small velux window serving a bathroom within its roofspace.** It appears that No. 21 benefits from a 2 storey rear extension not shown on the plans. In any event, due to the single storey appearance ~~nature~~ of Plots **7 and 8** ~~2 and 3~~, it is not considered that any adverse impact upon the occupiers of the dwellings along Post Office Row would result by virtue of any adverse overlooking or overbearing impacts. It is noted that the existing dwellings along Post Office Row are likely to overlook the rear gardens of the proposed bungalow. However, the future occupiers of the proposed plots would be aware of this relationship and it is not considered that the level of overlooking would be so harmful to warrant refusal of the application on these grounds.

No. 9-13 Valley View are two storey terraces dwellings located to the north west of the site with the back/side of these dwellings backing onto the application site. All elevations of these dwellings contain windows overlooking the application site and land levels for these dwellings appear slightly lower than the application site. Plot ~~19~~ would be located the closest to 9 and 10 Valley View. There would be a separation gap of at least ~~27~~ 26 metres between the side of No. 9 and the

corner of Plot ~~1 9~~. There would be a separation gap of 16.45 metres between the rear of No. 10 and the corner of Plot ~~1 9~~. However, the nearest windows to the boundary would serve a bathroom and ensuite. It is recommended that a condition be imposed to ensure that these windows are obscure glazed and non-opening below 1.7 metres in height. This means that the separation gap between main habitable room windows would be at an oblique angle at a distance of approximately 21 metres which is considered acceptable.

The side of Plot ~~3 7~~ would face directly towards No 11 ~~and 12~~ Valley View at a distance of at least ~~220~~ metres away and would contain a ground floor habitable room window (with no windows at first floor level). Due to this separation, existing *and proposed* boundary treatments, it is not considered that any adverse overlooking or overbearing impacts would result albeit it is important that a condition requiring details of *boundary treatments and* existing and proposed finished floor levels are submitted to ensure that the proposed dwellings are not elevated above the height of the dwellings along Valley View to an unacceptable level.

I note that the Plots ~~1, 2 and 3 7, 8 and 9~~ have the potential to overlook the rear garden areas of the dwellings along Valley View, however it is not considered that the resultant levels of overlooking would be materially worse than existing levels of overlooking experienced by the occupiers of these dwellings.

The Scout Hall and associated curtilage is located immediately to the east of the site, with the Village Hall just beyond. It is not considered that any adverse impact upon the users of these facilities would result from the development proposed.

No. 1 - 3 Church Cottages (Almshouses) and the Old Vicarage are also located to the north east of the site. Separation distances are in excess of 21 metres between the side/rear elevations of the proposed dwellings and Plots 4 and 5 with a number of intervening mature trees located within the curtilage of the existing dwellings *which also have a relatively large area of residential curtilage*. As such, it is not considered that any adverse impact upon the occupiers of these dwellings would result by virtue of any materially adverse overlooking or overbearing impacts.

Having carefully assessed the scheme I am satisfied that the proposal would have no significant detrimental impacts upon the amenity of future occupiers of the proposed dwelling or dwellings adjacent to the application site in accordance with the Policy DM5 of the DPD.

### **Impact on Ecology and Trees**

Core Policy 12 of the *Amended* Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM5 of the DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced.

A Preliminary Ecological Appraisal (by Arbtech Oct 2018) has been submitted with the application and considers the impact of the proposal upon a number of species including bats, birds, reptiles and hedgehogs. Overall, this concludes that no further surveys are required although a number of enhancement measures are recommended to improve the biodiversity of the site. Mitigation measures include the provision of bird and bat boxes, precautionary working methods and creating hibernacula and refugia. It is recommended that a planning permission be imposed to secure the implementation of these measures.

The site contains a number of trees either just inside or outside of its boundary. Whilst not clearly indicated on the proposed Site Plan it appears that all of these trees could be retained as part of the development and it is recommended that carefully worded conditions be imposed to ensure tree retention/protection and the submission of a landscape scheme.

Overall, the proposed development is unlikely to have an adverse impact upon ecology and subject to conditions, it is not considered that the proposed development would result in the loss of natural features of importance in accordance with the aims of Core Policy 12 and Policy DM5.

### **Highways and Parking**

Spatial Policy 7 of the **Amended** 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 Officer raises no objection to the proposal subject to conditions relating to the provision of a bin collection point, adequate drainage and lighting. Their full comments are set out in the 'Consultations' section above. I note the concerns of neighbours and the Parish Council in relation to highway safety, however a refusal on these grounds is not considered justified in this instance in light of the Highways Officers views who does consider any adverse highway safety impacts would result. The proposed parking provision and access layout appear are also adequate.

As such, it is unlikely that the proposed development would result in any adverse impact upon highway safety and the proposals are therefore in accordance with the aims of Spatial Policy 7 and Policy DM5 of the DPD.

### **Drainage and Sewage**

Core Policy 9 requires new development proposals to pro-actively manage surface water. The application proposed the disposal of surface water through the use of soakways and foul sewage by the mains sewer, however no specific details have been provided at this stage. As such, it is recommended that a condition be imposed requiring the submission and approval of drainage plans for the disposal of surface water and foul sewage. This would ensure that the development is provided with a satisfactory means of drainage in accordance with the aims of the NPPF and Core Policy 9 of the **Amended** Core Strategy and Policy DM10 of the DPD.

### **Affordable Housing**

In relation to the comments made by the Parish Council in relation to affordable housing, Core Policy 1 of the **Amended** Core Strategy states that the District Council will seek to secure 30% of new housing provision as affordable housing on all housing proposals of **110** or more dwellings or on sites which have a combined gross floor space of more than 1000m<sup>2</sup> ~~0.4 ha or above (irrespective of dwelling numbers) inside Newark Urban Area. However, an order of the Court of Appeal dated 13 May 2016, gave legal effect to the policy set out in the written ministerial statement of 28 November 2014 which required that no contributions should be sought from developments of 10 units or less, and which have a maximum combined gross floorspace of no more than 1,000 square metres (gross internal area). In this case, the overall floorspace is now 999m<sup>2</sup> including garages and it is not considered reasonable to seek a contribution towards affordable housing provision in this instance.~~

*The NPPF published in 2019 now states in para 63 that “Provision of affordable housing should not be sought for residential developments that are not major development, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer).” Within Annex 2: Glossary of the NPPF, major development is defined as: “For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 ha or more.”*

*This proposal is for 7 dwellings on a site of 0.31 ha in area. Under the NPPF, the proposal falls outside these triggers and as such there is no requirement for affordable housing. Given that the Amended Core Strategy Core Policy 1 gross floor space threshold would not be in line with the approach in the latest NPPF, less weight has to be given to this policy and more weight given to the NPPF, in this instance, in accordance with para 213 of the NPPF 2019. Given this, I can conclude it is not considered reasonable to seek a contribution towards affordable housing provision in this instance.*

### **Conclusion**

The site is located within the settlement of Coddington and its Conservation Area where the principle of development can be considered acceptable when assessed against the criteria set out in Spatial Policy 3. The majority of the site benefits from extant planning permission for the development of 8 bungalows representing a fallback position which must be afforded weight. The proposal is considered acceptable with regards to location, scale, character and impact with the proposed housing mix being broadly reflective of the local need within the area. The development would also support existing community facilities and services within Coddington.

Subject to planning conditions, the proposed development would not result in any adverse impact upon the character and appearance of the Conservation Area or setting of any other listed building including All Saints Church. Nor is it considered that the proposal would result in any adverse impact upon residential amenity, highway safety, ecology or any important trees. Subject to the conditions below, the recommendation is for approval.

### **RECOMMENDATION**

**That full planning permission is approved subject to the conditions set out below:**

#### **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 plans received ~~06.09.2018~~ **02.07.2019** reference:

~~P01 Amended Site Location Plan~~

~~P02 D Amended Block Plan~~

~~P16 A Plots 4+7 Elevations~~  
~~P13 A Amended Floor Plans Plots 2 and 3~~  
~~P12A Amended Elevation Plans Plots 1 5 6 8 and 9~~  
~~P19 A Amended Garages~~  
~~P15 A Amended Floor Plans Plots 4 and 7~~  
~~P14 A Amended Elevations Plots 2 and 3~~  
~~P11 A Amended Floor Plans Plots 1, 5, 6, 8 and 9~~

- **Design Revision Document June 2019**
- **P01 Site Location Plan**
- **812.1113.6.PL02 Proposed Site Plan**
- **812.1113.6.PL03 Plots 1 and 2**
- **812.1113.6.PL04 Plot 3**
- **812.1113.6.PL05 Plot 4**
- **812.1113.6.PL06 Plot 5**
- **812.1113.6.PL07 Plot 6**
- **812.1113.6.PL08 Plot 7**

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

Prior to the occupation of any dwelling hereby approved, details of a wheelie bin collection point to serve the development shall be submitted to the local planning authority. Once approved in writing by the local planning authority, the wheelie bin collection point shall be provided in accordance with the approved details prior to the occupation of any of the dwellings hereby approved and shall thereafter be retained indefinitely.

Reason: To prevent wheelie bins obstructing the public highway, in the interests of highway safety in accordance with Spatial policy 7 and Policy DM5 of the DPD.

04

Prior to the occupation of the development, a scheme for the provision of external lighting shall be submitted to and be approved in writing by the local planning authority. The scheme shall include full details of the locations, design, luminance levels, light spillage and hours of use of, and columns for all external lighting within the site and once approved in writing the approved scheme shall be implemented in full prior to first occupation of development.

Reason: To safeguard the amenity of the area and in the interests of biodiversity in accordance with Core Policy 12 of the Newark and Sherwood **Amended** Core Strategy DPD and Policies DM5 and DM7 of the Newark and Sherwood Allocations and Development Management DPD (2013).

05

No development shall take place until an ecological enhancement and mitigation strategy in accordance with the advice contained within the Preliminary Ecological Appraisal Survey (by Arbtech Oct 2018) has been submitted to and been approved in writing by the Local Planning Authority. The approved strategy shall be implemented in full prior to the occupation of development taking place on site and shall be retained on site for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority. The strategy shall include:

- Details of enhancement measures including bat/bird boxes to be installed on site including their design, quantum and precise positions including the height and timings of installation;
- The creation of hibernacula and refugia including their design, quantum and precise positions including the height and timings of installation;
- Details of any other mitigation measures recommended in the Survey.

Reason: In the interests of maintain and enhancing biodiversity in accordance with the aims of the NPPF and Core Policy 12 of the **Amended** Core Strategy and Policy DM7 of the A&DMDPD.

06

No development shall be commenced in respect of the features identified below, until samples of the materials for all aspects of the development 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.

Facing materials  
Bricks  
Roofing materials  
Joinery

Reason: In the interests of the character and appearance of the Conservation Area in accordance with the aims of the NPPF and Core Policy 14 of the **Amended** Core Strategy and Policy DM9 of the DPD.

07

Prior to the construction of walls above the footings, a brick work sample panel showing brick work, bond, mortar mix and pointing technique shall be provided on site for inspection by and subsequent written approval 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 the interests of the character and appearance of the Conservation Area in accordance with the aims of the NPPF and Core Policy 14 of the **Amended** Core Strategy and Policy DM9 of the DPD.

08

Notwithstanding the submitted details, 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.

External windows and doors and their immediate surroundings including details of glazing and glazing bars.  
Chimneys  
Treatment of window and door heads and cills  
Verges and eaves  
Rainwater goods



Any other external accretion including extractor vents, flues, meter boxes, airbricks and soil and vent pipes

Reason: In the interests of visual amenity and in order to safeguard the character and appearance of the Conservation Area in accordance with the aims of the NPPF and Core Policy 14 of the **Amended** Core Strategy and Policy DM9 of the DPD.

09

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: 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: Additions etc. to the roof of a dwellinghouse.

Class C: Any other alteration to the roof of a dwellinghouse.

Class D: The erection or construction of a porch outside any external door of a dwellinghouse.

Class E: Development of building etc. incidental to the enjoyment of a dwellinghouse.

Class F: The provision or replacement of hard standing within the curtilage 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 A: The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.

Class B: Means of access.

Class C: The painting of the exterior of any building.

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

Reason: To ensure that any proposed further alterations or extensions preserve the character and appearance of the Conservation Area and the amenity of neighbouring dwellings in accordance with Policy CP 14 of the **Amended** Core Strategy and Policies DM5 and DM9 of the Allocations and Development Plan Development Plan Document (DPD).

10

No works or development shall take place until a scheme for protection of the retained trees/hedgerows has been agreed in writing with the District Planning Authority (both within and adjacent to the site). This scheme shall include:

- a. A plan showing details and positions of the ground protection areas.
- b. Details and position of protection barriers.
- c. Details and position of underground service runs and working methods employed should these runs be within the designated root protection area of any retained tree/hedgerow on or adjacent to the application site.
- d. Details of any special engineering required to accommodate the protection of retained trees/hedgerows (e.g. in connection with foundations, bridging, water features, surfacing).
- e. Details of working methods to be employed for the installation of drives and paths within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- f. Details of working methods to be employed with the demolition of buildings, structures and surfacing within or adjacent to the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- g. Details of any scaffolding erection within the root protection areas
- h. Details of timing for the various phases of works or development in the context of the tree/hedgerow protection measures.

All works/development shall be carried out in full accordance with the approved tree/hedgerow protection scheme.

Reason: To preserve and protect existing trees and new trees which have and may have amenity value that contribute to the character and appearance of the Conservation Area in accordance with Policy CP 14 of the **Amended** Core Strategy and Policies DM5 and DM9 of the Allocations and Development Plan Development Plan Document (DPD).

11

The following activities must not be carried out under any circumstances:

- a. No fires to be lit on site within 10 metres of the nearest point of the canopy of any retained tree/hedgerow on or adjacent to the proposal site.
- b. No equipment, signage, fencing etc. shall be attached to or be supported by any retained tree on or adjacent to the application site,
- c. No temporary access within designated root protection areas without the prior written approval of the Local Planning Authority.
- d. No mixing of cement, dispensing of fuels or chemicals within 10 metres of any retained tree/hedgerow on or adjacent to the application site.
- e. No soakaways to be routed within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- f. No stripping of top soils, excavations or changing of levels to occur within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- g. No topsoil, building materials or other to be stored within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- h. No alterations or variations of the approved works or protection schemes shall be carried out without the prior written approval of the District Planning Authority.

Reason: To preserve and protect existing trees and new trees which have and may have amenity value that contribute to the character and appearance of the Conservation Area in accordance with Policy CP 14 of the **Amended** Core Strategy and Policies DM5 and DM9 of the Allocations and Development Plan Development Plan Document (DPD).

12

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, hedgerow, shrubs and other plants, noting species, plant sizes, proposed numbers, densities and approximate date of planting). For the avoidance of doubt, new planting should consist of native species only;

car parking layout and materials;

other vehicle and pedestrian access and circulation areas;

hard surfacing materials.

Reason: In order to preserve the character and appearance of the Conservation Area and enhance biodiversity in accordance with Policy CP 14 of the **Amended** Core Strategy and Policies DM5, DM7 and DM9 of the Allocations and Development Plan Development Plan Document (DPD).

13

The approved landscaping scheme shall be carried out within 6 months of the first occupation of any building or completion of the development, whichever is soonest or such longer period as may be agreed in writing by the Local Planning Authority. Any trees/shrubs which, within a period of seven 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 and in order to preserve the character and appearance of the Conservation Area in accordance with Policy CP 14 of the **Amended** Core Strategy and Policies DM5, DM7 and DM9 of the Allocations and Development Plan Development Plan Document (DPD).

14

Any clearance works of vegetation (lopped, topped, felled or otherwise removed), shall not be undertaken 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 in accordance with the aims of the NPPF and Core Policy 12 of the **Amended** Core Strategy.

15

The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing 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 and to minimise the risk of pollution in accordance with the aims of the NPPF and Policy Core Policy 9 of the **Amended** Core Strategy and Policy DM10 of the DPD.

16

Details of the boundary treatments both within the site and around the perimeter of the site including types, height, design and materials must be submitted to and be approved in writing by the local planning authority prior to the first occupation of development. The approved boundary treatments shall be implemented in accordance with the approved details on a plot by plot basis unless otherwise agreed in writing by the local planning authority.

Reason: In order to preserve the character and appearance of the Conservation Area and in the interests of residential amenity in accordance with Policy CP 14 of the **Amended** Core Strategy and Policies DM5 and DM9 of the Allocations and Development Plan Development Plan Document (DPD).

17

The bathroom and ensuite window openings on the first floor north facing rear elevation of Plot **1** ~~9~~ **and on the first floor south facing elevation of Plot 6** 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.

Reason: To safeguard against overlooking and loss of privacy in the interests of amenity of occupiers of neighbouring properties in accordance with the aims of the NPPF and Policy DM5 of the DPD.

18

No construction work, including site clearance and delivery of materials, shall be carried out except between the hours of 7.30 -18.00 Monday to Friday and 08.30 - 13.00 on Saturdays and at no time on Sundays and Bank Holidays, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity in accordance with the aims of the NPPF and Policy DM5 of the DPD.

19

No development shall be commenced until details of the existing and proposed ground levels and finished floor levels of the site and approved buildings (respectively) 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 in accordance with the aims of Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

20

No development shall be commenced, including any site clearance, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period unless otherwise agreed in writing by the local planning authority. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors;
- ii. loading and unloading of plant and materials;
- iii. storage of plant and materials used in constructing the development;
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- v. wheel washing facilities;
- vi. measures to control the emission of dust and dirt during construction;
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In the interests of residential amenity in accordance with the aims of the NPPF and Policy DM5 of the DPD.

**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/cil](http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil)

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

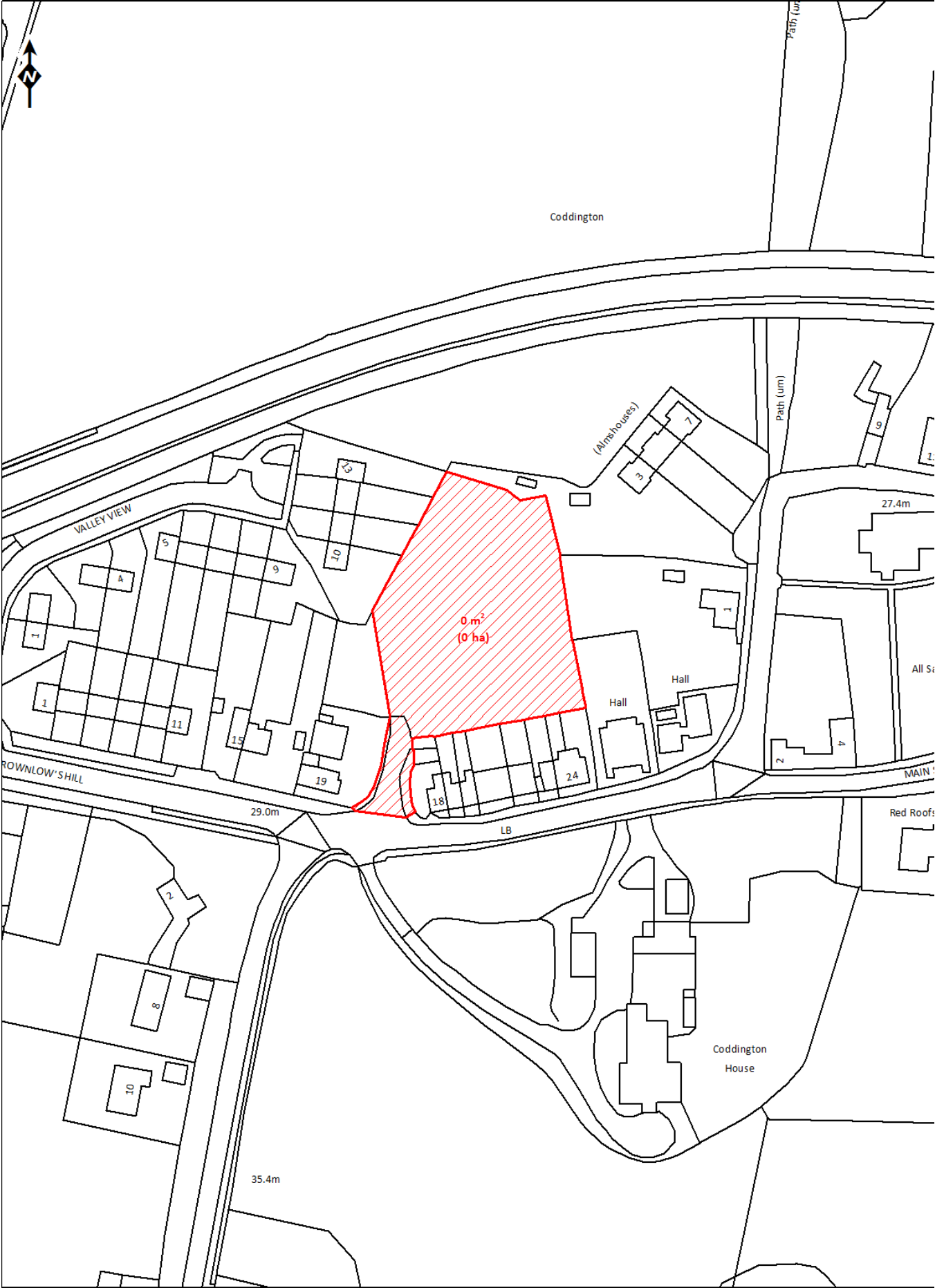
Application Case File

For further information, please contact Helen Marriott on ext. 5793

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**

**Director of Growth & Regeneration**



## PLANNING COMMITTEE – 6 AUGUST 2019

|                        |  |                                |
|------------------------|--|--------------------------------|
| <b>Application No:</b> | <b>19/01160/S73</b>  |                                |
| <b>Proposal:</b>       | <b>Application to vary conditions 2 and 7 attached to planning permission 16/00155/FUL to lower floor level by 270mm</b> |                                |
| <b>Location:</b>       | <b>8 Willow Drive<br/>North Muskham<br/>Newark On Trent<br/>Nottinghamshire<br/>NG23 6EX</b>                             |                                |
| <b>Applicant:</b>      | <b>Mr Mark Brown</b>   |                                |
| <b>Registered:</b>     | <b>27.06.2019</b>  | <b>Target Date: 22.08.2019</b> |

**This application is being included on the Planning Committee agenda as the views of the Parish Council are not yet known albeit they raised an objection to the original application. The Parish Council comments are due in the period between agenda print and the Meeting and therefore will be reported to Members as a late item if they form an objection. If they form support for the proposal, the application will be removed from the agenda and approved under delegated powers.**

### The Site

The application site relates to a site area of approximately 0.9 hectares located at the head of a cul-de-sac within the built up area North Muskham village. The site comprises a vacant plot which was part of a comprehensive residential development of 8 dwellings granted planning consent in 2004 and is the only plot not developed.

Two storey dwellings exist to the north, south and west of the site and to the east the land is adjoined by a paddock area.

The immediately adjoining neighbour to the south (no. 6 Willow Drive) is a two storey detached dwelling. This property has principle room windows to its rear elevation and no windows to the gable facing the site. 1.8m high close boarded fence forms the boundary with the application site. There is a detached outbuilding sited within the rear garden of this property.

To the north, the adjoining properties on Willow Drive are large two storey detached dwellings with open plan frontages whilst to the west on the opposite side of Willow Drive there is a terrace of 3 two storey dwellings. The front boundary of the site comprises a 1m high brick wall.

The site lies in Flood Zone 2 as indicated on the Environment Agency's Flood Risk Maps, at medium risk of flooding. Trees along the eastern boundary are subject to protection through Tree Preservation Orders.



## Relevant Planning History

**16/00155/FUL** – Erection of 3(No.) Three Bedroom Houses. *Application approved by committee in August 2016 subject to conditions.*

Conditional planning permission was granted in February 2005 for the erection of 8 dwellings – **04/02777/FUL**. Conditions attached to this permission were subsequently discharged. 7 of the 8 dwellings approved have been constructed and this permission therefore remains extant.

Outline planning permission was granted in July 1999 for the erection of 5 dwellings – **99/51345/OUT**. This permission was not implemented.

## The Proposal

The application has been submitted as a Section 73 application to vary conditions 2 and 7 of permission 16/00155/FUL to allow the floor level of the approved dwellings to be lowered by 270mm (set at 10.470 rather than 10.740 AOD).

Condition 2 stated:

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

*Topographical Survey (Proposed Site Plan) – drawing no. 1D/37/2015 received 4<sup>th</sup> August 2016*

*Plans and Elevations as proposed – drawing no. 3/37/2015*

*unless otherwise agreed in writing by the local planning authority through the approval of a nonmaterial amendment to the permission.*

*Reason: So as to define this permission.*

Condition 7 stated:

*The Development shall be carried out in full accordance with the flood mitigation measures contained within the Flood Management Proposal section of the Flood Risk Assessment produced by Clive Davies dated 17<sup>th</sup> May 2016.*

*Reason: To prevent flooding elsewhere by ensuring that no loss of floodplain storage occurs as a result of this development.*

No other external alterations are sought in comparison to the extant approval. There is also no increase to the footprint of the dwellings already approved.

The application has been considered on the basis of the following plans and documents:

- Supporting Statement Rev a received 4<sup>th</sup> July 2019;
- Proposed Site Layout – 19012.01 rev. d received 4<sup>th</sup> July 2019.

## Departure/Public Advertisement Procedure

Occupiers of 13 properties have been individually notified by letter. A site notice has also been displayed near to the site.

### **Planning Policy Framework**

#### **The Development Plan**

##### **Newark and Sherwood Amended Core Strategy DPD (adopted March 2019)**

Spatial Policy 1 - Settlement Hierarchy  
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

##### **Allocations & Development Management DPD**

DM5 – Design  
DM7 – Biodiversity and Green Infrastructure  
DM12 – Presumption in Favour of Sustainable Development

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

- National Planning Policy Framework 2019
- Planning Practice Guidance (online resource)

#### **Consultations**

**North Muskham Parish Council** – No comments received at the time of agenda print.

**Environment Agency** – Thank you for consulting us on the application above. The application is to vary the conditions for 'more vulnerable' residential development in Flood Zone 2, and can therefore be determined by the LPA in line with our national flood risk standing advice (FRSA). We do not ask to be consulted on development proposals of this type. The FRSA can be found at the following link:

<https://www.gov.uk/guidance/flood-risk-assessment-standing-advice#standing-advice-for-vulnerable-developments>

None the less, our FRSA clearly states that the finished floor levels (FFL) of more vulnerable development in FZ2 should be set 600mm above the 1 in 100 year flood level, including an allowance for climate change, where possible. The FRSA goes on to state that where this FFL is not possible, developments should incorporate extra flood resilient construction measures to mitigate the risks associated with water entry. It's worth highlighting that, if FFL are set below the previously conditioned level, there is a chance that floodwater could enter the ground floor of the dwellings during the more extreme flood events. That fact that the area has not been flooded recently (owing to defenses) does not remove the risk of future flooding; this has been seen in

other areas of the country where severe flooding has occurred following prolonged periods of 'no flooding'.

Ultimately, as the site is within FZ2 only, it is up to your Authority to consider the mitigation proposed by the applicant and determine whether or not you are comfortable with the residual risks that might remain.

**NCC Flood** – 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.

**Trent Valley Internal Drainage Board** – The site is within the Trent Valley Internal Drainage Board district.

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 any drainage systems must be agreed with the Lead Local Flood Authority and Local Planning Authority.

**NSDC Emergency Planner** - First I must clarify that I am not formally qualified in issues of hydrology or associated environmental sciences. However I am aware of the guidance and advice of the environment agency. I am also aware of the significant risk of flooding across Nottinghamshire and the strain that can be placed on agencies responding to flood events and to the distress felt by occupants who's homes are flooded.

I was not involved in considering other developments in the local area including the dwellings referred to in this application and may not have considered the FFL of those homes as appropriate.

I do not accept that it is not possible to achieve the required FFLs surely this is a matter for effective and creative design. Similarly I do not accept that it would not be possible to design a dwelling that would be accessible to less able or elderly residents. Indeed if the property were to be flooded at the lower FFL, then those less able may face considerable challenges in coping with such an event. Therefore designing a dwelling safe from flooding would appear to be desirable

I do not believe that in assessing risk I should consider the aesthetic appeal of the property.

The flood mitigation measures described in the application are minimal, there are many other design measures that can be incorporated into a building to mitigate against flood risk. If the application is considered favourably I would expect to see more comprehensive design features.

**No letters of representation have been received.**

#### Comments of the Business Manager

An application under Section 73 is in effect a fresh planning application but should be determined in full acknowledgement that an existing permission exists on the site. This Section provides a different procedure for such applications for planning permission, and requires the decision maker to consider only the question of the conditions subject to which planning permission was granted. As such, the principle of the approved development cannot be revisited as part of this application.

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. In determining such an application the local planning authority is only able to consider the question of the conditions subject to which planning permission should be granted, and—

- (a) if the authority decides 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, the authority shall grant planning permission accordingly, and
- (b) if the authority decides that planning permission should not be granted subject to the same conditions as those subject to which the previous permission was granted, the authority shall refuse the application.

The NPPF is clear that any new permission should set out all conditions related to it unless they have been discharged and that it cannot be used to vary the time limit for implementation which must remain unchanged from the original permission. In this context it is worthy of note that the LPA are satisfied that the work commenced within the prescribed timeframe of the original application (i.e. by August 5<sup>th</sup> 2019).

Whilst the application has defined which conditions are sought to be varied, the local authority has the power to vary or remove other conditions if are minded to grant a new planning consent. Full planning permission was granted in August 2016 subject to a number of conditions. The conditions to be varied are numbers 02 and 07.

#### Impact on Flood Risk

The application site is located within Flood Zone 2 and therefore matters of flood risk were a significant consideration in the consideration of the extant permission. At this time, it was considered that the then extant permission which existed on the site formed a strong fall back position to allow the Sequential Test to be passed. It would not be appropriate to re-apply the Sequential Test at this time noting the extant permission for three dwellings.

It is however appropriate to apply the Exception Test given that the flood mitigation measures (i.e.

the finished floor levels) which were secured on the extant scheme, are now proposed to be lowered by 270mm.

The supporting statement accompanying the current submission splits the rationale for the submission into matters of practicality; aesthetics; and amenity. Briefly summarized, the reasons for lowering the proposed floor levels are:

- The levels as currently agreed but require a stepped approach making it more difficult for inclusive access;
- The levels as currently agreed would mean that the proposed dwellings would be approx.. 600mm higher than the adjacent properties;
- The levels as currently agreed would impact on the privacy of the adjacent neighbor to the south (6 Willow Drive).

The originally submitted Flood Risk Assessment (FRA) stated an assumed flood level of 10.140 AOD for the application site. It is now submitted that further data suggests the level would actually be 10.090 AOD (i.e. 50mm lower). Anecdotal evidence of a lack of flooding at the site is also referenced.

The above arguments form the basis for the current application to vary the conditions citing the approved floor levels as 'unrealistic and unachievable'. The finished floor level now proposed is 10.470 AOD (i.e. 380mm above the revised flood level). There is no intention to vary condition 08 which refers to the commitment to the Environment Agencies Flood Warning System and internally electrical sockets would be raised at 450mm above the finished floor level. Other mitigation measures include the use of engineering bricks to damp proof course level and a one way / non return valve system on the foul drainage.

The comments of the Environment Agency (listed in full above) direct assessment towards their standing advice albeit do make additional comment ultimately confirming that it falls for the LPA to consider whether the mitigation proposed would be sufficient to balance the risk to proposed occupiers in flooding terms.

The standing advice available refers to matters of surface water management; access and evacuation; and floor levels.

In respect to surface water management, the extant application was subject to a condition in relation to the appropriate drainage from the site which has already been discharged through a separate discharge of condition request. The changes in floor levels proposed would not affect this regime and therefore there is no issue in this respect.

Equally the extant permission had a condition (08) which requires the occupants to register with the Environment Agency's Flood Warning System. For the avoidance of doubt the applicant is not intending to alter this condition and neither would Officers intend to do so.

The standing advice in respect to floor levels states:

*Ground floor levels should be a minimum of whichever is higher of:*

- *300 millimetres (mm) above the general ground level of the site*
- *600mm above the estimated river or sea flood level*

*State in your assessment all levels in relation to Ordnance Datum (also known as height above average sea level). You may be able to get this information from the Ordnance Survey. If not, you'll need to get a land survey carried out by a qualified surveyor.*

*If you cannot raise floor levels above the estimated flood level, you need to consider extra flood resistance and resilience measures.*

The extra flood resistance and resilience measures of the advice is specifically for where ground floor levels are lower than the estimated flood level for the site which would not apply in this scenario noting that even the varied condition seeks finished floor levels of 380mm above the latest data on flood level. Officers are however particularly conscious of the following statement in the Environment Agency comments:

*It's worth highlighting that, if FFL are set below the previously conditioned level, there is a chance that floodwater could enter the ground floor of the dwellings during the more extreme flood events. That fact that the area has not been flooded recently (owing to defences) does not remove the risk of future flooding; this has been seen in other areas of the country where severe flooding has occurred following prolonged periods of 'no flooding'.*

In this respect Officers have taken the opportunity to consult the Councils Emergency Planner. The comments are listed in full above and rightly point out that flooding can cause a strain to local agencies in responding to flood events. The comments discount the aesthetics implications of lowering the floor levels as proposed and make the point that the approved levels could be delivered through effective and creative design. I do not dispute these comments and fully endorse the importance of incorporating flood mitigation measures in new developments.

However, in addition to the above, it must be material to the current decision that the application submission refers to the finished floor levels of the neighbouring plot to the north which was built as part of a wider residential scheme for 8 dwellings (one of which was intended for the current application site and still remains extant by virtue of the implementation of the rest of the scheme). This shows that the neighbouring plot has a finished floor level of 10.270 AOD and therefore would still be 200mm lower than proposed dwellings on the site. The neighbouring dwelling is subject to the same level of flood risk according to the Environment Agency maps. The finished floor levels were approved as part of the extant scheme. Officers are conscious of the fallback position which would allow for the erection of a large single detached dwelling within the site at a lower level than the approved three dwellings. This must be afforded weight in the overall balance below and ultimately consideration must be given as to whether it would be reasonable for this site to now be subjected to more onerous requirements (particularly when the latest data implies the flood level to be lower).

### Other Matters

Whilst the focus of the supporting statement is in respect to the justification of the revised floor levels in flood risk terms, there is additional commentary as to the benefits of reducing the levels which have formed the rationale for submitting the application.

Officers do not dispute that a lower floor level offers the opportunity to improve amenity relationships in that potential for overbearing will be reduced. It would also be a benefit to allow level access in accessibility terms.

The statement also refers to an aesthetic value in aligning the proposed dwellings better with the existing neighbouring development. However, given the alignment of the dwellings perpendicular to the recent scheme to the north, it is not considered that this would necessarily be that perceptible on site. Nevertheless, it is considered a marginal benefit of the revised scheme in character terms.

#### Assessment of the remaining conditions

The NPPG is clear that any new permission should set out all conditions related to it unless they have been discharged and that it cannot be used to vary the time limit for implementation which must remain unchanged from the original permission. In this case as the development has begun, the time condition does not need to be re-imposed.

For ease of reference the conditions as originally imposed are listed in full below (in the recommendation section) with ~~striketrough~~ text used to represent parts of the condition no longer required and **bolded text** used to indicate new wording. The conditions have been reworded where details have been provided through the discharge of conditions.

#### Conclusion

Only the very narrow scope of the matters of varying the conditions imposed are open for consideration. The key matter for consideration in this case is whether or not the lower floor levels now proposed would still allow the development to pass the Exception Test in flood risk terms.

When taken in the context of the other mitigation measures which would remain to be secured (including the flood warning system and internal electricity arrangements); and noting that the finished floor levels would still be above the neighbouring site, Officers are minded to take a pragmatic approach and agree that the lower levels now intended will still provide adequate mitigation against flood risk for the end occupiers of the three units. In reaching this judgement, weight has been attached to the 2005 permission which would already allow a dwelling to be built at a lower level but also the amenity; accessibility; and visual benefits which would arise from the lower floor levels proposed. It is also notable that neither the Environment Agency nor NCC Flood Team have formally objected to the revisions sought.

#### **RECOMMENDATION**

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

##### 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 reference:

~~Topographical Survey (Proposed Site Plan) – drawing no. 1D/37/2015 received 4th August 2016~~

~~Plans and Elevations as proposed – drawing no. 3/37/2015~~

- **Proposed Site Layout – 19012.01 rev. d received 4<sup>th</sup> July 2019;**
- **Ground Floor Block Plan – 19012.10 rev. c received 4<sup>th</sup> July 2019;**
- **First Floor Plan – 19012.11 rev. b received 4<sup>th</sup> July 2019;**
- **Second Floor Plan – 19012.12 rev. b received 4<sup>th</sup> July 2019;**
- **Front (west) & Side (south) Elevations – 19012.20 rev. c received 4<sup>th</sup> July 2019;**
- **Rear (east) & Side (north) Elevations – 19012.21 rev. c received 4<sup>th</sup> July 2019;**

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

02

~~No development shall be commenced until 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~~

The development hereby approved shall be carried out in accordance with the following materials:

- **Roof tiles to be Sandtoft double pantile Terracotta**
- **Facing Bricks to be Wienerberger Smoked Orange Multi Gilt Stock, Detailing Bricks to be Wienerberger Orange Gilt Stock.**
- **White upvc windows throughout, composite doors to all dwellings**

as agreed through the discharge of condition request 19/01135/DISCON discharged by letter dated 26<sup>th</sup> July 2019 in line with application 16/00155/FUL.

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.~~
- ~~• Measures to enhance the biodiversity benefit to the site (e.g, hedgerow enhancement)~~
- ~~• Details of hard surfacing~~

~~Reason: In the interests of visual amenity and biodiversity.~~

05

03

The approved landscaping **shown on plan reference Proposed Site Layout – 19012.01 rev. d received 4<sup>th</sup> July 2019**; 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

04

~~The development hereby permitted shall not 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.~~

**The development hereby approved shall be carried out in accordance with the drainage scheme shown on plan reference Proposed Site Layout – 19012.01 rev. d received 4<sup>th</sup> July 2019 and implemented before the development is first brought into use unless otherwise agreed in writing by the local planning authority.**

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

07

05

The Development shall be carried out in full accordance with the flood mitigation measures contained within the ~~Flood Management Proposal section of the Flood Risk Assessment produced by Clive Davies dated 17th May 2016.~~ **the Supporting Statement revision a received 4<sup>th</sup> July 2019 unless otherwise agreed in writing by the local planning authority. For the avoidance of doubt, this includes the following measures:**

- **Engineering bricks to be used in the construction from foundations to DPC level;**
- **Finished Floor Levels (FFL) set at 10.470;**
- **One way / non-return valves proposed to all foul drainage;**
- **Ground floor electrical sockets will be raised minimum 450mm above the FFL.**

Reason: To prevent flooding elsewhere by ensuring that no loss of floodplain storage occurs as a result of this development.

08

06

Before the dwelling hereby approved is first occupied potential residents shall first:

- (a) register with the Environment Agency's Floodline Warnings Direct Service (hereafter referred to as the Flood Warning Service which expression shall include any replacement for that Service provided by the Environment Agency);
- (b) within 14 days provide the local planning authority with confirmation from the Environment Agency that they have done so.
- (c) Submit to the LPA an evacuation scheme which details under what circumstances, triggers (including the Flood Warning Service), and locations occupiers will be evacuated to in the event of a Flood.

Residents shall maintain their registration with the Flood Warning Service (or any replacement service) at all times and should the dwelling be sold or occupied by new tenants registration with the Flood Warning Service will be made a condition of the sale/tenancy. Residents shall provide the local planning authority with further confirmation from the Environment Agency that they are registered within 28 days of any written request from the local planning authority for such confirmation.

Reason: In the interests of reducing flood risk in accordance with the aims of Core Policies 5 and 10 of the Newark and Sherwood Core Strategy (March 2011) and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

09

07

Prior to the occupation of any dwelling the proposed boundary treatments as shown on the approved layout plans (~~drawing no. 3/37/2015 received on the 22nd July 2016~~) **Proposed Site Layout – 19012.01 rev. d received 4<sup>th</sup> July 2019** shall be implemented in accordance with the approved details. **The boundary treatments shall 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.

~~010~~

**08**

Prior to the occupation of any dwelling the proposed hard surfacing, including all parking spaces as shown on the approved layout plans (~~drawing no. 3/37/2015 received on the 22nd July 2016~~) **Proposed Site Layout – 19012.01 rev. d received 4<sup>th</sup> July 2019** shall be implemented in accordance with the approved details.

Reason: In the interests of residential and visual amenity.

~~011~~

**09**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (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 D: The erection or construction of a porch outside any external door of a dwellinghouse.

Class E: Development within the curtilage of a dwellinghouse..

Or Schedule 2, Part 2:

Class A: The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.

Class B: Means of access

Class C: The painting of the exterior of any building

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

Reason: To ensure that any proposed further alterations or extensions are sympathetic to the original design and layout in this sensitive location.

~~012~~

~~No part of the development shall be commenced 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.~~

~~013~~

**10**

Prior to first occupation of any dwelling, the associated car parking facilities shall be provided and shall thereafter be retained for parking for the lifetime of the development.

Reason: In order to secure off street parking provision, in the interests of highway safety.

#### 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 application relates to a Section 73 application which does not affect the floor space agreed through the original permission. The CIL charge applied to the extant permission therefore remains unchanged and the applicant will be charged CIL on this basis.

#### BACKGROUND PAPERS

Application case file.

For further information, please contact Laura Gardner on extension 5907.

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**  
**Director of Growth and Regeneration**





## PLANNING COMMITTEE – 6 AUGUST 2019

|                        |  |                                |
|------------------------|--|--------------------------------|
| <b>Application No:</b> | <b>19/01294/PIP</b>  |                                |
| <b>Proposal:</b>       | <b>Application for permission in principle for residential development of one or two dwellings</b> |                                |
| <b>Location:</b>       | <b>Land Adjacent Ivydene Main Street Weston<br/>Nottinghamshire NG23 6ST</b>                       |                                |
| <b>Applicant:</b>      | <b>Mrs Dorothy Coupe</b>   |                                |
| <b>Registered:</b>     | <b>09.07.2019</b>  | <b>Target Date: 08.08.2019</b> |

**This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as it is for Permission in Principle.**

### The Site

The application relates to a plot of land between two detached residential dwellings in the village of Weston. The land lies to the north side of Main Street between Ivydene to the east and Chestnut Grange to the west. The red outline on the submitted site location plan is approximately 25m in width and 74m in depth. The whole plot is L-shaped and the rest of the site which lies perpendicular to the application site is also owned by the applicant (outlined in blue on the site location plan). The ground level of the site is higher than the public highway and Ivydene by approximately 1.5m. The site is bordered by a brick wall to Main Street and by hedgerow to the other boundaries. There are 2no. existing single storey buildings set well back within the site which are not readily visible from the public highway.

### Relevant Planning History

607722 - 4 Bedroom Bungalow – Granted Permission 1977

6076162 – One detached dwelling – Granted permission 1976

### The Proposal

The application seeks Permission in Principle (the first of a 2 stage process) for one to two dwellings on the site. No specific details are required at this stage.

This is the first Permission in Principle application that the Council has received since it was introduced in 2017 by the Government. Permission in Principle requires only the location, the land

use, and the amount of development to be assessed. If residential development, (as is this application) the description must specify the minimum and maximum number of dwellings proposed.

It is the second stage of the process, Technical Details Consent, which assesses the details of the proposal. This must be submitted within 3 years of the Permission in Principle decision.

### Submitted Documents

Site Location Plan received 9 July 2019

Planning Statement dated July 2019

### Departure/Public Advertisement Procedure

Occupiers of nine properties have been individually notified by letter. A site notice has also been displayed near to the site.

### Planning Policy Framework

#### The Development Plan

#### **Newark and Sherwood Amended Core Strategy DPD (adopted March 2019)**

- 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

#### **Allocations & Development Management DPD**

- DM5 – Design
- DM7 – Biodiversity and Green Infrastructure
- DM12 – Presumption in Favour of Sustainable Development

### Other Material Planning Considerations

- National Planning Policy Framework 2019
- Planning Practice Guidance



## Consultations

**Weston Parish Council** – no comments received to date. Comments will be reported in the Late Items report.

### **NCC Highways Authority –**

‘This is an application for permission in principle of one or two dwellings. There is an existing access in place with an approx. width of 4.5m. The footway at the site frontage has a width of 1.5m. The required access width for one dwelling is 3.75m (minimum 2.75m with 1m added as the access is bounded by a wall on both sides). For two dwellings this requirement increases to 5.25m (minimum 4.25m with 1m added as the access is bounded by a wall on both sides). As such, at present the access width is suitable for one dwelling only.

Adequate visibility from the access, i.e. 2.4m x 43m, is required and should be demonstrated on any site plans submitted. This will require removal/alteration of the existing wall to achieve this.

Also, adequate parking and turning facilities, gradient, driveway surfacing, and drainage to prevent the discharge of surface water from the driveway to the public highway should be included on any plans submitted.’

**Representations have been received from 4 local residents/interested parties which can be summarised as follows:**

### **3 objections raising the following:**

- Concerns over further development on site and land to the rear of the site should the application be approved
- Concern that an approval would lead to further applications and further development within the village which would impact upon character
- The development would cause privacy and overlooking issues for houses on Chestnut Close
- Concerns over impact on wildlife on the site and construction affecting the horses and sheep which graze on the adjacent land
- Concern over highways safety due to access onto Main Street
- Noise pollution from additional houses and cars
- Potential negative impact on house prices

**1 neighbour letter commenting they have no concerns regarding the application.**

## Comments of the Business Manager

### *Principle of Development*

The application seeks 'Permission in Principle' for the residential development of one to two dwellings at Land Adjacent to Iydene within the village of Weston. This type of application requires only the principle of the proposal to be assessed against the Council's Development Plan and the NPPF. The 'principle' of the proposal is limited to location, land use and the amount of development. Issues relevant to these 'in principle' matters should be considered at the permission in principle stage. Any other details regarding the development are assessed at the second stage of the process under a 'Technical Details Consent' application which must be submitted within 3 years of the Permission in Principle decision (if approved).

### *Location and Land Use*

The residential development is proposed in the village of Weston which is defined in Spatial Policy 1 of the Amended Core Strategy as an 'other village'. Development within these areas should be considered against Spatial Policy 3 which states that local housing needs will be addressed by focusing housing in sustainable, accessible villages. It also says that beyond Principal Villages, proposals for new development will be considered against five criteria; location, scale, need, impact and character.

At this stage it is required to determine whether or not the site represents a sustainable and accessible location. In relation to location, Spatial Policy 3 states that 'new development should be in villages, which have sustainable access to Newark Urban Area, Service Centres or Principal Villages and have a range of local services themselves which address day to day needs. Local services include but are not limited to Post Office/shops, schools, public houses and village halls.'

The site lies between two detached dwellings on Main Street, Iydene to the east and Chestnut Grange to the west. The site is clearly within the main part of the village. Weston has limited services and facilities itself other than a church, a village hall, and a restaurant/takeaway. However, it is approximately 11 miles from Newark and 10 miles to Retford and is served by regular bus routes to both. Whilst there would be some reliance on use of the private motor vehicle this would not be uncommon with other, more sustainable settlements. It is not considered that the location of a dwelling in Weston would cause any difficulty in accessing services and facilities which exist in other relatively nearby settlements. On balance, it is therefore considered that Weston is considered to be a sustainable location for new dwellings.

The other criteria listed in Spatial Policy 3 would be assessed at the Technical Details Consent stage.

### *Amount of Development*

The application is for one or two dwellings. The site is approximately 25m in width and 74m in depth. It is not yet clarified if the proposal would consist of one or two dwellings on the site nor, if two are proposed, whether this would be a pair of semi detached dwellings or two detached dwellings. Again, this would be submitted at the Technical Details Consent stage. I will therefore assess the amount of development as if it were the maximum proposed (two separate detached dwellings) given that this would likely have the most impact. The width of the plots along Main Street vary. I consider the size of the site to be more than sufficient to accommodate two new dwellings. The actual scale and position of the dwellings, their design, impact on amenity and the character of the area would be assessed at the Technical Details Consent stage.

### Matters for Technical Details Consent Stage

The Technical Details Consent application is required to be submitted within three years of the decision date. Policy DM5 of the DPD sets out the criteria for which all new development should be assessed against. This includes but is not limited to safe and inclusive access, parking provision, impact on amenity, local distinctiveness and character, biodiversity and green infrastructure, and flood risk.

The technical details consent application would need to carefully consider these criteria.

### *Impact on Visual Amenity and the Character of the Area*

Core Policy 9 seeks to achieve a high standard of sustainable design which is appropriate in its form and scale to its context, complementing the existing built and landscape environment. Core Policy 3 states that 'The District Council will expect good quality housing design in line with the provisions of Core Policy 9 Sustainable Design... The District Council will seek to secure new housing development which adequately addresses the housing need of the District, namely family housing of 3 bedrooms or more; smaller houses of 2 bedrooms or less; and housing for the elderly and disabled population.'

Policy DM5 requires the local distinctiveness of the District's landscape and character of built form to be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development.

Paragraph 127 of the NPPF states inter-alia that developments should be sympathetic to character and history including the surrounding built environment; and should establish or maintain a strong sense of place.

Main Street does have a variety of dwellings ranging in scale and age including a number of period properties built in red brick with clay pantile roofs. The design of the proposal should be of a high quality and should reflect the character of the area regardless of whether the design is contemporary or traditional. Aspects to consider are the scale, materials, window styles,

orientation and built form, plot width and position within the site, to accord with the policies set out above.

#### *Impact on Residential Amenity*

Policy DM5 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.'

Both neighbouring properties have windows to side elevations which face directly onto the site. This should be taken into consideration in relation to positioning the new dwelling/s to avoid any issues with overlooking, loss of privacy or perceived overlooking.

In terms of amenity space the site is more than large enough to accommodate 2no. dwellings with off street parking and large gardens.

The scale and positioning of the dwellings should be carefully considered to avoid any overbearing impact to neighbouring properties or within the street scene.

#### *Access and Highways Safety*

Policy DM5 of the DPD states that 'Provision should be made for safe and inclusive access to new development. Where practicable, this should make use of Green Infrastructure and as many alternative modes of transport as possible. Parking provision for vehicles and cycles should be based on the scale and specific location of the development.'

The site has a boundary wall to the front with an existing opening. This could be utilised for the access to the proposal providing it is altered to adhere to the advice within the comments from NCC Highways. Adequate parking provision and turning space should also be incorporated into the proposal.

#### *Ecology and Trees*

Policy DM7 seeks to protect, promote and enhance green infrastructure whilst Core Policy 12 aims to conserve and enhance the biodiversity and geological diversity of the District. The proposal is likely to include the demolition of the 2no. existing buildings on site. A tree survey and preliminary ecology survey including any more detailed protected species surveys would be required to ensure no adverse impact of trees/ecological impacts would arise from the development of the site.

Landscaping and green infrastructure should be incorporated into the proposal in line with Policy DM7.

## Conclusion

To conclude, I consider the location to be sustainable and accessible for residential use and the proposed amount of development to be appropriate for the size of the site and considering comparable plots in the area.

With the above in mind I consider the principle of the proposed development to be acceptable and recommend that Permission in Principle is granted.

It should be noted that conditions cannot be attached to a Permission in Principle. Conditions would be attached to the Technical Details Consent. The Permission in Principle and the Technical Details Consent together form the full permission. No development can commence until both have been approved.

## Technical Consent Submission Requirements

- Completed Technical Details Consent Application Form
- Site Location Plan
- Proposed Site Plan (including details of access, boundary treatments and landscaping)
- Proposed Plans and Elevations
- Preliminary Ecology Survey and further protected species surveys (if required)
- Tree Survey

## RECOMMENDATION

**That Permission in Principle is approved.**

## Notes

Permission in principle lasts for a period of 3 years and any approval would therefore expire 3 years from the date of the decision. Before this expiry date an application for Technical Consent (for the whole of the site) must be given approval before development can proceed.

## BACKGROUND PAPERS

Application case file.

For further information, please contact Ellie Sillah on 01636 655770.

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**  
**Director of Growth and Regeneration**



## PLANNING COMMITTEE – 6 AUGUST 2019

|                        |  |  |
|------------------------|--|--|
| <b>Application No:</b> | <b>19/00192/RMA</b>  |  |
| <b>Proposal:</b>       | <b>Application for variation of condition 01 to be varied to include for Drawing No. 1G/31/2017 Site Plan Revised and 03 to be varied to include for the revised boundary treatments shown on the above drawing attached to planning permission 17/01573/RMA</b> |  |
| <b>Location:</b>       | <b>Land Off Hutchinson Road, Newark On Trent</b>   |  |
| <b>Applicant:</b>      | <b>Capla Developments Ltd - Mr Paul Stubbins</b>   |  |
| <b>Registered:</b>     | <b>1 February 2019</b>   | <b>Target Date: 29 March 2019</b><br><b>Extension of Time: 7 August 2019</b> |

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

### Update to Planning Committee

Members at the April Planning Committee resolved to agree contrary to Officer recommendation that planning permission be refused on the following grounds:

- (i) that the loss of previously existing hedgerow and approved new hedgerow boundary treatments and its replacement with close boarded timber fencing would be unacceptable to the appearance and amenity of the site when viewed from Hutchinson Road and the biodiversity of the area; and
- (ii) enforcement action to be delegated to the Director of Growth & Regeneration.

Officers subsequently commenced enforcement proceedings and a Planning Contravention Notice (PCN) was served on the Applicant on 10<sup>th</sup> April 2019 with the intention of issuing a breach of condition and/or enforcement notice. The decision notice for 19/00192/RMA has not yet been issued as ordinarily this should be done on the same day as an enforcement notice to avoid multiple opportunities for appeal. However, during this time a number of further discrepancies with the plans approved by 17/01573/RMA have been revealed and Officers have therefore sought to ensure that all plans to be subject of any decision on 19/00192/RMA and any subsequent enforcement proceedings are correct in order to avoid any abortive works. In addition, the Applicant has sought to remedy some of the concerns raised through the submission of a revised plan (N.b. Drawing No. 1B/31/2017 has been replaced with Drawing No. 1G/31/2017) which represents a new material consideration in the determination of the application.

It is on this basis that the application is brought back before the Planning Committee to ascertain whether these amendments have changed the views of Members.

The discrepancies and revised plans are best described through the chronology of plans received/key stages during the lifetime of the application as set out below:

1. Proposed Site Plan (1/31/2017) approved by 17/01573/RMA on 26 October 2017 including subsequent update (1A/31/2017) through the discharge of planning conditions in relation to proposed boundary treatments (details of which were required by planning condition) on 27 April 2018. This plan shows the retention of existing hedgerow along the west and part of the east boundary and the planting of a replacement hedgerow along the site frontage and along part of the east boundary-:



2. Development commenced March/April 2018. The LPA first became aware that the site had been constructed in breach of the planning condition in December 2018 and the developer was invited to submit a retrospective application to remedy the breach of planning control.
3. A S73 application (to vary the relevant condition) reference 19/00192/RMA was submitted in February 2019 and proposed an amended Proposed Site Plan (1B/31/2017) which was subsequently considered and resolved to be refused by Members at April 2019 Planning Committee. This plan showed the addition of close boarded fences to the majority of the site boundaries (marked by the letter 'J').





1B/31/2017

4. A Planning Contravention Notice (PCN) was served on the Applicant on 10<sup>th</sup> April 2019 to seek further information regarding the alleged breach of planning control in order to further clarify the accuracy and nature of the breach concerned and next steps. The Applicant was further advised that steps would be required to revert the boundary treatments back to those originally approved in order to remedy the breach of planning control through a potential breach of condition and/or enforcement notice. In accordance with Planning Practice Guidance, a PCN can be used to invite its recipient to respond constructively to the local planning authority about how any suspected breach of planning control may be satisfactorily remedied. As such, a site meeting with the Enforcement Officer took place on 10.05.2019. This site visit revealed that drawing no. 1B/31/2017 does not fully reflect the development as built on site. Of particular note, the garden for Plot 1 is 3 metres deeper at its widest point as constructed on site than as shown on 1B/31/2017. As such, it quickly became apparent to Officers that progressing enforcement action on the basis of inaccurate plans could lead to abortive works and a potential risk of costs should the enforcement notice be appealed.
5. Initially, it therefore appeared that the development had encroached beyond the approved red line boundary. However, the Agent subsequently provided a further amended Proposed Site Plan (1C/31/2017) received 21 May 2019 to demonstrate that the proposed plots have been built fully within the approved red line boundary. This revised plan has altered the position of the west boundary of the site. Following extensive discussion and investigation on this issue, Officers agree that the proposed development has been undertaken within the approved red line boundary.



1C/31/2017

6. The Proposed Site Plan (1/31/2017) approved by 17/01573/RMA below shows that the original hedgerow along the west boundary of the site was not located along the red line boundary of the site.



1/31/2017 with approved 'red line boundary' shown in blue.

7. Therein lies an issue with the full enforceability of a breach of condition in relation to compliance with Condition 3 of 17/01573/RMA in respect of all boundaries as this condition requires 'precise details of all the existing and proposed boundary treatments along the red line boundary of the site' and this hedgerow was not located along the red line boundary. Nevertheless, had Officers been aware that the true red line boundary of the application site was not located along the west boundary of the site as shown on the plans submitted at the time, it is highly likely that a replacement hedgerow would have been recommended along this boundary in any event.
8. The latest revised Site Plan Drawing No. 1G/31/2017 which according to our investigation does reflect the development as constructed on site, further demonstrates that the fence constructed to the front of Plot 7 is not located along the red line boundary of the application site either. It is set further back into the site. This means that it is not

possible to enforce against non-compliance with Condition 3 of 17/01573/RMA in relation to the requirement for a replacement hedgerow along the south boundary to the south of Plot 7. Furthermore I must stress that the fence in this position can also be erected under the benefit of permitted development rights.



1G/31/2017

9. Nevertheless, I do consider Condition 3 of 17/01573/RMA to be enforceable in relation to all other boundaries including west of Plot 7, west of Plot 2 and part of the west boundary of Plot 3. However, Members should be aware that amended Drawing No. 1G/31/2017 seeks to remedy the concerns raised by Members through the removal of the close boarded fence to the south/front of Plot 1 and its replacement with a post and rail fence with hedge, the removal of the close boarded fence to the west of Plot 1 and the provision of a replacement hedgerow and through enhanced landscaping to the front of the site as shown on the revised landscape scheme below:



Extract from 003A Detailed Landscape Plan

10. Notwithstanding my views on the limited enforceability of the breaches that have occurred in relation to Condition 3, the development as constructed on site is still in breach of Condition 1 and the approved plan 1A/31/2017 insofar as the garden areas as constructed on site are wider than those shown on the approved plans.

11. From an Officer point of view, I recommend that the changes shown on amended Drawing No. 1G/31/2017 be approved. The enlarged garden area is considered acceptable in principle and is mitigated to some degree by the replacement hedge now proposed along the west boundary of Plot 1. Members should be aware that an indicative layout for 4 town houses (approved under 18/00849/OUT) back onto Plots 1-3 immediately to the west of the site. As such, whilst a replacement hedge has been secured to the west of Plot 1, the entire boundary is not highly visible in the street scene and the visual impact of the removal of the hedge along this boundary is significantly reduced. Appropriate boundary treatments along the west boundary can also be secured in any future reserved matters application that comes forward on this site. The set back of Plot 7 enables a greater amount of landscaping to occur along the site frontage – the close boarded fence here benefits from permitted development rights. Members should also be aware that there have been/are some potential civil issues in relation to the boundary between Plot 7 and no. 1 Liburne Close and the Applicant advised that the owner of 1 Liburne Close removed the existing hedgerow along this boundary in the first instance rather than the developer – in any event it is clear that a secure boundary treatment between the two properties is required here.

### Summary

It is recognised that the Applicant has made an attempt to remedy the concerns made by Members previously by improving/adding to the soft landscaping provided along the site frontage, and replacing sections of close boarded fence around Plot 1 with a post and rail fence/additional hedgerow planting. I remain satisfied that the proposed variation is acceptable and it is therefore my recommendation remains for approval.

However Members will need to form a view as to whether the amendments have allayed their previous concerns. In the event that Members are not satisfied that the concerns have been adequately addressed, I advise that enforcement action would have to be limited to the removal of the close boarded fencing and replanting of the hedgerow to the east of Plot 7 and west of Plot 2 and part of Plot 3.

### UPDATED RECOMMENDATION

That full planning permission is approved subject to the conditions (as amended) set out at the end of this report.

For the avoidance of doubt, the report remains the same as previously presented at April Planning Committee other than an update to the 'Public Consultation Procedure', 'Consultations' and planning conditions sections below (shown in bold and italic text).

### The Site

The application site relates to a rectangular shaped site approximately 0.39 Hectares in area on which seven detached dwellings have been recently constructed. The site is located, within a modern residential area of Newark towards the eastern edge of the settlement, to the south side of Beacon Hill Road and to the west of the A1 dual carriageway. The site borders Hutchinson Road and two storey dwellings to the south, modern two storey dwellings to the east along Lilburne Close, residential gardens to the north; and borders a densely vegetated linear open space to the west.

### Relevant Planning History

17/01573/RMA Submission of reserved matters in pursuance of conditions 02, 04, 05, 06, 07, 010, 011 and 012 of outline planning permission ref. no. 15/01839/OUT for proposed residential development – permission 26.10.2017

15/01839/OUT Proposed residential development (outline) – permission 07.12.15.

### The Proposal

The proposal is to vary conditions 1 & 3 of planning permission 17/01573/RMA which was for reserved matters consent for the erection of 7 dwellings and associated public open space, landscaping and infrastructure.

Condition 1 relates to the approved plans that the development must comply with.

Condition 3 relates to boundary treatments and requires the following:

Notwithstanding the submitted information, precise details of all the existing and proposed boundary treatments along the red line boundary of the site including types, height, design and materials, must be submitted to and approved in writing by the local planning authority prior to the commencement of development. 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 in accordance with Core Policy 9 of the Core Strategy and Policy DM5 of the DPD.*

The amendments to the approved plans and submitted details pursuant to the boundary treatments condition can be summarised as:

- Proposed new brick pillars 580 x 580 x 1800mm in height with timber 5-bar gates in between measuring 1200mm in height;
- The removal of the existing hedgerow and the erection of a 1.8 metre high close boarded fence along the west, south and part of the east boundaries of the site. A replacement beech hedge has been planted (to measure 2 metres high) along the south frontage of the site (in front of the fence).

The following documents have been submitted with the application:

- 1B/31/2017 Rev B Site Plan
- Image of proposed Hutchinson Road entrance

### Public Advertisement Procedure

Occupiers of 33 properties have been individually notified by letter **and reconsulted on the latest revised plan received.**

## Planning Policy Framework

### The Development Plan

#### **Newark and Sherwood Amended Core Strategy DPD (adopted March 2019)**

- Spatial Policy 1 - Settlement Hierarchy
- Spatial Policy 2 - Spatial Distribution of 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

#### **Allocations and Development Management DPD (adopted July 2013)**

- Policy DM1 – Development within Settlements Central to Delivering the Spatial Strategy
- Policy DM3 - Developer Contributions
- Policy DM5 – Design
- Policy DM7 – Biodiversity and Green Infrastructure
- Policy DM12 – Presumption in Favour of Sustainable Development

#### **Other Material Considerations**

- National Planning Policy Framework 2019
- Planning Practice Guidance 2014

## Consultations

### **Newark Town Council**

#### ***Comments received 28.02.2019:***

Members AGREED to OBJECT to this application on the following grounds:

- \* the application is in breach of the conditions
- \* trees with TPO's on have been removed
- \* should this application be permitted, it would set a precedent for other developments in the area.

Further, the Town Council is of the view that the District Council should be satisfied that all existing conditions are fulfilled prior to any further development. If there is an existing breach of the conditions, then all necessary works should be completed before any further sales of properties take place.

**NCC Highways** - This application is for the variation of conditions 1 and 3 for application 17/01573/RMA, to include revised boundary treatments as shown on revised site plan, ref. 1B/31/2017. There are no highway objections to the boundary treatment now submitted.

**NSDC Tree Officer** – No objection.

**Four** ~~No~~ representations have been received from any local residents/interested parties. *The comments raised seek support for the approval of the planning application. Main issues raised include:*

- *New residents of houses on the proposed development were not advised on any outstanding planning decision when they purchased the properties;*
- *The close board fencing currently installed is fit for purpose and maintains adequate and safe boundaries. Removal/replacement of the fencing would adversely affect the safety and security of all properties located on the development, would also allow domestic animals from neighbouring gardens to easily escape increasing highway safety concerns, reducing safety young children playing in their own gardens and increase overlooking.*
- *There is a clear and unambiguous precedent for this type feather board fencing at the adjacent development at The Woodlands and at other properties on the Newbury Road Estate. A retrospective planning application was granted on 21.09.16 (16/01120/FUL) to erect 2m high fencing and landscaping to Number 10, The Woodlands - the road next to The Heights;*
- *properties on the development would be exposed to potential burglars who could easily monitor residents' movements and personal property from the empty and unmaintained sites around the development;*
- *Removal/replacement of the fencing would result in a significant disturbance to residents. The removal of the current fencing, which would damage carefully planted and well looked after gardens, to be replaced by another means of enclosure would be a waste of time. The financial implications of such a change would have to be met by residents who purchased the houses in good faith, unaware of such issues;*
- *The fencing screens the houses from adjacent potential construction sites in the future;*
- *We purchased our house on the basis of its privacy and high levels of security and would make it clear that we would not have proceeded had a low level see through fence been installed. Our patio and open plan garden faces the road which would make the plot highly visible and insecure.*
- *The developers, Capla, have removed the 1.8m featherboard fencing to Plot 1, replacing it with low level open post and rail (see Photo 3 attached) which is not in keeping with the Newbury estate being both fully open, highly visible and security risk making it highly unappealing;*
- *The denial of the amended plans has caused significant distress for residents in the area and uncertainty for those who live near it and adjacent to it;*
- *The existing fences to remain in situ should be permitted.*

#### Comments of the Business Manager

#### Principle of Development

This application is made under Section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact.

If the application is acceptable a decision notice describing the new permission should be issued, setting out all of the conditions related to it. To assist with clarity, decision notices for the grant of planning permission under Section 73 should also repeat the relevant conditions from the original

planning permission, where appropriate. As a Section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission.

The principle of the development has already been established through the granting of the outline and subsequent reserved matters consent. There has been no significant material change in the Development Plan context relevant to the consideration of the changes to the proposed boundary treatments since the determination of these applications, albeit the adoption of the Amended Core Strategy (adopted 2019) and revised NPPF 2019 is noted.

The first matter to consider is whether the LPA are satisfied that a lawful start was made having regard to whether the pre-commencement conditions were discharged. In this case, the application is retrospective in nature and the time limits for implementation are no longer relevant as a consequence. As such, the application as made can reasonably be considered under Section 73 of the Town and Country Planning Act 1990 to vary the plans condition.

The second matter to consider is whether it is appropriate to allow the development to be approved in accordance with the amended plans proposed. Core Policy 9 requires new development proposals to demonstrate a high standard of sustainable design that both protects and enhances the natural environment. Policy DM5 requires the local distinctiveness of the District's landscape and character of built form to be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development. Policy CP12 of the adopted Core Strategy states that proposals should provide for the continued protection of the District's ecological, biological and geological assets.

I consider the loss of the existing hedgerow to be highly regrettable especially as Officers made it clear in the determination of both the outline and reserved matters consent that existing hedgerow along the boundaries of the site should be retained through the imposition of the relevant planning conditions for both visual amenity and biodiversity reasons. As a consequence of the removal of the existing hedgerow, the development is in breach of the relevant planning conditions.

As the variation has already been implemented on site, the visual impacts are clear to see. It is worth noting that whilst the planning permission included conditions to protect against the loss of the hedgerow and trees on site, it did not remove permitted development rights for the erection of means of enclosure in the future. As a consequence, the future occupiers of the proposed dwellings would have been able to remove hedgerow along their boundary and replace it with an alternative means of enclosure following the 5 year period for retention of the approved boundary treatments required by condition 3 (provided this means of enclosure complied with permitted development rights which would be up to 2 metres in height not adjacent to the highway).

The erection of the close boarded fencing to the east and west boundaries of the site are not considered to result in a detrimental impact upon the visual amenity of the area as they are not highly visible from Hutchinson Road. The close boarded fencing erected along the site frontage is more visible. I note that a hedgerow and saplings in tubes have been planted forward of this fence. Whilst at the present time, this does not mitigate for the loss of the mature hedgerow located here, it is considered that over time, the adverse visual impact caused by the close boarded fence would be fully mitigated.

The proposed brick piers (1.8 metres high) and gates (1.2 metres high) create a gated access to the



site and did not form part of the approved plans. As they are located adjacent to the highway and exceed 1 metre in height, I consider them to require planning permission in their own right. I note that there is a similar development with a gated access located along Hutchinson Road. As such, I do not necessarily consider them to be out of keeping with the site context and do not consider them to be an addition which is harmful to the character of the street scene.

Overall, the proposal is considered to be acceptable and the proposed plans can be substituted into the plans condition.

It is not considered that there are any other changes to circumstances which affect the consideration of this application.

#### The relevance of other conditions attached to Application Number 17/01573/RMA

Condition 1 (approved plans) can be amended to reflect the revised plans proposed by this application.

Condition 2 (landscape scheme) is still considered relevant as no precise planting specifications have been submitted with this application which is required in order to ensure the landscaping is thereafter properly maintained.

Condition 3 (Boundary Treatments) can be deleted as it is superseded by the revised plan to be approved by Condition 1.

Condition 4 (obscure windows) is still considered relevant and should be re imposed as part of any new permission.

Condition 5 (permitted development rights removed for extensions and alteration to the approved dwellings) is still considered relevant and should be re imposed as part of any new permission.

It is noted that the amended plans submitted as part of this application are also contrary to Condition 5 of the outline consent which required the reserved matters application to include a detailed landscaping and planting scheme incorporating the retention of the existing trees and hedgerows along the north, south, east and west boundaries of the site. Members should be aware that the development would also be in breach of this condition albeit approval of this application would be tantamount to agreeing that no further action would be taken in relation to this condition.

#### Other issues

In relation to the comments raised by the Town Council, the Local Planning Authority is not aware of any trees with TPO's adjacent to the site being removed. There are no trees with TPOs within the application site itself albeit trees located at the south east and south west corners of the site are protected by Tree Preservation Order.

#### Conclusion

It is considered that subject to the attachment of the relevant conditions addressed earlier in this report that the proposed variation is considered to be acceptable and is recommended for approval.

## **RECOMMENDATION**

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

01

The development hereby permitted shall not be carried out except in complete accordance with the following approved plans and document, references:

***1G/31/2017 Rev B Site Plan***

2A/31/2016 Plot 1 House Plans and Elevations

3A/31/2016 Plot 2 House Plans and Elevations

4A/31/2016 Plot 3 House Plans and Elevations

5A/31/2016 Plot 4 House Plans and Elevations

6A/31/2016 Plot 5 House Plans and Elevations

7A/31/2016 Plot 6 House Plans and Elevations

8/31/2016 Plot 7 House Plans and Elevations

21A/31/2017 Site Levels Application Number: 17/01573/RMA Previous Ref: PP-06345503

9/31/2016 Garage Block Plans and Elevations

Location Plan 1:1250

Arboricultural Impact Assessment, Method Statement and Tree Protection Plan (Ref RSE\_1138\_01\_V2 August 2017)

***N0443 (96) 003A Detailed Landscape Plan (Date 23.07.19)***

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 approval.

02

~~Within three months of the date of this permission, a scheme including a plan illustrating the landscaping on site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include full details of every tree, shrub, hedge planted (including its proposed location, species, size and approximate date of planting) and details of tree planting pits including associated irrigation measures, tree staking and guards, and structural cells.~~

***Any trees/shrubs as shown on the approved soft landscaping (in respect of Condition 1)*** 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: For the avoidance of doubt and to ensure the landscaping is thereafter properly maintained in accordance with Policy CP 9 and 14 of the Core Strategy and Policies DM5, DM7 and DM9 of the Allocations and Development Plan Development Plan Document (DPD).

03

The following window openings hereby approved 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:

- Plot 5 First floor ensuite window in the east facing side elevation
- Plot 6 First floor landing window in the east facing side elevation
- Plot 7 Second floor landing window and two en-suite windows in the east facing side elevation.

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 in accordance with Policy DM5 of the DPD.

04

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 to Plots 5, 6 or 7 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: Any other alteration to the roof of a dwellinghouse.

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

Reason: To ensure that the local planning authority retains control over the specified classes of development normally permitted under the Town and Country Planning (General Permitted Development) Order 2015 or any amending legislation) in order that any proposed further alterations or extensions result in no adverse impact upon residential amenity.

## **Informatives**

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 given that there is no net additional increase of floorspace as a result of the development.

02

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).

Background Papers

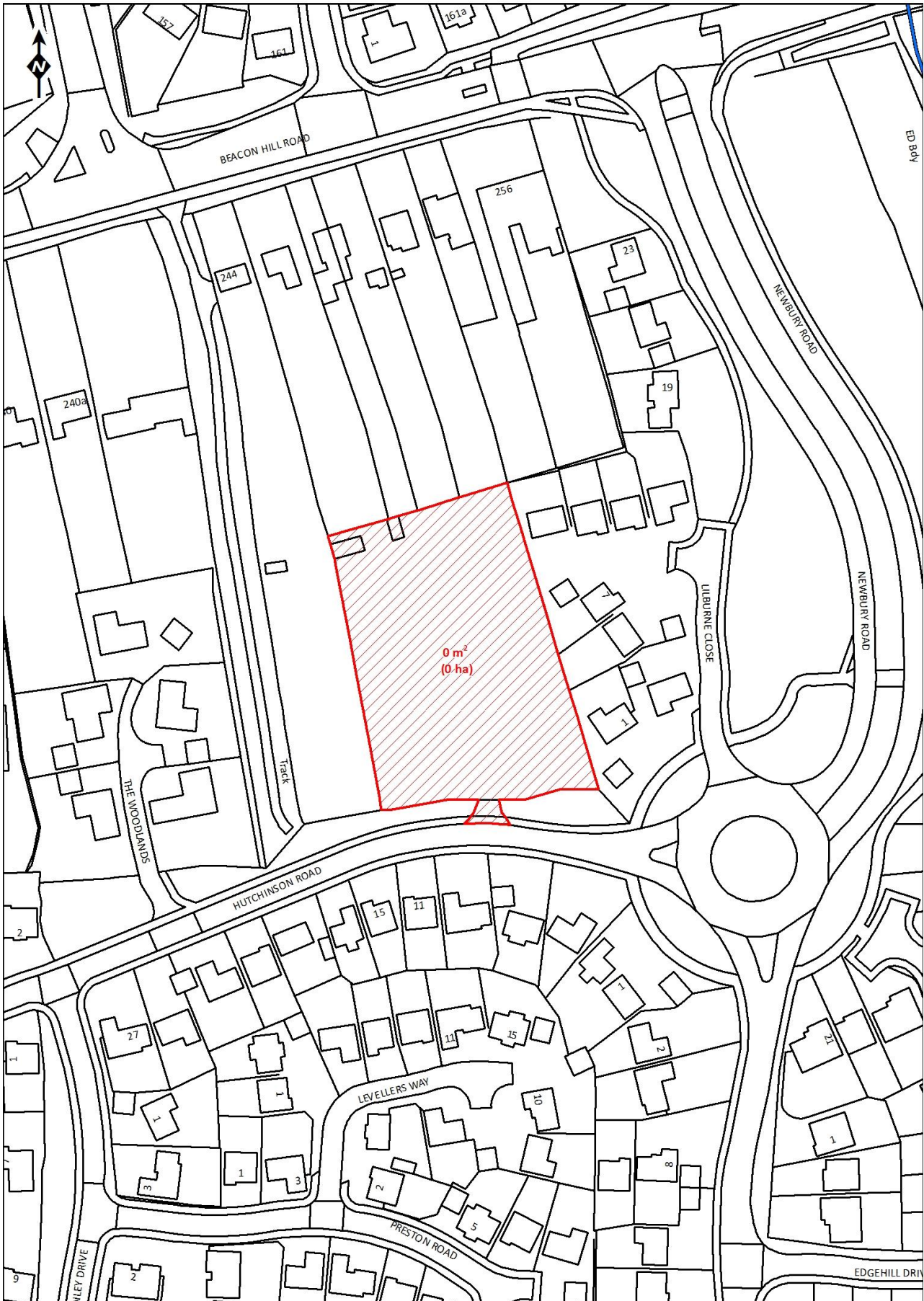
Application Case File

**For further information, please contact Helen Marriott on ext 5793.**

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**  
**Director of Growth and Regeneration**

Committee Plan - 19/00192/RMA



© Crown Copyright and database right 2019 Ordnance Survey. Licence 100022288. Scale: Not to scale

## PLANNING COMMITTEE – 6 AUGUST 2019

|                        |  |
|------------------------|--|
| <b>Application No:</b> | <b>19/00002/TPO</b>  |
| <b>Proposal:</b>       | <b>TPO N367 – G1 Group of trees including the following species:</b><br><b>Larch</b><br><b>Black Pine</b><br><b>Field Maple</b><br><b>Cherry</b><br><b>Ash</b><br><b>Hawthorn</b><br><b>Oak</b><br><b>Sycamore</b> |
| <b>Location:</b>       | <b>On land to the rear of No's 38 to 120 Middleton Road, Newark, Nottinghamshire.</b>  |

**This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as it is for the confirmation of a Tree Preservation Order - TPO N367.**

### Justification for the TPO

The application site comprises a parcel of land located to the rear of properties 38 to 120 Middleton Road, extending along the rear boundaries for their whole length to where the application site meets Brunel Drive. There is a small section of land to the rear of No's 50, 52 and 54 Middleton Road, which was formally included within the area, but it has been modified due to there now being no trees within this area. This area has also been subject to past planning applications including recently refused application 19/00207/FUL, the erection of four dwellings as associated works. The Local Authority are now seeking to modify the Tree Preservation Order from an Area (A1) to a Group (G1) and following a site inspection, confirm the species of trees within this report.

A request was put forward by District Councillor, Mrs Gill Dawn, to the Local Authority to consider placing a Tree Preservation Order upon this area of trees following concerns raised by local residents following clearance of trees from a small section of land to the rear of No's 50, 52 and 54 Middleton Road. The Local Authority's enforcement officer undertook a site visit to assess the works. It was established during that visit that a number of trees had been removed and a small area of land cleared (currently subject to a re-submitted planning application). A later site visit undertaken by the Local Authority's Tree Officer confirmed that the area of trees warranted protection by Tree Preservation Order (TPO). Further discussion took place with Councillor Dawn and it was agreed to proceed with the protection of those trees as it is believed the trees in area contained within this Order were originally planted to form a screen between the residential properties and the edge of the (then new) Industrial Estate.

The Local Authority has adopted a consistent approach regarding the assessment when considering whether trees should be protected by an Order, including:

1. Visibility - The extent to which the trees can be seen by the public. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public;

2. Importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:
  - size and form;
  - future potential as an amenity;
  - rarity, cultural or historic value;
  - contribution to, and relationship with, the landscape; and
  - contribution to the character or appearance of a conservation area.

Appendix 1 – Photographs provides views of the trees including within the TPO schedule.

Appendix 2 – TPO plan identifies the location of the area and species of trees to be protected, including;

Larch  
Black Pine  
Field Maple  
Cherry  
Ash  
Hawthorn  
Oak  
Sycamore

### **Consultations**

The Local Authority served notice on 13<sup>th</sup> May 2019 inviting representations about the trees covered by the Order. A copy of the Order was made available for public inspection and site notice posted within close proximity to the site.

The following representations have been received and summarised below:

- Representations - Letter of representation has been received from 1 separate address that supported the Preservation Order.

### **RECOMMENDATION**

**That the Tree Preservation Order be confirmed for the following reasons:**

1. The trees on site appear to be in good health and structural condition and provide a mature setting for the locality;
2. They provide valuable screening of the site to neighbouring properties;
3. They form a prominent feature in the area, and also provide a positive visual public amenity contribution to the local street scene, being visible from many viewpoints; and
4. It is considered that the trees could be at risk from future development.

### **BACKGROUND PAPERS**

Application case file.

For further information, please contact Jo Brown, Technical Support Officer on ext 5826.

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**  
**Director of Growth and Regeneration**



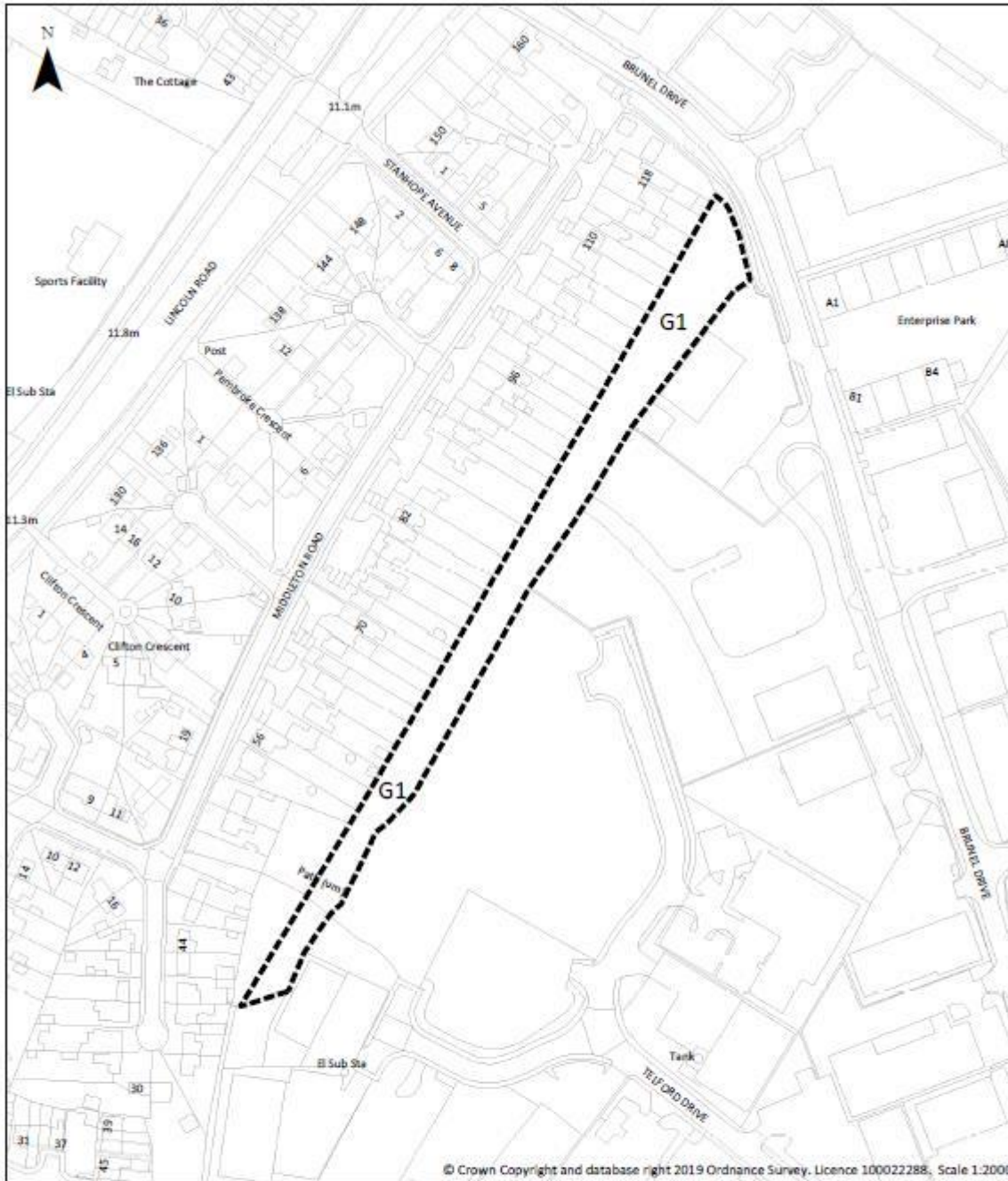
Appendix 1 – Photographs

Views into application site area from the rear of No's 50, 52 and 54 Middleton Road



Appendix 2 – TPO plan

For the avoidance of doubt, the plan is not to scale



**Tree Preservation Order No. N367**

**Land to the rear of No's 38 to 120 Middleton Road, Newark, Nottinghamshire**

Schedule of protected trees

 Trees specified within Group defined by dashed line on the map

G1 - Group consisting of a mixture of trees including Larch, Black Pine, Field Maple, Cherry, Ash, Hawthorn, Oak and Sycamore

Individual Trees - None

Areas - None

Woodlands - None



**PLANNING COMMITTEE – 6 AUGUST 2019**

**APPEALS A**

**APPEALS LODGED (received between 14 June 2019 and 25 July 2019)**

1.0 Members are advised that the appeals listed at Appendix A to this report have been received and are to be dealt with as stated. If Members wish to incorporate any specific points within the Council's evidence please forward these to Planning Services without delay.

2.0 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 appeal reference.

**Matt Lamb**

**Director of Growth and Regeneration**

| Appeal reference           | Application number | Address   | Proposal   | Procedure              |
|----------------------------|--------------------|---|--|------------------------|
| APP/B3030/C/19/322368<br>2 |                    | 1 Home Farm Close<br>Kelham<br>Newark On Trent<br>Nottinghamshire<br>NG23 5QB     | Appeal against   | Written Representation |
| APP/B3030/C/19/322368<br>3 |                    | 8 Home Farm Close<br>Kelham<br>Newark On Trent<br>Nottinghamshire<br>NG23 5QB     | Appeal against   | Written Representation |
| APP/B3030/C/19/322705<br>6 |                    | 18 Sherwood Avenue<br>Edwinstowe<br>Nottinghamshire<br>NG21 9NE                   | Appeal against   | Written Representation |
| APP/B3030/D/19/322825<br>0 | 19/00073/FUL       | 4 Oak Avenue<br>Ollerton<br>NG22 9PT  | Householder application for first floor extension  | Fast Track Appeal      |
| APP/B3030/D/19/322831<br>1 | 19/00396/FUL       | The Willows<br>Cottage Pasture Lane<br>Gunthorpe<br>Nottinghamshire<br>NG14 7EQ   | Householder application for proposed first floor extension over existing orangery and alterations to include insertion of window to north elevation.   | Fast Track Appeal      |
| APP/TPO/B3030/7424         | 19/00332/TPO       | 31 Centenary Close<br>Balderton<br>Newark On Trent<br>Nottinghamshire<br>NG24 3FE | 2 No. Silver Birch Trees Identified as Part of Group 1 of Tree Preservation Order 'Land to the Rear of 27-31 Hawton Lane Balderton Tree Preservation Order 1994 (TPO N243) - Overall crown reduction to both trees including:<br>Reduction in height to match ridge height of No. 31;<br>Crown lifting to a height of 3m; and<br>Crown reduction by shortening the crown spread of each tree by around 1.5m in all directions to re-shape the tree | Hearing                |

|                             |              |   |  |                        |
|-----------------------------|--------------|---|--|------------------------|
| APP/B3030/W/19/32300<br>94  | 18/02080/FUL | 40 Winthorpe Road<br>Newark On Trent<br>Nottinghamshire<br>NG24 2AB             | Demolition of existing dwelling to create 4 new semi-detached dwellings. | Written Representation |
| APP/B3030/W/19/32306<br>11  | 19/00083/FUL | Land At<br>Church Lane<br>Maplebeck<br>NG22 0BS                                 | Erection of a dwelling   | Written Representation |
| APP/B3030/W/19/32307<br>01  | 19/00187/OUT | Billericay<br>124 High Street<br>Collingham<br>NG23 7NH                         | 1 No. Barn style Chalet bungalow   | Written Representation |
| APP/B3030/W/19/32314<br>68  | 18/02341/OUT | Peasbloom Barn<br>Crew Lane<br>Southwell<br>Nottinghamshire                     | Erect dwelling   | Written Representation |
| APP/B/3030/W/19/3232<br>388 | 18/02002/FUL | Field Reference<br>Number 8708<br>Gravelly Lane<br>Fiskerton<br>Nottinghamshire | Extension to the existing barn for hay storage                           | Written Representation |

**PLANNING COMMITTEE – 6 AUGUST 2019**

**APPENDIX B: APPEALS DETERMINED (between 14 June 2019 and 25 July 2019)**

| <b>App No.</b>  | <b>Address</b>   | <b>Proposal</b>   | <b>Decision</b> | <b>Decision date</b> |
|-----------------|--|---|-----------------|----------------------|
| 18/00084/ENF    | The Scarecrow Patch<br>Eagle Road<br>Spalford<br>Nottinghamshire<br>NG23 7HA                   | Appeal against  | PARTIAL         | 08.07.2019           |
| 8/00051/ENF     | Corner House Farm<br>Hawton Lane<br>Farndon<br>Nottinghamshire                                 | Appeal against  | ALLOW           | 24.06.2019           |
| 18/01694/FUL    | Moor Farm Cottage<br>Clifton Lane<br>Thorney<br>Nottinghamshire<br>NG23 7DJ                    | Replacement Dwelling  | ALLOW           | 03.07.2019           |
| 18/00204/ENF    | 43A Great North Road<br>Sutton On Trent<br>Nottinghamshire<br>NG23 6PL                         | Appeal against  | DISMISS         | 24.06.2019           |
| 18/01895/CPRIOR | Fern Hollow Pig Barn<br>Fern Hollow<br>Greaves Lane<br>Edingley<br>Nottinghamshire<br>NG22 8BJ | Notification for Prior Approval for a Proposed Change of Use of Agricultural Building to dwellinghouse (ClassC3) and for associated operational development (Amended design of previously approved application 15/01405/CPRIOR) | DISMISS         | 09.07.2019           |

|              |   |  |         |            |
|--------------|---|--|---------|------------|
| 18/01337/RMA | Brooklyn<br>Lower Kirklington Road<br>Southwell<br>NG25 0DZ                         | Reserved matters application for The Erection of 3 Dwellings. Approval sought for the design, siting, scale and layout. Approved reference 17/00383/OUT      | DISMISS | 09.07.2019 |
| 19/00041/FUL | Land To The Rear Of The Stables<br>Kirklington Road<br>Hockerton<br>Nottinghamshire | Erection of two 3 bed dwellings  | DISMISS | 01.07.2019 |
| 18/01402/FUL | 9 The Paddocks<br>Newark On Trent<br>NG24 1SS                                       | Part conversion of 9 The Paddocks to create an additional Chalet Bungalow within the site (resubmission of withdrawn application reference no. 18/00683/FUL) | DISMISS | 12.07.2019 |

**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**

**Director of Growth and Regeneration**



---

## Appeal Decision

Site visit made on 11 June 2019

by **D H Brier BA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 June 2019

---

**Appeal Ref: APP/B3030/C/18/3214820**

**Land on the south-east side of Fosse Road, Farndon, Newark, Nottinghamshire**

- 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 Mr P I Hardy against an enforcement notice issued by Newark & Sherwood District Council.
- The enforcement notice was issued on 27 September 2018.
- The breach of planning control as alleged in the notice is:
  - A. The material change of use of the land from agricultural to a mixed use including the storage of vehicles, storage containers, waste products and scrap materials.
  - B. The creation of earth bunds surrounding the north-eastern and north-western boundaries of the land.
- The requirements of the notice are:
  - A. Cease using the land for any purposes other than agriculture.
  - B. Remove from the land all items not associated with agricultural use of the land.
  - C. Remove the earth bund from the north-eastern and north-western boundaries of the land.
  - D. Remove all hard surfacing and road planings from the ground and return the land to its former agricultural condition.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2), (a), (e), (f) and (g) of the Town and Country Planning Act 1990 as amended.

**Summary of Decision: The appeal is allowed and the notice is quashed.**

---

### The Appeal Site and Background

1. Although the enforcement notice refers to land south east of Fosse Road, the appeal site is set back some way from this road and access to it is gained from Hawton Road via Hardy's Business Park, Corner House Farm. To the south, the 'L' shaped appeal site borders onto the Business Park which accommodates a variety of commercial uses. Immediately to the east is an open area of land flanked to the north and east by bunds for which a Lawful Development Certificate (LDC) was issued in 2018. The LDC covers a number of uses including storage, the siting of shipping containers, the parking of lorries and trailers and items of plant and machinery. There is no physical boundary between this area and the appeal site, most of which appeared to be being put to similar uses.
2. The appeal site is flanked to north east and north-west by bunds, but there is a gap in the south-west corner of the site where part of the site extends in a north-westerly direction parallel to a row of conifer trees. Unlike the rest of the



land, the outer sides of this part of the site are not flanked by bunds; this area simply forms part of a large field which also extends beyond the north-east boundary of the rest of the site. At the time of my site inspection, no storage was occurring on this area.

### **Appeal on Ground (e)**

3. The section of the Council's statement addressing this point is headed 'Appeal under Ground (e) – that the breach has not occurred'. As the appellant points out, this is incorrect. But, as the Council's submissions under this heading clearly address matters appertaining to Ground (e), I am not inclined to attach any significance to this apparent slip.
4. The main issue concerning the appeal on this ground under this heading is:
  - a) whether copies of the enforcement notice were served as required by section 172 of the Act; and
  - b) if not, whether the appellant, or the person who was not served as required, have been substantially prejudiced by the failure to do so.
5. The main thrust of the appellant's case is that the notice was not served on Frank Hardy & Sons (Farndon) Limited, the company that operates the Business Park. It is pointed out the company rents both the appeal site and the Business Park from the appellant and another party. It is also stated that the company rents out storage containers on the appeal site to various third parties. None of this evidence has been called into question by the Council who accept that the notice was not served on Frank Hardy & Sons (Farndon) Limited.
6. The Council also point out though that the appellant is listed as a person with 'significant control' of Frank Hardy & Sons (Farndon) Limited and is also listed as a director and secretary of the company. It is also stated that copies of the notice were delivered to the company's registered office at Corner House Farm and at the appellant's residence, both in the presence of the appellant. None of this has been challenged by the appellant.
7. Given Frank Hardy & Sons (Farndon) Limited's interest in the land, the failure to serve a copy of the notice on the company is a clear indicator that it was not properly served. However, having regard to the extent of the appellant's apparent involvement with the company, I find it almost inconceivable that the best interests of the company would not have been overlooked. In particular, the procedural shortcoming has not prevented the appellant from lodging an appeal and putting forward a full and comprehensive case in support of it. In the light of this, I am not satisfied that either the appellant or the company in question has been substantially prejudiced.
8. On the face of it, the above finding ought to lead to the failure of the ground (e) appeal. However, although the front sheet of the enforcement notice indicates that it was issued to "*Any Owner or Occupier*" of the land in question, the Council's comments strongly suggest that copies of the notice were not actually served on any of the individual tenants of the land. Instead, the Council indicate that a copy of the notice was displayed at the "*primary vehicular entrance to the wider industrial site*"<sup>1</sup>.

---

<sup>1</sup> Council's appeal statement, paragraph 4.22.

9. It may well be that the display of the notice was intended to be for the benefit of people entering the land, as the Council indicate. But, as the wider Business Park contains what the Council describe as a “*vast array of businesses*”<sup>2</sup>, and as the particular vehicular entrance referred to is some distance away from the actual appeal site itself, from which it is separated by the main body of the Business Park, there is a strong likelihood that tenants may not have appreciated the relevance or significance of the notice insofar as they were concerned as they passed through the entrance to the Business Park.
10. Despite the practical difficulties of displaying the notice on the actual appeal site, as described by the Council, my view is that the manner in which the notice was displayed fell well short of what can reasonably be regarded as its proper service under the provisions of section 172. As a result, the possibility that some or all of the tenants affected may not have been aware of the notice and the possible consequences for their businesses, and so would not have had the opportunity to exercise their right of appeal against it, if they so chose, cannot be discounted. In these circumstances I find that there has been substantial prejudice.
11. For the reasons given above, I conclude that the appeal should succeed on ground (e). Accordingly, therefore, the enforcement notice will be quashed. As a result, the appeal under the various grounds set out in section 174(2) of the 1990 Act as amended and the application for planning permission deemed to have been made under section 177(5) do not need to be considered.

#### **Formal Decision**

12. I allow the appeal and direct that the enforcement notice be quashed.

*D H Brier*

Inspector

---

<sup>2</sup> Ibid, third un-numbered paragraph after 4.4.



---

## Appeal Decision

Site visit made on 11 June 2019

by **D H Brier BA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 July 2019

---

**Appeal Ref: APP/B3030/C/18/3199702**

**Plots 3 & 4, Sandyacre, Eagle Road, Spalford, Newark, Nottinghamshire NG23 7HA**

- 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 J Massam against an enforcement notice issued by Newark and Sherwood District Council.
- The enforcement notice was issued on 4 April 2018.
- The breach of planning control as alleged in the notice is the material change of use of the land from agriculture to the storage of miscellaneous items, vehicles and domestic paraphernalia, the erection of structures and hardstanding and the altering of land levels.
- The requirements of the notice are:
  - A. Remove from the land all structures, building materials, miscellaneous paraphernalia, lorry backs and hardstanding.
  - B. Cease using the land for the storage of miscellaneous items and only use the land for agricultural purposes.
  - C. Return the land levels to their former condition.
- The periods for compliance with the requirements are 3 months (A and B) and 2 months (C).
- The appeal is proceeding on the grounds set out in section 174(2) (a), (b), (c), (d) and (f) of the Town and Country Planning Act 1990 as amended.

**Summary of Decision: The appeal succeeds in part and the notice is upheld with corrections.**

---

### The Appeal Site and Background

1. The appeal site which, according to the Council is 0.45ha in extent, is in the countryside on the eastern fringe of Spalford. It is rectangular shaped and extends westwards from an access track that joins Eagle Road to the north. On the site's eastern edge are several structures, the largest of which comprises 3 co-joined lorry backs clad externally in timber boarding used to accommodate poultry. To the north of this is a wooden storage shed, a structure that seemingly functions as a rest room (or tea hut, as the appellant puts it), a small metal water supply cabinet and a modest sized brick structure housing an electricity supply, together with another structure containing a toilet.
2. Some planting has been carried out in the vicinity of the smaller structures and alongside the poultry building is an outdoor poultry enclosure. Close to the site's northern boundary are 2 hard surfaced areas, and near to the western edge of the land is an irregular shaped excavation, together with associated

excavated material. The Council confirm that the latter area is where the land levels referred to in the allegation have occurred.

3. The site's planning history, as set out in the Council's statement, includes 2 renewals of planning permission for 3 ostrich houses, the re-siting of a polytunnel, 2 rearing sheds for poultry, a storage container for chiller units, and yearling feeding and captive houses.

### **Legal Grounds of Appeal**

4. Grounds (b), (c), and (d) are legal grounds of appeal, distinct from any planning merits. The Courts have held that the onus on proving them lies with the appellant.

### **Appeal on Ground (b)**

5. In order for the appeal to succeed on this ground, it has to be shown that the matters alleged in the notice have not occurred as a matter of fact.
6. The appellant claims that there has been no change of use of the land which has remained as agriculture. There was no residential or storage use, including the storage of vehicles, and no new hardstanding had been formed. There had been a spoil heap which was spread because it blocked the site entrance, but this did not alter the land levels.
7. The Council acknowledge that the site was previously used for poultry farming. Although the land seemingly was no longer in active agricultural use when it was acquired by the appellant, the Council make no claim that this use had been abandoned. And, while it may be that the overall character of the use of the site changed – a matter I address in my consideration of the appeal on ground (c) – it appears to me that on the balance of probability agriculture remained a component of the use of the land, albeit the use may have been dormant for a period.
8. Accordingly, therefore, I am unable to concur with the Council's view that there was no mixed use. That said, rather than providing a basis for success on ground (b), my finding merely points to a defect in the allegation – something that I can rectify by using my power to correct the notice accordingly. As this measure would only amount to re-labelling the allegation, as opposed to extending its scope, I am satisfied that this would not give rise to injustice.
9. As to the other matters, the Council's photographic evidence shows a number of items, including picnic tables, swings and what appear to be paving stones placed on the land. Even though the appellant has indicated that various items on the land were due to be disposed of, their presence is not disputed. In addition, one of the lorry backs depicted appears to have been placed on a concrete base, the presence of which is not apparent on the 2016 aerial photograph included in the Council's statement of case. And, while it is stated that no work was undertaken to form a pond, the excavations on the western part of the site, together with the resultant mounds of excavated material on its fringes, have resulted in a readily discernible physical feature which, in my view, has amounted to a change of levels here. In the light of this, I am not satisfied that the appellant's submissions are sufficient to demonstrate that the matters alleged in the notice have not occurred as a matter of fact.
10. The appeal on ground (b) therefore fails.

### Appeal on Ground (c)

11. In order for the appeal to succeed on this ground it has to be shown that the matters alleged in the notice do not constitute a breach of planning control.
12. According to the appellant, the objects on the land were solely for use in the course of replacing previous buildings with a new one. Things appear to have moved on somewhat since the notice was issued in that the lorry bodies, which the Council have confirmed are the vehicles referred to in the allegation, have been adapted for housing poultry and now perform that role. Nor was any trace of the remains of the previous buildings that stood on the land evident to me.
13. In the light of the foregoing, I find the appellant's submission that, for the most part, the items on the land were associated with this work highly plausible. In the light of the circumstances as described by him, I am not satisfied that the presence of the items on the land amounted to a main storage use in its own right. This plausibility also applies to the hardstanding. Although I regard its provision as an act of operational development, by providing a base for what is now the poultry structure, it appears to have been part and parcel of the construction of the latter, as opposed to a separate physical entity in its own right.
14. As the term 'domestic paraphernalia' referred to in the allegation is not elaborated upon, this imparts an element of uncertainty into the notice. But, while the tables and swings depicted in the Council's photographs, together with the barbeque referred to, are not items I would normally associate with agriculture, as a matter of fact and degree, I am not satisfied they are indicative of any residential, domestic or significant recreational use of the land. Their effect on the overall character of the site is such that I do not consider that either their presence (they were not there when I visited the site), or the bicycle referred tool, amounted to a main use of the land.
15. Pointing out that the rest room (said by the Council to be another of the vehicles referred to in the allegation) is a mobile structure, and citing *Wealden DC v Secretary of State and Day [1988] JPL 268*, it is submitted that the 'tea hut' is a lawful incidental use of the land. Even though it is acknowledged that this structure has no wheels, the claim that they could easily be re-attached has not been challenged by the Council. Although the structure is not a caravan, I consider it has essentially the same characteristics insofar as mobility is concerned, and I therefore find the judgement in *Wealden* highly relevant.
16. As a matter of fact and degree, by providing a facility for shelter, rest and refreshment for the appellant, I consider it reasonable to regard the structure as being ancillary to the agricultural use of the land. As such, I am not satisfied that its presence constitutes a breach of planning control.
17. In the light of the foregoing the appeal on ground (c) succeeds insofar as the alleged change of use and hardstanding are concerned. The allegation will be corrected, to reflect this. It will also be necessary for me to make consequential amendments to the requirements. In the light of this, there is no need for me to consider the appeal on ground (d).

### **Appeal on Ground (a) and the Deemed Application**

18. I consider the main issue is whether the character and appearance of the area would be adversely affected.
19. Planning policies for the area are contained in the Council's Core Strategy Development Plan Document (CS) and the Allocations and Development Management Development Plan Document (ADM). Since the appeal was lodged, an amended CS was adopted in March 2019. The appellant was invited to comment on the up-to-date CS and I have had regard to his response.
20. CS Spatial Policy 3 states that the countryside will be protected. Both CS Spatial Policy 3 and ADM Policy DM8 indicate that development in the open countryside will be strictly controlled and restricted to uses which require a rural setting. The latter, as set out in ADM Policy DM8, include agricultural development. CS Spatial Policy 9 is directed at design; it indicates that a high standard of sustainable design is expected that both protects and enhances the natural environment. CS Spatial Policy 13 seeks to ensure that landscapes are protected and enhanced.
21. The lorry backs in their own right would have been stark and visually intrusive features and the Council's concern in this respect was perfectly understandable. However, notwithstanding the Council's reservations about the nature of the use to which the appeal site was being put at the time the notice was issued, subsequent events have tended to put things in a clearer light. To my mind, all the structures involved now appear to be related to the agricultural use of the land, either directly, or incidental to it. In particular, the lorry bodies have been further adapted in that they are now clad externally in timber boarding. Not only has this had the effect of disguising the former function of the main components of this structure, but it has also led to the structure as a whole looking very much like a functional rural building used to accommodate animals or, as is the case here, poultry.
22. As regards CS Policies 9 and 13, my impression was that all the structures in question serve the purpose they were intended for. In my experience, the poultry structure as it now appears is not dissimilar from most agricultural or agriculturally related buildings in the countryside. And, as for the most part, the appearance of such structures tends to be essentially functional, as opposed to displaying high architectural merit, I consider that this is a weighty consideration to be taken into account when assessing the development in question against the provisions of CS Spatial Policy 9. Another weighty consideration is that it is clear from the site's history that agricultural structures were present on the land previously, some of which at least were deemed acceptable, and it is therefore reasonable to regard the structures in question as replacements of sorts, as opposed to being an incursion onto a tract of previously undeveloped land.
23. The National Planning Policy Framework (The Framework), indicates that the intrinsic character and beauty of the countryside should be recognised. But, as the appellant notes, The Framework also supports a prosperous rural economy. The latter point is a factor to which I attach a good deal of weight in this case to the extent that it is a consideration that outweighs any conflict with CS Policies 9 and 13. While the appellant's initial activity on the land may well have given the Council good reason to be concerned, there is now tangible evidence that he is endeavouring to establish a productive smallholding on the

site. Viewing the development in question in this context, I find that it accords with ADM Policy DM8.

24. None of the structures on the site, either individually or collectively, could be said to enhance the local environment or landscape. But as their scale is fairly modest, and mindful of the site's history, the circumstances of this case are such that, for the most part, I do not consider the character and appearance of the area has been adversely affected to an unacceptable degree.
25. The above conclusion does not, however, extend to the excavation near the site's western boundary. I acknowledge that this work may have been a precursor to the creation of a duckpond. Judging from the appellant's comments though, it appears that duck rearing is no longer envisaged. I acknowledge that the appellant has also indicated that his plans for the smallholding envisage a wildlife pond, but there was no sign of any water in the depression in the ground. And, judging by the very sandy nature of the ground, it seems likely that a good deal of additional work would be needed to make the excavated area watertight – the appellant's case is silent on this point. To my mind, the lack of clarity regarding the exact purpose of the excavation work is such that I am not inclined to much weight to the appellant's intentions in this respect.
26. The excavations and the associated mounds of material on its fringes have given the part of the site where this work has been undertaken a markedly raw and unkempt appearance which is far from pleasing to the eye. Even though this particular area is relatively secluded, the works have detracted from the appearance of the local landscape and its character. I therefore find this element of the development in question contrary to both The Framework and CS Spatial Policy 13.
27. In the light of the foregoing, the appeal on ground (a) succeeds insofar as the structures are concerned, but fails in respect of the alterations to the land levels. A split decision will therefore be issued on the deemed application. As a result of this, and mindful that the appeal on ground (f) is not directed at requirement C, there is no need for me to consider the appeal on this ground.

### **Other Matters**

28. I have taken into account all the other matters raised, but none are sufficient to outweigh the considerations that have led me to my conclusions.
29. No conditions have been suggested by the parties, but for the avoidance of doubt and in the interests of clarity, I consider the structures which are to be approved should be identified.

### **Formal Decision**

30. I direct that the enforcement notice be corrected:
  - a. In section 1 by the deletion of "the material change of use of the land from agricultural land to the storage of miscellaneous items, vehicles and domestic paraphernalia;" and by the deletion of "and hard-standing".
  - b. In section 5 by the deletion of Requirements A. and B.
  - c. In section 6 by the deletion of parts A. and B.

31. I allow the appeal insofar as it relates to the structures on the land and I grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the erection of structures at Plots 3 & 4, Sandyacre, Eagle Road, Spalford, Newark, Nottinghamshire subject to the following condition:

The structures hereby permitted are: the poultry building; the wooden store; the electricity supply housing; the water supply housing; and the toilet structure.

32. I dismiss the appeal and uphold the notice insofar as it relates to the altering of land levels and I refuse to grant planning permission in respect of these works on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

*D H Brier*

Inspector





## Appeal Decision

Site visit made on 10 June 2019

by **Gary Deane BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 July 2019

---

**Appeal Ref: APP/B3030/W/19/3225450**

**Moor Farm, The Annexe, Moor Lane, Thorney NG23 7DG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Willows against the decision of Newark and Sherwood District Council.
  - The application Ref 18/01694/FUL, dated 5 September 2018, was refused by notice dated 28 November 2018.
  - The development proposed is the erection of a replacement dwelling.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the erection of a replacement dwelling at Moor Farm, The Annexe, Moor Lane, Thorney NG23 7DG in accordance with the terms of the application Ref 18/01694/FUL, dated 5 September 2018, subject to the conditions set out in the schedule to this decision.

### Procedural matters

2. Notwithstanding the site's address given in the above heading and my decision, which is taken from the application form lodged with the Council, most of the evidence refers to the appeal property as Moor Farm Cottage. For consistency, I, too, shall refer to it as Moor Farm Cottage.
3. Since the Council's decision, planning policy has been updated at both the national and local levels. In February 2019, the Government published an updated revised National Planning Policy Framework (the Framework) and in March 2019 the Council adopted its Amended Core Strategy (ACS). The ACS has replaced the policies of the Newark and Sherwood Local Development Framework Core Strategy, which are identified in the reasons for refusal. The main parties have had the opportunity to address both the Framework and the ACS through the appeal process.

### Main issue

4. The main issue is the effect of the proposed development on the character and appearance of the local area with particular regard to the significance of the appeal property as a non-designated heritage asset and the size and scale of the replacement dwelling.

## Reasons

### *Character and appearance: non-designated heritage asset*

5. Moor Farm Cottage is a detached 2-storey house that stands towards one corner of the site, which has an established landscape setting within the countryside. Consequently, there is a spacious feel and a verdant quality to the site, which positively contributes to the rural character of the local area.
6. Although not listed, Moor Farm Cottage has a distinctive pattern of brickwork in its northeast elevation where the headers and stretchers are alternated, which is called Flemish bond. It is a historical and architectural cue to the original building as a pair of modest farm workers cottages that date from the 1800's. As the northeast elevation of Moor Farm Cottage faces the road, it is a noticeable feature of the building in the local street scene. While the Council has referred to several other aspects of the existing building and its ties with the local area in their appeal evidence, my view is that Moor Farm Cottage has some value of local interest due to its Flemish bond brickwork. Therefore, it should be regarded as a non-designated heritage asset (NDHA). In weighing applications that affect NDHAs, the Framework states that a balanced judgement is required having regard to the scale of any harm or loss and the significance of the heritage asset. AMS Core Policy 14 echoes this approach.
7. While the Flemish bond brickwork provides some historical and architectural interest, parts of the northeast elevation have been repointed, which subdues the extent to which this feature it can be experienced and appreciated. In addition, the building itself, which appears to be typical example of its type, has been heavily modified through various alterations and extensions, not all of which have respected its character and appearance. These changes diminish the significance of the Flemish bond brickwork, which cannot reasonably be described a particularly fine example, and the existing building as a NDHA given that its original form, features and appearance appear to have been significantly altered. Consequently, I attach no more than modest significance to Moor Farm Cottage as a heritage asset.
8. Nevertheless, the Framework notes that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. In that context, the loss of the existing building, as proposed, would run counter to this part of national policy. The appeal scheme would also be at odds with the expectation in Policy DM9 of the Council's Allocations and Development Management Development Plan Document (DPD) that all development proposals affecting heritage assets should secure their continued protection or enhancement.
9. According to the appellants, the property has recently flooded and several attempts to resolve problems of damp have not proved successful. I saw ample evidence of damp and smelt its presence in a number of ground floor rooms. That problems associated with water ingress within the property provide unsatisfactory living conditions for the appellants and would deter prospective tenants is not in any doubt. I am advised that the property has been left unoccupied for the last 12 months due to these problems. If that situation continues, it is possible if not likely that Moor Farm Cottage would remain empty with an increased risk that it would fall into disrepair.

10. The Council is critical of the appellants in failing to clearly show that the building could not be made more habitable in ways other than by standard damp proof treatment that has been carried out or that any remedial works would be prohibitively expensive. As a general point, I agree that prevention and treatment of damp can often be addressed in a number of ways and that a suitable investigation with appropriate expertise is a good starting point. In my experience, a structural survey and detailed costs estimates sometimes accompany a proposal to justify the loss of a building. However, the site is within Flood Zone 3, which has the highest risk of flooding. The existing building also occupies a relatively low ground level. In those circumstances, I can understand the appellants' reluctance to incur further expense, which could be very significant, given that the problems associated with water ingress appear to relate primarily to the position of the building rather than to detailed design considerations.
11. To briefly recap, Moor Farm Cottage should be regarded as a NDHA due to its Flemish bond brickwork although its significance as a heritage asset is modest given the repointing, alterations and extensions that have taken place. These considerations diminish the weight to be attached to the building's loss. The condition of the building and its suitability for use as a dwelling is also affected by water ingress that appears to derive principally from its relatively low level position within a high flood risk area. Nevertheless, the building remains worthy of retention unless there is an acceptable replacement scheme in place.

*Character and appearance: size and scale of the replacement dwelling*

12. DPD Policy DM8 deals with development in the open countryside. It notes that to minimise the visual impact on the countryside and maintain a balanced rural housing stock, replacement dwellings should normally be of a similar size, scale and siting to that being replaced. The inclusion of the word 'normally' indicates that at least some flexibility can be applied to reflect local circumstances.
13. Compared to the existing dwelling, the replacement building would be more substantial in built form with a larger floor area and footprint. It would not be similar in size and scale to its existing counterpart to which DPD Policy DM8 refers. However, with a relatively low eaves level, varied ridgeline and the first floor accommodation set into the roof space, the new dwelling would keep a relatively low profile and have a modest presence within the site. Although the siting of the new dwelling would also differ to the existing building, its position set back into the main body of the plot and behind established vegetation would minimise its visual impact within the countryside.
14. The replacement building would not look disproportionately large or out of place among the highly varied built form in the local area. It would stand comfortably within a good-sized plot and provide a high quality home with ample space for gardens and parking. While the finished dwelling would be sizeable, it would also be compact in layout thus avoiding any strong sense of sprawl. With the opportunity for further landscaping within the site, the spacious and verdant qualities of the local area and its rural character would be maintained. Since the proposal would be compatible in its context and provide a high quality new home, it would not conflict with the main purposes of DPD Policy DM8, which relate to the visual impact of the replacement dwelling and its effect on the rural housing stock.

### *Other considerations*

15. In contrast to the existing dwelling, the proposed replacement would be located and designed to be both flood resistant and flood resilient. The finished floor level of the new addition would be some 0.63m ODN above the ground level of the existing building with the electrics placed at a high level. These and other measures to reduce flood risk and its effects are set out in the appellants' Flood Risk Assessment. Providing a high quality home in a landscaped setting that takes into account ground levels and its position within an area of high flood risk weigh significantly in favour of the appeal scheme.
16. The new dwelling would be occupied by the appellants, which would allow them to stay close to and support other members of their family and to assist with the family run business nearby. Closure of the existing access off Clifton Lane would also bring about improvements to highway safety. While these benefits and those associated with additional planting could equally apply if Moor Farm Cottage were to be retained and occupied, that prospect seems limited given the circumstances laid out in the evidence before me.

### *Conclusion on the main issue*

17. Overall, the benefits of the proposal are considerable and the case to replace Moor Farm Cottage, as proposed, is both strong and persuasive. Given the modest significance of the existing building as a heritage asset, the benefits associated with the proposal clearly outweigh the harm caused by the loss of a NDHA. On the main issue, I therefore conclude that the proposed development as a whole - demolition and replacement - would be in keeping with the character and appearance of the local area. As such there is no material conflict with AMS Core Policy 14, DPD Policies DM5, DM8 and DM9 or the Framework. These policies generally aim to safeguard heritage assets, protect the countryside and seek to resist uncharacteristic forms of development.
18. In reaching this conclusion, I have taken into account the examples of replacement dwellings at Swinderby Road, South Scarle and Brown Wood Lane, Thorney to which reference is made. I have, however, assessed the proposal on its own merits and find it to be acceptable for the reasons given.

### **Conditions**

19. I have considered the Council's suggested conditions in the light of national policy and guidance and taken into account the appellants' response to and their approval of the pre-commencement conditions.
20. In addition to the standard time limit condition, it is necessary to impose a condition that requires the development to be carried out in accordance with the approved plan for certainty. To ensure the satisfactory appearance of the development, conditions are imposed requiring details of external materials, boundary treatment, earthworks and landscaping.
21. A condition is imposed to require the demolition and removal of the existing dwelling before works start in relation to its proposed replacement. This arrangement reflects the development sought and avoids the potential of both dwellings remaining on the site, which would be contrary to countryside protection policies. A condition is also attached to require a survey of the existing building prior to work starting to record any information for the purpose of historical understanding.

22. In the interests of highway safety and to ensure the structural integrity of the highway, further information is required in relation to the closure of the existing access off Clifton Lane and with regard to the materials and specification of the access to serve the new dwelling. To minimise the effect of flooding on future occupiers, the measures outlined in the appellant's Flood Risk Assessment should be implemented. A condition to this effect is therefore imposed. Details of surface and foul water disposal are also required to ensure that the site is properly drained, which is covered by a condition.
23. The Planning Practice Guidance states that conditions restricting the future use of permitted development (PD) rights will rarely pass the test of necessity and should only be used in exceptional circumstances. Such circumstances apply in this instance because some changes to the replacement dwelling or the introduction of outbuildings within the site might affect the character and qualities of the local area. To safeguard these interests, PD rights do not include extensions, roof alterations or garden buildings. A condition to this effect is therefore imposed.
24. Where necessary, I have amended the Council's suggested conditions for clarity and to more closely reflect national policy.

**Conclusion**

25. For the reasons set out above, I conclude that the appeal should be allowed.

*Gary Deane*

INSPECTOR

**Appeal Ref: APP/B3030/W/19/3225450**  
**Moor Farm, The Annexe, Moor Lane, Thorney NG23 7DG**

**Schedule of conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plan: Ref F2867-A1-01A.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until there has been submitted to and approved in writing by the local planning authority, a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the dwelling hereby approved is occupied. Development shall be carried out in accordance with the approved details.
- 5) No development shall take place 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. Where appropriate, these details shall include: vehicle parking layout; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (eg. furniture, play equipment, refuse storage units, signs, lighting); retained landscape features and proposals for restoration, where relevant; renewable energy installations, where relevant; water features, where relevant; and an implementation programme. Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers and densities where appropriate; and an implementation programme.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development hereby permitted or in accordance with the programme of implementation previously agreed in writing by the local planning authority. All new tree plantings shall be positioned in accordance with the requirements of British Standard BS5837: 2012, *Trees in Relation to Construction: Recommendations*. Any trees, shrubs, hedges or plants which within a period of 5-years from the completion of the development 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 the local planning authority gives written approval to any variation.
- 7) No demolition or development shall take place until details of a programme of historic building recording has been submitted to and approved in writing by the local planning authority. The recording shall thereafter be carried out in accordance with the approved details.

- 8) No development shall take place until details of any earthworks have been submitted to and approved in writing by the local planning authority. These details shall include: the existing and proposed finished levels or contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform; and the proposed and existing functional services below ground (eg drainage, power, communications cables, pipelines indicating lines, manholes and supports). Development shall be carried out in accordance with the approved details.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no development shall be carried out within Classes A, B or E of Part 1 of Schedule 2 of that Order (or any Order revoking and re-enacting that Order), without the prior approval of the local planning authority.
- 10) No development shall take place in respect of the replacement dwelling hereby approved until the existing dwelling has been demolished and all materials removed from site.
- 11) Before the access to serve the development hereby permitted is used by any vehicle, that part of the access extending from the highway boundary for a minimum distance of 5 metres into the site shall be surfaced in accordance with a scheme that has been previously submitted to and approved in writing by the local planning authority.
- 12) The dwelling hereby permitted shall not be occupied until a vehicular crossing of the highway verge on Top Road is available for use and constructed in accordance with a specification that has been previously submitted to and approved in writing by the local planning authority.
- 13) No development shall take place until a scheme to close the existing access to the site off Clifton Lane has been submitted to and approved in writing by the local planning authority. That access shall be closed in accordance with the approved details.
- 14) No development shall take place until a scheme for the disposal of foul water and surface water from the site, which includes details of sustainable drainage measures and a programme for implementation has been submitted to and approved in writing by the local planning authority. The scheme shall be fully implemented in accordance with the approved details and programme.
- 15) The development hereby permitted shall be carried out in accordance with the recommendations set out on pages 13 and 14 of the Flood Risk Assessment prepared by RM Associates dated October 2018, Version 1. The approved measures shall be completed before the dwelling hereby approved is occupied.

## PLANNING COMMITTEE – 6 AUGUST 2019

### QUARTERLY ENFORCEMENT ACTIVITY UPDATE REPORT

This report follows on from the report that was presented to Members on 2<sup>nd</sup> July 2019 which highlighted planning enforcement performance during the first quarter of 2019. This report relates to the quarter from 1<sup>st</sup> April to 30<sup>th</sup> June 2019 and provides an update on cases where formal action has been taken. It also includes case studies which show how the breaches of planning control have been resolved through negotiation.

This report presents a snap shot on the general volumes of cases received and dealt with as follows:

- Schedule A outlines the enforcement activity during the quarter which captures the overall split to show of the cases investigated, how many are found to be a breach of planning or otherwise.
- Schedule B (separate attachment) sets this (on a pro-rata basis) against the activity over previous quarters). Please note that cases closed exceed, on occasion, cases received as a case received in an earlier quarter may have been closed.
- Schedule C details a summary of formal action taken since the last report was compiled which in this case is for the quarter.
- Schedule D – provides examples of cases where breaches of planning control have been resolved without formal action having been taken.
- Schedule E – Notices complied with.

### SCHEDULE A

Table 1

| <b>SCHEDULE A:<br/>ENFORCEMENT CASES</b> | <b>1<sup>st</sup> to 30<sup>th</sup><br/>April 2019</b> | <b>1<sup>st</sup> to 31<sup>st</sup> May<br/>2019</b> | <b>1<sup>st</sup> to 30<sup>th</sup><br/>June 2019</b> | <b>Totals</b> |
|--|---|---|--|---------------|
| <b>Cases Received</b>                    | 48  | 39  | 33   | 120           |
| <b>Case Closed*</b>                      | 31  | 25  | 46   | 102           |
| <b>Notice Issued</b>                     | 3   | 3   | 1  | 7             |
| <b>Notice Complied With</b>              | 1   | 1   | 3  | 5             |
| <b>Appeal Lodged**</b>                   | 2   | 0   | 0  | 2             |
| <b>Prosecutions/Injunctions***</b>       | 0   | 1   | 0  | 1             |

\*It should be noted that ‘case closed’ can include a number of outcomes, which are generally breach resolved (through planning application or removal), no breach identified (not development or permitted development), or that a breach exists but it is not expedient to pursue. Please note that ‘Notice’ for the purposes of these statistics does not include Planning Contravention Notices issued.

\*\* Appeals lodged during Quarter 2, 2019 are:

- 18/00271/ENF (**19/00021/ENFNOT**) appeal received 18<sup>th</sup> April 2019 – 18 Sherwood Avenue, Edwinstowe relating to the unauthorised erection of an extension to which the enforcement notice (served 18<sup>th</sup> March 2019) required removal.
- 18/00346/ENF (**19/00022/ENFNOT**) appeal received 19<sup>th</sup> April 2019 – 29 California Road, Farndon in which the enforcement notice served 18<sup>th</sup> March 2019 required the removal of a balcony and associated rail and platform.



\*\*\*The Prosecution referred to was in relation to Rickett Lane in Blidworth. The prosecution relates to the failure to comply with an enforcement notice for open air storage in the Green Belt. The total fine given was £1,264.50.

Of the cases closed, the reasons for these closures are detailed below in Table 2:

**Table 2**

| <b>Month/Year</b> | <b>Total Number of Cases Closed</b> | <b>No Breach (No Further Action required)</b> | <b>Breach Resolved (through negotiation, permission granted etc)</b> | <b>Breach – No Further Action (as not expedient)</b> | <b>Other (such as Duplicate Case)</b> |
|-------------------|-------------------------------------|---|--|--|---------------------------------------|
| April 2019        | 31                                  | 17 (54.8%)                                    | 11 (35.5%)   | 2 (6.5%)   | 1 (3.2%)                              |
| May 2019          | 25                                  | 13 (52%)                                      | 8 (32%)  | 3 (12%)  | 1 (4%)                                |
| June 2019         | 46                                  | 21 (45.7%)                                    | 14 (30.4%)   | 9 (19.6%)  | 2 (4.3%)                              |
| <b>Totals</b>     | <b>102</b>                          | <b>51</b>                                     | <b>33</b>  | <b>14</b>  | <b>4</b>                              |
| <b>Average</b>    | <b>34</b>                           | <b>17 (50%)</b>                               | <b>11 (32%)</b>  | <b>4.6 (14%)</b>                                     | <b>1.3 (4%)</b>                       |

**SCHEDULE B – SEE SEPARATE SHEET AT END OF THIS REPORT**

**SCHEDULE C. FORMAL ACTION TAKEN (1<sup>ST</sup> APRIL TO 30<sup>TH</sup> JUNE 2019)**

Schedule C provides a more detailed position statement on formal action (such as enforcement notices served) since the report performance report was brought before Members. This table does not detail Planning Contravention Notices served.

**FORMAL ACTION TAKEN IN APRIL 2019**

**Enforcement Ref:** 19/00133/ENF

**Site Address:** The Bearings, Bowbridge Road, Newark, NG24 4BZ

**Alleged Breach:** Unauthorised removal of trees

**Date Received:** 02.04.2019

**ACTION TO DATE:** Breach of Condition and Temporary Stop Notices Served 2<sup>nd</sup> April 2019.

**Background**

Concerns were raised to the LPA in respect to the removal of trees in connection with the development of the site under planning reference 18/00973/FULM (Erection of 62 residential dwellings including new vehicular access road and removal of eight TPO trees (TPO N313).

Whilst the works were in accordance with the plans as submitted, they were done before discharging relevant conditions which were specifically imposed to protect the trees subject to a TPO.

Officers served a Temporary Stop and Breach of Condition Notice requiring all works to cease until a scheme for the protection of the retained trees and hedgerows (as required by condition) had been submitted and agreed in writing.

**Enforcement Ref:** 19/00138/ENF

**Site Address:** Unit 3 The Paddock, Newark Road, Wellow

**Alleged Breach:** Alleged breach of conditions – 15/00457/FUL

**Date Received:** 04.04.2019

**ACTION TO DATE:** Temporary Stop Notice Served 4<sup>th</sup> April 2019.

#### Background

Planning permission was granted at appeal in April 2017 for the development of a traveller site including short term transit pitches and a utility block. In approving the application the inspector imposed 19 conditions, amongst which one prohibits vegetation clearance during the bird nesting season, and another requires that tree protection measures should be put in place in accordance with an approved scheme.

A site visit by Enforcement Officers noted that whilst measures had been put in place, these were not exact to the agreed details in that the fencing was not far enough out to the edges of the canopies and the membrane around one of the specimens (T39) was not implemented correctly. This was discussed with the Council's Tree Officer and it was confirmed that the measures were insufficient. A temporary stop notice was therefore served.

Subsequent to the notice being served the owner agreed to undertake remedial works, including removing the hard standing from the canopy of some areas of trees and the application of a revised surfacing and membrane to others areas in accordance with details approved by the tree officer.

The Council considers the requirements of the Notice to be complied with and the enforcement case has now been closed.

**Enforcement Ref:** 19/00107/ENF

**Site Address:** The Bungalow, 7 Crab Lane, North Muskham, NG23 6HH

**Alleged Breach:** Unauthorised loft conversion with insertion of French doors

**Date Received:** 19.03.2019

**ACTION TO DATE:** Enforcement Notice Served 8<sup>th</sup> April 2019.

#### Background

The LPA received concern regarding the conversion of a loft which included the installation of French doors which opened out on to a flat roof, and the insertion of windows on the opposite gable.



Having visited the site, Officers noted that the doors and windows have the potential to affect neighbouring amenity.



The exit is required for building regulations but the insertion of the doors would require planning permission as they are at first floor on a side elevation and not obscurely glazed.

An enforcement notice was served requiring that all glass panes be obscurely glazed and made non opening up to a height of 1.7m (i.e. to meet the permitted development right regulations). The works were required to be complied with by 18<sup>th</sup> June 2019.

### **FORMAL ACTION TAKEN IN MAY 2019**

**Enforcement Ref:** 19/00170/ENF

**Site Address:** Land to the South Side of 9-18 Hounsfield Way, Sutton on Trent

**Alleged Breach:** Breaching permitted working hours

**Date Received:** 23.04.2019

**ACTION TO DATE:** Breach of Condition and Temporary Stop Notices Served 10<sup>th</sup> May 2019.

#### **Background**

Planning permission was granted in January 2018 for the erection of 50 dwellings with associated infrastructure, landscaping and public open space and surgery car park extension providing 11 car park spaces (14/00161/FULM).

Condition 05 of the permission restricted working hours including allowing no works on bank holidays.

Concern was received that works were taking place outside of the restricted hours (including over the Easter weekend) which the developer conceded had happened.

A Temporary Stop and Breach of Condition Notice were therefore served requiring compliance with working hours as conditioned.

**Enforcement Ref:** 18/00034/ENF

**Site Address:** The Workshop, Cockett Lane, Farnsfield, NG22 8QJ

**Alleged Breach:** Change of use to waste transfer site

**Date Received:** 25.01.2018

**ACTION TO DATE:** Breach of Condition Notice Served 15<sup>th</sup> May 2019.

#### **Background**

Planning permission was granted for an agricultural storage unit (retrospective) under planning reference 14/01948/FUL. Condition 03 required that the building be used solely for agricultural purposes.

It was brought to the LPA's attention that the site was allegedly being used as a waste transfer site and therefore not for the agricultural purposes approved.

The breach of condition notice relates solely to the unauthorised change of use albeit there are ongoing investigations from Nottinghamshire County Council (as the waste authority) in respect to the end use as a waste operation. NCC have also served a planning enforcement notice to which an appeal has been lodged against. NCC have notified NSDC as an interested party in the appeal process and the LPA will continue to work with NCC through the proceedings.

It is worthy of note that there is no right of appeal against a breach of condition notice and therefore the owner does not have the ability to appeal the NSDC notice.

**Enforcement Ref:** 19/00210/ENF

**Site Address:** Land adj. The Old Rectory, Church Street, Southwell, NG25 0HG

**Alleged Breach:** Alleged unauthorised works beyond consent

**Date Received:** 29.05.2019

**ACTION TO DATE:** Temporary Stop Notice Served 29<sup>th</sup> May 2019.

#### Background

The building in question is curtilage listed and despite consent for residential conversion (16/02036/FUL), a site visit from the Conservation Officer noted that the building had in fact almost been demolished in its entirety due to the alleged instability of the building.



A temporary stop notice was served requiring the cessation of development and restricting the removal of already demolished materials from the site. The notice ceased to have effect on 26<sup>th</sup> June 2019. Officers continue to liaise with the landowner and are looking to arrange interviews under caution to establish the facts of the matter.

### **FORMAL ACTION TAKEN IN JUNE 2019**

**Enforcement Ref:** 19/00209/ENF

**Site Address:** Land at Girton Farm, New Lane, Girton

**Alleged Breach:** Demolition of Buildings

**Date Received:** 29.05.2019

**ACTION TO DATE:** Temporary Stop Notice Served 20.06.2019

#### **Background**

A number of large buildings have been demolished on the site with the materials burnt on site including asbestos.

The breach in planning terms is that there was no notification of the buildings demolition to consider their removal to be permitted development.

Officers are working with colleagues in Environmental Health in order to rectify the issues.

## **SCHEDULE D: EXAMPLES OF BREACHES RESOLVED WITHOUT FORMAL ACTION**

Formal enforcement action is usually the last resort and where negotiations have failed to produce a satisfactory resolution of a breach of planning control. In the vast majority of cases negotiation, or the threat of formal action, is enough to secure compliance with planning legislation and the following are just a few examples of how officers have resolved breaches through negotiation during the last quarter.

**Enforcement Ref:** 18/00410/ENF

**Site Address:** 24 Lawrence Street, Newark, NG24 1NE

**Alleged Breach:** Unauthorised hard standing area

**Status:** Breach resolved

### Background

The LPA received notification that the approved hard and soft landscaping scheme for the driveway/front garden of application 18/00005/FUL had not been complied with. Instead of block pavers for one vehicle and a small soft landscaping area, the entire driveway space had been tarmacked.



A soft landscaped area and off-street parking for one vehicle only was considered to be a crucial consideration in the approval of this scheme.

After a number of warning letters and emails, the block pavers were installed, and low-level shrubs implemented in accordance with the approved hard & soft landscaping scheme as confirmed by a site visit on 4<sup>th</sup> June 2019.



**Enforcement Ref:** 19/00165/ENF

**Site Address:** Land off Southwell Road, Farnsfield

**Alleged Breach:** Plot 24 allegedly not built in accordance with approved plans - 14/01469/OUTM

**Status:** Breach resolved

#### Background

Officers attended the site following concerns by neighbouring residents and noted that the roof timbers that were beginning to be installed for PLOT 24, (which is the closest plot to the existing dwellings) were incorrect. The roof being installed was a gable with the associated brickwork. The approved plans (elevation and block plans, shows a hipped structure).





Officer negotiated with the developer, Bellway Homes. After considerable chasing Bellway accepted the 'error' (claiming that the wrong roof timbers were ordered) and agreed to make the necessary amendments.

The amendments have now been made to the roof structure and the enforcement case has now been closed.

#### **SCHEDULE E – NOTICES COMPLIED WITH DURING QUARTER (1<sup>st</sup> April to 30<sup>th</sup> June)**

In addition to the notices complied with that were issued this quarter and detailed within the sections above, further notices issued previously can also be reported as complied with as follows:

**Enforcement Ref:** 18/00393/ENF

**Site Address:** Kelham Hall, Main Street, Kelham, NG23 5QX

**Alleged Breach:** Alleged non-compliance with conditions attached to 17/02071/FULM

**ACTION TO DATE:** Breach of Condition Notice served 30<sup>th</sup> January 2019.

#### **Background**

A large number of complaints were received regarding alleged non-compliance with a number of conditions at Kelham Hall, regarding the October 2018 permission for a caravan and camping use (17/02071/FULM).

Condition 06 of that permission required the 3x security camera poles and bases to be painted

black and green respectively. A Breach of Condition Notice was issued on the 30th January 2019, requiring compliance with the condition. A site visit on the 3rd April 2019 saw that compliance had been met, resolving the breach. The shade of green is not what the LPA would have sought, but the conditioned heritage statement simply requires the bases to be painted "green".

A range of hoardings and banners were displayed on the grade II listed Lodge Gate, and along the grass verge at the main vehicular entrance. After a number of letters were issued threatening direct action, the banners were removed and the second breach resolved.

Condition 08 and 09 of the permission made it clear that no caravan was to be used for residential occupation, nor sited on the land for more than 28 days. The LPA received allegations that the caravans were being occupied and had been on the land for a number of months.

A number of officers undertook regular inspections in order to determine a breach of the 28 day condition. After approximately 15 visits, which appeared to show clear residential occupation, Mr Pass became aware and moved all the caravans off the land. Further site visits have found that none of the caravans remain, and the few that are on the land appear to be for holidaymakers.

**Enforcement Ref:** 19/00133/ENF

**Site Address:** The Bearings, Bowbridge Road, Newark, NG24 4BZ

**Alleged Breach:** Unauthorised removal of trees

**ACTION TO DATE:** Breach of Condition and Temporary Stop Notices Served 2<sup>nd</sup> April 2019.

Background

On the basis of the notices detailed above, a discharge of condition request was made in line with the planning application detailing the means of protection for retained trees and hedgerows. These details were agreed in correspondence with advice from the Council's Tree Consultant and the condition discharged by letter dated 20<sup>th</sup> May 2019.

**Enforcement Ref:** 18/00226/ENF

**Site Address:** Land to the rear of the Bungalow, Staythorpe Road, Averham, NG23 5RA

**Alleged Breach:** Change of use of land from paddock to residential

**ACTION TO DATE:** Enforcement Notice served 24<sup>th</sup> August 2018.

Background

In July 2018, the LPA received an allegation that a paddock to the rear of The Bungalow, Averham, was being used for residential purposes. A site visit found the meadow - when not

being used for grazing horses - was used as additional domestic space for the owners children to enjoy. Although this usage was minimal, a large domestic fish pond had been installed to the immediate rear of the curtilage of the residential boundary.

A planning enforcement notice was served on the owner of the land on the 24th August 2018, requiring the domestic use of the land to cease, the fish pond to be removed and the resulting hole infilled back to its former condition. The notice was not appealed and compliance required by the 17th December 2018.

Further site visits found that the fish pond had not been removed, allegedly due to the winter being the incorrect time to remove the live fish. The owner was informally granted an extension of time to comply with the Notice.

A later site visit found that the fish pond and all associated materials had been removed, and any domestic furniture (including trampoline and toys) removed from the land. The hole remained on the land until a site visit of the 4th June 2019.

**Enforcement Ref:** 17/00427/ENF

**Site Address:** Burgess House, Main Street, Farnsfield, NG22 8EF

**Alleged Breach:** Gate Plans not in accordance with approved plans

**Status:** Enforcement Notice Served 15<sup>th</sup> March 2018.

Background

A Listed Building Enforcement Notice was served on 15<sup>th</sup> March 2018 following unauthorised works including the removal of a metal pedestrian gate and its replacement with a wooden gate.



The Notice was appealed but the Inspector upheld the notice by decision dated 11<sup>th</sup> January 2019.

A site visit on 4<sup>th</sup> June 2019 has confirmed that the original metal gate has now been reinstated.



**Enforcement Ref:** 18/00283/ENF

**Site Address:** Land adjacent Cover Point, Halloughton, NG25 0QP

**Alleged Breach:** Breach of Planning Conditions

**Status:** Breach of Condition Notice Served 11<sup>th</sup> September 2018.

Background

A site visit by the Council's Tree Officer noted that the hedgerow to the front of the site had been removed and building materials had been placed within the canopy of the trees to be retained with no measures of protection as required by the planning condition.

The notice required the means of protection to be implemented as well as the replanting of a new hedge along the front boundary of the site. A site visit on 19<sup>th</sup> June 2019 confirmed that this has now been complied with.



**Enforcement Ref:** 19/00107/ENF

**Site Address:** The Bungalow, 7 Crab Lane, North Muskham, NG23 6HH

**Alleged Breach:** Unauthorised loft conversion with insertion of French doors

**Date Received:** 19.03.2019

**ACTION TO DATE:** Enforcement Notice Served 8<sup>th</sup> April 2019.

Background

As is detailed above in Schedule C, the LPA served an enforcement notice requiring that all glass panes be obscurely glazed and made non opening up to a height of 1.7m (i.e. to meet the permitted development right regulations). The works were required to be complied with by 18<sup>th</sup>

June 2019. A site visit found that the Notice had been complied with and the breach of planning control resolved.



**Before**



**After**

### **RECOMMENDATION**

**That Planning Committee considers the contents of the report and identifies any issues it wishes to examine further.**

Background Papers

Enforcement Case Files

For further information please contact Laura Gardner on extension 5907 or [planning@nsdc.info](mailto:planning@nsdc.info)

**Matt Lamb**  
**Director of Growth & Regeneration**

**SCHEDULE B - ENFORCEMENT PERFORMANCE REPORT – PERFORMANCE BY QUARTER**

|                   | Q2 2017/18<br>1 July to 30<br>September | Q3 2017/18<br>1 October to<br>31<br>December | Q4 2017/18<br>1 January –<br>31 March | Q1<br>2018/19<br>1 April –<br>30 June | Q2<br>2018/19<br>1 July – 30<br>September | Q3<br>2018/19<br>1 October<br>– 31<br>December | Q4<br>2018/2019<br>1 January<br>to 31<br>March | Q1<br>2019/2020<br>1 April –<br>30 June |
|-------------------|---|--|---------------------------------------|---------------------------------------|---|--|--|---|
| Cases<br>Received | 119                                     | 106  | 94                                    | 101                                   | 106                                       | 96   | 125  | 120                                     |
| Cases<br>Closed   | 127                                     | 80   | 130                                   | 101                                   | 74  | 81   | 90   | 102                                     |

