



**NEWARK &
SHERWOOD**
DISTRICT COUNCIL

*Castle House
Great North Road
Newark
NG24 1BY*

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Monday, 6 January 2020

**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, 14 January 2020 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.

AGENDA

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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.

NOTES:-

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

NEWARK AND SHERWOOD DISTRICT COUNCIL

Minutes of the Meeting of **Planning Committee** held in the The Ballroom, Newark Town Council, Newark Market Place, Newark, Notts, NG24 1DU on Tuesday, 3 December 2019 at 4.00 pm.

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

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

ALSO IN ATTENDANCE: Councillor P Peacock

APOLOGIES FOR ABSENCE: Councillor J Lee (Committee Member)

131 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

Councillor M Skinner declared a personal interest in Agenda Items No. 11 and 12 – Blidworth Community Leisure Centre (19/01489/FUL) and Dukeries Leisure Centre (19/01835/FUL) as a Ward Councillor as he is a Board member for Active4Today.

Councillor T Smith declared a personal interest in Agenda Item 11- Blidworth Community Leisure Centre (19/01489/FUL) as he is a member and user of the gym.

Councillor M Brown declared a personal interest in Agenda item 7 - Former Thoresby Colliery, Ollerton Road, Edwinstowe (19/01016/RESM) as he was present at the Edwinstowe Parish Council meeting when it was discussed, the Member confirmed that he would keep an open mind.

Councillors L Dales and I Walker declared personal interests as they were Council's appointed representatives on the Trent Valley Internal Drainage Board.

132 DECLARATION OF ANY INTENTIONS TO RECORD THE MEETING

The Chairman informed the Committee that the Council was undertaking an audio recording of the meeting and live screening on social media was being broadcast. One member of the public advised they were recording the meeting.

133 MINUTES OF THE MEETING HELD ON 5 NOVEMBER 2019

AGREED that the minutes of the meeting held on 5 November 2019 be approved as a correct record and signed by the Chairman.

134 SPRINGFIELD BUNGALOW NOTTINGHAM ROAD SOUTHWELL NG25 0QW 19/01475/S73M

The Committee considered the report of the Business Manager – Planning Development, which sought a variation to condition 2 relating to House Types A and C. Matters to be considered were the appearance and whether the changes raised other considerations.

A schedule of communication was tabled at the meeting which detailed correspondence received after the Agenda was published from NCC Highways, Appeal decisions in respect to applications 19/00779/FULM and 19/00689/FUL and a costs award. Suggested amendments to conditions 5, 10 and 23 were tabled as a result of the Inspector’s decision letter.

Members considered the application and felt that the alterations were relatively minor although the design of House Type C previously was preferred. The houses were in keeping with the locality and parking provision acceptable. Concerns were raised regarding the timing of connection of the drainage to the highway as a result of recent rainfall. Clarification regarding timings of works in respect of the highway was provided following condition 23 imposed as part of the Inspector’s decision letter.

AGREED (9 votes for, 4 against and 1 abstention) that the variation of condition application be approved subject to amendments to conditions 5, 10 and 23 and conditions as contained within the late items report.

135 LAND OFF LOWER KIRKLINGTON ROAD, SOUTHWELL 19/01771/FULM

The Committee considered the report of the Business Manager – Planning Development, which sought planning permission for eighty dwellings which was a resubmission of 18/01636/FULM. One late representation received after the report had been published was tabled.

Councillor P. Storer (Southwell Town Council) spoke against the application. However, he commended the applicant for responding to matters previously raised. Notwithstanding this, he considered that traffic calming measures, as opposed to traffic lights or a roundabout should be provided.

Members considered the application and it was noted that the applicant had responded to the concerns previously raised and for which application 18/01636/FULM had been refused. Notwithstanding this, in view of the objection from NCC Highways on highway safety grounds, Members considered they could only follow the officer recommendation. However, it was requested that it be noted that the 4 arm roundabout was preferred by the Planning Committee. As such, the Committee would urge the applicant to liaise with NCC Highways to establish whether there are other alternatives, such as utilising the access road as part of the remainder of the allocated site which has an extant permission.

AGREED (unanimously) that full planning permission be refused in accordance with the recommendation.

136 FORMER THORESBY COLLIERY, OLLERTON ROAD, EDWINSTOWE 19/01016

The Committee considered the report of the Business Manager – Planning Development, which sought reserved matters for Phase 1 residential development comprising 143 dwellings. Four late representations received after the report had been published were tabled.

Councillor P Peacock, local Ward Member for Edwinstowe, spoke against the application. The Committee was informed that there was concern regarding provision of infrastructure, links to the existing community, whether contamination, health, habitat management etc. issues had all been adequately addressed. The phasing of the development and provision of infrastructure were not in sync and the development would have a considerable impact upon the local highway network.

Members considered the application and had concerns regarding the lack of open space being provided within this phase. They were also disappointed that renewable energy such as rainwater harvesting infrastructure was not being provided. Clarification was provided that subsequent phases would provide open space and other infrastructure would be provided in accordance with the legal agreement.

AGREED (11 votes for, 2 against and 2 abstention) that reserved matters be granted in accordance with the officer recommendation.

137 LAND ON THE SOUTH SIDE WESTFIELD LANE, COLLINGHAM 19/01484/S73M

The Committee considered the report of the Business Manager – Planning Development, which sought a variation to conditions 2, 5, 6, 9, 10, 12 and 15 of application 18/01477/FULM which reduced the number of turbines from three to two.

Members considered the application and asked whether it should be a full application as opposed to a variation of condition application. Clarification was provided that legal advice had been sought and the application had been appropriately made. Concerns were raised regarding whether the development would increase the risk of flooding as well as the impact upon ecology, landscape, reduction in energy and impact upon businesses within Collingham.

A resolution to refuse planning permission was tabled which was lost with 3 voting in favour 7 against and 4 abstentions. A second vote was undertaken for approval in line with officer recommendation.

AGREED (6 votes for, 4 against and 4 abstentions) that planning permission be granted.

138 LAND ADJACENT 4 YEW TREE WAY, CODDINGTON 19/00131/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought planning permission for 2 dwellings.

Councillor D Armstrong, on behalf of Coddington Parish Council spoke against the application. Councillor Armstrong handed out two plans advising that the footprint of

the proposal was larger than the previous application that was refused and the development would impact on the protected trees. Given the lateness of the presented information that meant that officers were unable to clarify the position, it was moved for deferral to seek clarification on the matter.

AGREED to defer the application to a subsequent Planning Committee in order to have time to consider the information circulated by Councillor Armstrong.

139 6 BARKSTONE CLOSE, BALDERTON 18/02175/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought planning permission for a change of use to operate a pet sitting service and erection of a dog shed building. A late representation was tabled which had been received after the agenda had been published.

Councillor L Hurst, local Ward Member for Balderton Parish Council spoke in favour of the application. The business had been in place for 12 months and no complaints had been received. The activity would be licenced by Environmental Health, the development was located away from dwellings and she had never known the area to flood.

Members discussed the application and suggested conditions that could be attached to an approval. Discussion was held regarding the site being within the open countryside as well as being designated as being within a flood zone. A question was raised regarding whether the site area of the use could be conditioned so that it was smaller.

A vote was taken to approve planning permission to include conditions relating to hours of operation and personal permission which was lost with 6 votes for and 8 votes against.

AGREED (7 votes for, 6 against and 1 abstentions) that planning permission be refused.

140 BLIDWORTH COMMUNITY LEISURE CENTRE, BLIDWORTH 19/01489/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought planning permission for a single storey extension to the main building to form a sauna and steam room. A late representation was tabled which had been received after the agenda had been published. Some Members commented that the word ‘community’ should not be contained within the application address and asked for it to be removed.

AGREED (11 votes for, and 2 abstentions) that planning permission be granted subject to the conditions in the report.

141 DUKERIES LEISURE CENTRE, DUKERIES COMPLEX, MAIN ROAD, BOUGHTON 19/01835/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought planning permission for an extension to the building to provide for a swimming pool, changing rooms and plant room. A late representation was tabled which had been received after the agenda had been published from Boughton Town Council.

Members discussed the representation which detailed that a 25 metre as opposed to 20 metre length pool should be provided. Members were advised the considerations that could be taken into account related solely to the impact of the development.

AGREED (12 votes for, and 1 abstention) that planning permission be granted subject to the conditions in the report.

Councillor R V Blaney left the meeting at this point, the Vice-Chairman - Cllr I Walker Chaired the meeting thereafter.

142 APPEALS LODGED

AGREED that the report be noted.

143 APPEALS DETERMINED

AGREED that the report be noted.

144 EXCLUSION OF THE PRESS AND PUBLIC

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 involved the likely disclosure of exempt information as defined in Paragraphs 1, 2, 3 and 7 of part 1 of Schedule 12A of the Act.

Meeting closed at 6.58 pm.

Chairman

PLANNING COMMITTEE – 14 JANUARY 2020

Application No:	19/00131/FUL	
Proposal:	Construction of 2no. dwellings	
Location:	Land adjacent 4 Yew Tree Way, Coddington	
Applicant:	Mr & Mrs Hazzledine	Agent: Jen Leadbetter at Aspbury Planning
Registered:	31.01.2019	Target Date: 25.03.2019
	Extension of Time Agreed until 15 January 2020	
Website Link:	https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PLVT7RLBHO500	

Update

Members will recall this application was presented to the Planning Committee on 3rd December 2019 following a site visit earlier in the day. Following an officer presentation to Members, Coddington Parish Council spoke against the scheme and produced an overlaid plan and suggested that it showed the footprint of the application scheme to be greater than the previously refused scheme that was dismissed at appeal. Officers were unable to verify the position given the lateness of the information and Members therefore deferred the application without having opened up the debate.

On 9th December 2019, Coddington Parish Council provided their script and plans handed out to the Committee plus an additional plan which they say shows the old and new designs overlaid for comparison purposes.

Requested Clarification

Application	Footprint m²
Current application	Building footprint = c156.7m ² (c78.35m ² each plus) shed of c1.33m ² for each. Total footprint for both dwellings and sheds = c159.36m²
Refused application (dismissed on appeal) 16/02158/FUL	House Type 1 = c89.94m ² House Type 2 = c109.73m ² Total footprint for both dwellings including integral garages = c199.57m²

By my calculations this application therefore reduces the amount of external footprint by c40.21m² when compared to the latest refused scheme. This does not change the

recommendation in any way.

Report as Previously Printed:

This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Coddington Parish Council has objected to the application which differs to the professional officer recommendation and the Local Ward Member, Cllr J Lee has requested it go before the committee for the following reasons: "Committee has had previous involvement, site is woodland and there is a TPO in place, there are parking issues, loss of habitat, it has poor design, is over-development and there are amenity concerns for residents."

The Site

The application site lies to the northern end of Coddington and comprises part of the land associated with 4 Yew Tree Way. The site abuts Coddington Conservation Area. A 1.8m close boarded fence exists to the boundary of the garden serving the existing property with a landscaped buffer between the fencing and the boundary with the highway on Yew Tree Way. The site fronts the turning head on Yew Tree Way.

Numerous trees exist within the application site and these are protected by 3 separate Tree Preservation Orders. Given the numbers of trees and their disposition, the site takes on the appearance of a small woodland. The existing dwelling on the site is a two storey dwelling with a conservatory to the rear. Yew Tree Way is characterised by detached two storey dwellings and existing residential properties are situated opposite the application site. Beyond the site (to the west and north) is open countryside.

Relevant Planning History

There are three Tree Preservation Orders that relate to the wider site, as shown on the plan appended to this report:

- TPO 34 - -A Tree Preservation Order was made in 1982 (TPO 34) which related to a much wider site including the application site. This was missed off the land registry (13/00002/TPO).
- TPO 174 – A Tree Preservation Order was made in 1991 (TPO N174) which also related to a wider site but omitted the application site now being considered (11/00110/TPO);
- TPO 349 – A Tree Preservation Order was made in 2013 (TPO N349) which rectified the previous omission and relates to the land adjacent to 2 & 4 Yew Tree Way (and includes the application site) 12/00017/TPO

13/00226/FUL – An application was submitted in 2013 for the erection of 2no. two storey detached houses. The application was subsequently withdrawn.

13/01623/FUL – An application for the erection of two houses was submitted which was subsequently refused on 18th March 2014 under delegated powers on the grounds of:

- 1) Failure to meet an identified local need as required by SP3 and;
- 2) Failure to provide sufficient space to accommodate standing vehicle between house 2 and the highway resulting in a public safety contrary to DM5.

APP/B3030/A/14/2225664 - An appeal was lodged and was dismissed on 23rd December 2014. In dismissing the appeal the Inspector concluded that the scheme would likely affect highway safety. It was also concluded that it was not clear that the 2 houses would help enhance or maintain the vitality of the community or that there is a need for new housing in the village for the maintenance of the existing vitality of the community and that the appellant provided little evidence and no quantified analysis to confirm a local need. It was therefore not possible to conclude that the development would accord with the NPPF and the appeal failed.

16/01508/TPO - Undertake works to trees contained within G1 in schedule of TPO N349. The works were subsequently undertaken in accordance with the agreed works.

16/02158/FUL - Erection of 2 dwellings. The application was refused under delegated powers on 30.03.2017 on the grounds of:

- 1) In the opinion of the Local Planning Authority the proposed dwellings would not meet an identified proven local need for Coddington, which is not an area of focus for new housing development with the Council's settlement hierarchy. The proposal therefore does not represent a sustainable form of development and would be inappropriate. The proposal is therefore contrary to the requirements of Spatial Policy 3 (Rural Areas) of the Newark and Sherwood Core Strategy (adopted 2011) and Policy DM12 of the Allocations and Development Management DPD (adopted 2013). The proposal also fails to accord with the provisions of the National Planning Policy Framework (NPPF) 2012 which is a material planning consideration.
- 2) In the opinion of the Local Planning Authority the Tree Surveys submitted are flawed as they do not accurately show root protection areas, tree canopies or the tree shading as one would expect from a survey that complies with the British Standard 5837-2012. Notwithstanding this however Officers consider that the proposals would result in positive harm; it is considered that the proposed dwellings would have insufficient functional amenity space that would be completely dominated by surrounding trees which are not yet fully mature and there will likely to be pressure from any future occupants for pruning/felling the result would be to have adverse impacts on the trees. 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 dwellings would have access to would be severely restricted and overshadowed with occupiers having to manage their space as woodland rather than garden and the species (Yew) is not an ideal species for family houses given they are poisonous to humans, especially small children. 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 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.

17/02320/TPO – Undertake works to Oak tree protected by TPO N34 and N174 – Woodland 1 Removal of smaller lower lateral back to stem and reduction of larger lateral back to secondary growing point. Approved 21.12.2017.

The Proposal

Full planning permission was initially sought for two detached two storey 3 bedroom dwellings with detached garages. However following concerns raised by officers, the applicant has amended the scheme to a pair of semi-detached dwellings with no garages.

Both dwellings are identical in design (but handed) comprising a central front porch, kitchen, utility, living room and w.c. at ground floor whilst at first floor are three bedrooms (1 en-suite) and bathroom.

The building would measure c15m in width by 9.9m in depth (excluding the forward projection which adds a further 1.4m). The eaves height is 5.13m rising to 8m (reduced from 9.2m) to the ridge of the hipped roof.

Block paved driveways are proposed to the side of each dwelling. For House 1 the depth proposed is c14.7m whilst for House 2 it is c12m.

Plans showing part street-scenes, levels and cross sections have been provided showing that the ridge height of the proposed dwellings would sit lower than the ridge height of the existing dwelling at 4 Yew Tree Way. All windows serving the proposed dwellings (save for bathroom and landing first floor windows) would be to the front and rear elevations and materials are indicated to be red brick to complement existing dwellings with pantile roofs.

The submitted plans show lawn areas to the front and rear of the proposed dwellings and indicate the line of presence of protected trees on site.

The Submission

The application has been revised twice during its lifetime with the following documents forming the submission:

- L (03)51 Rev A – Proposed Elevations Option 10
- L(03)50 Rev D – Proposed Plans Option 10
- Agents Covering Letter
- Extended Phase 1 Habitat Survey and Tree Assessment for Bats (by Rachel Hacking Ecology, November 2016)
- Design Guide by Influence
- Planning and Design & Access Statement
- Arboricultural Method Statement by AWA Tree Consultants

Departure/Public Advertisement Procedure

Occupiers of four 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. Re-consultation has taken place on the amended scheme.

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 10 – Climate Change
Core Policy 12 – Biodiversity and Green Infrastructure
Core Policy 14 – Historic Environment

Allocations & Development Management DPD (2013)

Policy DM5 – Design
Policy DM7 – Biodiversity and Green Infrastructure
Policy DM9 – Protecting & Enhancing the Historic Environment
Policy DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

- National Planning Policy Framework 2019
- Planning Practice Guidance
- SP3 Guidance Note
- APP/B3030/A/14/2225664 – Appeal Decision
- Newark and Sherwood Housing Needs Survey 2014 by DCA
- Palm Developments Ltd v Secretary of State for Communities and Local Government, Court of Appeal - Administrative Court, February 1, 2009 and Distinctive Properties (Ascot) Ltd v Secretary of State Distinctive Properties (Ascot) Ltd v Secretary of State for Communities and Local Government, Court of Appeal - Administrative Court, March 19, 2015

Consultations

Coddington Parish Council – (15.11.2019)

“The proposed amendments to the application have done nothing to mitigate the Parish Council’s objections.

- None of the previous objections raised by the Council and local residents concerning safety and access have been addressed and residents have complained about a lack of communication by the Planning Office;
- A minor reduction of 0.7m in the height of the two houses is of no significance for preserving the character of the area. The building is still larger than all the other houses and still obliterates the public view of protected ancient woodland. The original development plan purposely left the site vacant in order to preserve the open woodland character of the estate;
- A small shed would not provide sufficient storage for a large three bedroom house and there would likely be future pressure for the addition of a garage, further encroaching on protected woodland, in direct conflict with the District Council’s policy of tree planting and preservation;

- The site currently provides a soakaway for surface water which, in view of concerns about climate change and recent flooding, is of high importance, yet there are no proposals for its relocation.”

(23.10.2019) Object on the following grounds:

- **Character** - The original plan for development at Beaconfield was for well-spaced 4-bedroomed houses with large gardens, designed around the predominant woodland setting. The design of the proposed additional semi-detached dwellings is over-development not in keeping with other properties with spacious gardens on Yew Tree Way. The semi-detached houses together are not modest in size, and in fact ignoring the garages, are larger than before. Both houses are the same width as the detached house designs previously submitted, but larger front to back with the rear of both houses closer to Yew Tree Wood. Furthermore, the division of gardens and loss of trees would set a precedent for further development, contrary to the original design conditions laid down for this area, with views over the countryside and the open space character of the area being lost.
- **Safety** - Access to the proposed houses lies at the hammer-head of the cul de sac. Additional vehicles at this point would cause congestion and inconvenience for vehicles using the turning area, and block access to the emergency services’ vehicles entry/exit route. The lack of a footpath would cause significant danger to pedestrians especially those families walking to school. Additional housing would increase road parking on the narrow Yew Tree Way, causing pedestrian hazards from emergency, utility and domestic vehicles, including reversing manoeuvres. The driveways to the proposed properties are of insufficient length for the average number of household cars and visitors. The design guide incorrectly gives the impression that there are two points of normal vehicle access to Yew Tree Way, whereas one access is for emergency vehicles only.
- **Sustainability** - The statement contains references to the Post Office and Village Shop; both these services were closed by April 2018, and planning consent has now been granted for conversion to residential use. A limited Post Office service is due to launch from the Community Centre, but this will only be open for 3 hours per week.
- **Setting of the Conservation Area** - The site lies close to the southern boundary of the Conservation Area where mature woodland provides a natural extension and setting for the Conservation Area, enhancing the environmental quality of the village. The surrounding retained trees are likely to be the subject of repeat applications for tree felling and removal of branches, which will damage the setting of the Conservation Area and Yew Tree Way. For example, the present applicant has carried out work to significantly reduce the scale of large yew trees, so they now provide much reduced visual amenity on Yew Tree Way, and applied to fell an oak tree (01508/TPO). It is also not clear how damage to trees will be avoided during construction works due to the very limited space available for laydown and contractor vehicles / facilities.
- **Ecology** – Habitat surveys have been completed in 2016 and 2019 on behalf of the applicant, with the scope including woodland protected by TPOs. The scope of the 2019 survey covers a more restricted area than the 2016 survey, but it is clear from the report that there has been significant degradation of the mixed woodland between the two surveys, and this may extend further back towards Yew Tree Wood given the pattern of degradation. Further degradation of the woodland would be expected if permission is granted for development, both during construction and during occupation, due to the limited space for laydown and residential gardens.

20.02.2019 - Objected on the grounds of character, safety, sustainability, setting of the conservation area and ecology.

NCC Highways Authority – Standing advice applies. However given history of a refusal based on highway concerns bespoke advice was requested which is as follows:

“Yew Tree Way is a cul-de-sac and the application site is positioned near the turning head. The proposal includes the construction of two vehicular accesses which are required to be constructed in accordance with the Highway Authority’s specification.

Sufficient parking space has been proposed.

There are no highway objections subject to the following...”

They then go on to request 2 conditions and an informative which are included within the recommendation section.

Natural England – 15.10.2019: No objection. Advice that that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes. Other standing advice applies.

06.02.2019: ‘Natural England has no comments to make on this application.

Natural England has not assessed this application for impacts on protected species. Natural England has published [Standing Advice](#) which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

Natural England and the Forestry Commission have also published standing advice on [ancient woodland and veteran trees](#) which you can use to assess any impacts on ancient woodland.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on [Magic](#) and as a downloadable [dataset](#)) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at <https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice>

Nottinghamshire Wildlife Trust – 14.10.2019;

‘Thank you for consulting Nottinghamshire Wildlife Trust on the above application for Construction of 2no. dwellings at Land Adjacent 4 Yew Tree Way, Coddington, NG24 2RZ. We note the application has not significantly changed and therefore stand by our previous comments dated

3rd June 2019. We hope you find these comments helpful, please get in touch if you have any questions.'

03.06.2019: "We are pleased to see an extended Phase 1 Habitat Survey and Daytime Bat Assessment (Rachel Hackling, April 2019) has been undertaken in line with our previous comments on this application. We agree with the advice in Section 5 (page 12) of the report and recommend these are incorporated into an appropriately worded planning conditions, should the development be approved."

12.02.2019: 'Given that it is outside the time frame that is usually considered to be up to date and that the survey was carried out at a sub-optimum time of year, we recommend that the LPA requests an updated survey is produced prior to determination.'

Trent Valley Internal Drainage Board – Make general comments.

Consultant Tree Officer – (04.11.2019): The proposed sheds are unlikely to be detrimental to tree roots. Previous comments are still applicable--this may require a revised tree protection plan to address.

10.10.2019: "The revised scheme is likely to reduce any tree impact on future occupants which was a concern on previous layouts. The submitted tree protection scheme noted in the Arboriculture Method Statement is broadly acceptable. However, no specification details of the ground protection area have been submitted and there appears to be no provision for any on site facilities or storage of materials."

08.02.2019: "Although the submitted revised layout just fits between retained tree RPAs I still have the following concerns:

1. There is little room for the provision of contractor facilities, materials storage or construction access to the rear of the proposed dwellings.
2. The surrounding retained trees are likely to be the subject of repeat applications from any future applicants due to issues with heavy shading, overhanging branches, seasonal nuisance and fear of the failure of tree /tree parts.
3. Garden areas still remain part of a woodland TPO and consequently understorey growth is protected which may result in issues as any future occupants may desire a "tidy" garden environment. All garden areas are likely to have reduced amenity use due to issues of shade and again fear of failure of tree/tree parts which may increase pressure for works to trees which were previously in a woodland environment."

Historic Environment Officer (Archaeology) – No archaeological input required.

The following objections have been received; the amended plans have not overcome the strong objections raised from 6 households:

- Planning history is material to decisions;
- Applicant should never have been given permission to remove trees for the woodland that now enable the space for 2 houses;
- Applicant should not have been allowed to benefit from a Council error;
- Protected trees removed due to errors of the District Council;
- Loss of trees from yew wood;

- Trees are vital to fight against climate change;
- Removal of mulberry tree unacceptable (only ones in the village);
- Pressure to fell yet more trees;
- Previous objections regarding highway safety still remain;
- Pedestrian safety as no pavements;
- Concerns regarding contractor vehicles during construction;
- Site slopes so would need split level garden;
- Inaccuracies and misleading comments in the Design and Access Statement;
- Driveways in close proximity to others would cause conflict;
- Comments that fences are not in the correct position;
- Claims that the village has a shop and post office is not correct;
- There is nowhere to move soakaways to;
- Design of houses does not carefully blend in with others on the street;
- Scale, width of building bigger than others on the Way;
- Concerned at lack of garages and future pressures for one;
- Shed of size proposed does not make up for lack of garage;
- Ecology concern/loss of habitat;
- Parked cars would block emergency access from farm road;
- Conflicts with location of road water soakaways;
- Properties are right up to the road with protected woodland for rear garden could play on the road;
- Boundary issues;
- Area is focal amenity for the village with protected woodland and based at the edge of the conservation area.

Comments of the Business Manager

Background

It is fair to say that there has been strong objections received in respect of this scheme. Some of these objections appear to stem from events that have happened in recent years (since 2012) whereby trees were removed because the Council had failed to take into account one of 3 TPO's relating to the site and the owner was therefore not made aware that these particular trees were subject to protection. This resulted in a complaint to the Ombudsman in 2015 against the Council for failure to enforce replanting which the Council could not take because of the fault as it would unlikely succeed and would have been unreasonable. The Ombudsman found fault with the Council due to record keeping from 1982 but recognized that it had done all it could to prevent the problem reoccurring. The Inspector also recognized that the concern regarding future development on the site was separate from the TPO and that 'the presence of the TPO does not mean the site cannot be redeveloped' and that they 'couldn't link the fault to possible development of the site'. They did however accept that that 'removal of trees has changed the site forever and may have removed obstacles to development.' They went on to say that 'Replanting could have made development of the site more difficult but it would not have prevented development.' It is within this context that the application is assessed.

Members will note that there is a history of refusals on this site for two detached dwellings. Reasons for refusal have previously related to the lack of an identified housing need, highway safety and impacts to and from protected trees. However since the refusals there has been a shift

in planning policy and the scheme, which has been amended to a pair of semi-detached dwellings, has been assessed afresh in light of all material considerations.

The Principle of Development (including a discussion on sustainability)

The Council is of the view that it has and can robustly demonstrate a 5 year housing land supply and for the purposes of decision making the Development Plan is up to date.

The starting point in assessing this application is with the Development Plan. Core Policies 1, 2 and 3 set out the settlement hierarchy in the District. Spatial Policy 1 details the settlement hierarchy to 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. At the bottom of the hierarchy are 'other villages' will be considered against the sustainability criteria set out in Spatial Policy 3 (Rural Areas). These are location, scale, need, impact and character and are assessed below.

Location

SP3 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 services themselves to address day to day needs'.

I have assessed the site's location taking into account the existing situation in terms of the built form of the area. I am particularly mindful of the existing layout of development and that the site sits opposite and adjacent to existing properties on Yew Tree Way and would be served by the existing cul-de-sac in terms of vehicular access. I am satisfied that the application site is situated within the main concentration of existing development in the village.

With regards to the provision of services, whilst Coddington is defined as an 'Other Village' in the settlement hierarchy it does nevertheless contain a Primary School, two public houses, a village hall, community centre and church. There are also bus stops which provide regular half hourly bus connections to Newark. As such I consider the proposal meets the first criteria of SP3. I note the comments made by residents relating to the Design and Access Statement referring to a local shop which no longer exists but this does not alter my findings on the scheme.

Scale

SP3 provides that new development should be appropriate to the proposed location and small scale in nature. This relates to both the amount of development and its physical characteristics, the latter of which is discussed further in the Character section below.

Two additional dwellings on the site is considered small scale in numerical terms and as such is unlikely to detrimentally affect local infrastructure such as drainage and sewerage systems even when added to the development already committed to in Coddington through the granting of permissions. I also consider that two additional dwellings are highly unlikely to materially affect the capacity of the transport network in dealing with the increased volumes of traffic levels, a matter which the Highways Authority have not raised concerns on. The site is located within Flood Zone 1 of the Environment Agency flood maps and as such is at low risk of flooding from river and coastal sources. The site is also at very low risk of flooding from surface water according to the

Environment Agency surface water maps and thus the additional built form is unlikely to result in adverse impacts from surface water runoff that could not be adequately mitigated against.

Character, Design/Visual Amenities

The character criterion of SP3 states that new development should not have a detrimental impact on the character of the location or its landscaped setting. This assessment overlaps with the consideration required by Policy DM5 which confirms the requirement for new development to reflect the rich local distinctiveness of the District's landscape and character through scale, form, mass, layout, design, materials and detailing. Core Policy 13 requires the landscape character of the surrounding area to be conserved. The NPPF states that good design is a key aspect of sustainable development.

The site's location adjacent to the designated conservation area is also a material consideration. The Council's conservation team raise no objection to the setting of the conservation area. I concur with this opinion.

The proposed dwellings are modern in design and very much reflect the style of the existing detached dwellings along Yew Tree Way.

The height of the dwellings has been reduced so that in context it sits lower than adjacent dwellings. The building is wider than the other buildings on the street, however I do not consider this to be fatal to the scheme. Visually this does not read as jarring with some of the larger detached dwellings in the vicinity. I am satisfied that the proposed dwellings by reason of their height, choice of materials, layout, and soft landscaping would ensure the buildings would have an acceptable relationship with the street scene and the visual character of the area. Given the properties would be seen in context with existing dwellings on Yew Tree Way and that existing trees on the site would be retained, I am satisfied that the proposals would result in no significant impact on landscape character and setting of the adjoining conservation area. Tree protection measures have been set out in the Arboricultural Methodology Statement which can be conditioned and precise details of soft landscaping would be subject to condition if approved.

I am therefore satisfied that the proposals would comply with the design guidance in the NPPF and DM5 of the DPD and the policies in the Core Strategy and DPD relating to the historic environment and landscape character.

Need for Development

Members will note that a lack of housing need was previously cited as a reason for refusal and an appeal against the Council's decision was dismissed. However planning policy has shifted since the determination of the appeal. Whereas previous housing in such an area was expected to meet an identified proven local need, the adopted policy now requires development to *"help support community facilities and local services."* It goes on to say that *"Neighbourhood Plans may set detailed policies reflecting local housing need, elsewhere housing schemes of 3 dwellings or more should meet the mix and type requirements of Core Policy 3."*

In essence the need criteria of SP3 has relaxed and only has to support community facilities and local services, which this scheme is capable of doing. There is no Neighbourhood Plan for Coddington that sets a specific housing need agenda or policy to the contrary. I also note that the Newark and Sherwood Housing Needs Survey 2014 by DCA identifies that in the Newark Sub Area (where Coddington falls) the most needed type of accommodation is for 3 bedroom

dwellings (40.2%). CP3 also reinforces that family housing of 3 bedrooms or more is a general need across the district.

Therefore whilst the appeal decision is a material consideration, in this case I am on the view that given the changes to the policy in respect of need, it would now be unreasonable to resist an application on this basis.

Impacts on Trees

The starting point for all development is that Policies CP12 and DM5 seeks to protect and enhance natural features where possible. CP9 requires proposals *'to demonstrate a high standard of sustainable design that both protects and enhances the natural environment and contributes to and sustains the rich local distinctiveness of the District.'*

The trees on the site are protected by Tree Preservation Orders. In support of the application a tree survey, updated method statement and plans showing the tree protection measures has been submitted by AWA Tree Consultants.

In order to facilitate the development the proposals would require the removal of 3 semi-mature trees (2 x Mulberry and 1 Maple) and a dense group of shrubbery, all of which are graded as category C, which have low amenity value. The Council's Consultant Tree Officer has been on site and reviewed the scheme. The loss of the trees and shrubbery is considered to be acceptable given their low amenity value.

The Tree Officer notes that the Arboricultural Method Statement is broadly acceptable but that no specific ground protection areas have been submitted and there appears to be no provision for any on site facilities or storage of materials. These however are matters that could be dealt with by condition if Members were minded to approve the scheme. Confirmation has also been received that the positioning of the sheds is unlikely to be detrimental to tree roots given they would be placed on no dig footings.

The garden to House 1 would contain 5 trees comprising 3 x Yews, an Oak and Maple and be overhung by 2 other Oaks. House 2 would contain 7 trees; 2 x Yews, 3 Oaks and 2 Mulberry's with an Oak overhanging its garden.

In terms of the impact on the remaining woodland, concern was previously raised in terms of pressure to prune trees due to the shading of the garden and seasonal nuisance and fear of the trees falling in close proximity to the dwellings. Members will note that the amended plans have addressed the concerns raised by the tree officer. The scheme is considered *'likely to reduce any tree impact on future occupants which was a concern on previous layouts.'* I note the presence of the Yew trees whose debris is toxic particularly for small children if consumed which isn't ideal for family housing, which these dwellings are. However I agree that the dwellings are now an adequate distance from trees and the occupiers would be well aware of the potential issues before taking possession of the houses.

Whilst the dwellings proposed would still have gardens dominated by trees, each has some external space that is clear of trees allowing for areas that aren't overshadowed, particularly House 2 having the largest curtilage. Notwithstanding this, the way in which the site would have to be managed has been clarified by case law in that a woodland TPO protects all trees and the site would essentially need to be managed as a woodland as opposed to being managed as a garden.

The key question therefore is whether the concerns that have not/cannot be addressed are sufficient to resist this development. In doing so it is important to note that the host dwelling sits within a similar woodland setting of similar species including Yews. Taking all matters into account I am of the view that the amendments made to the scheme from the previous refusal and during the life of this application that the scheme is on balance acceptable and in line with policy.

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. In the context of the current application, consideration of amenity requires deliberation to the impacts of the development on the existing neighbouring properties as well as the proposed occupiers of the development proposed.

In terms of the built form of the proposed dwellings and the parking and garden areas proposed, I am satisfied that the proposal would result in no undue impacts on neighbouring residential amenity (nor with each other) given the relationships with other properties on Yew Tree Way. In reaching this conclusion I am mindful that 'House 1' is set back in relation to the existing dwelling at 4 Yew Tree Way. However, given the separation distances between this existing property, that the rear garden of no.4 includes numerous trees which already result in a degree of overshadowing to this property, and that there are no side windows (other than an obscure glazed bathroom window) on the proposed dwellings, I consider that the proposals would not result in any undue overbearing, overshadowing or overlooking impacts. The insertion of any further windows in the side elevations of the proposed dwellings could be controlled by a condition. There are no dwellings affected to the west and those to the south are located on the opposite side of the road with sufficient space and distances between them to allow for privacy.

Concern was previously expressed that the garden curtilages of the two detached dwellings would not create functional or meaningful gardens given that the presence of the trees would require the gardens to be managed as woodland rather than gardens.

The revised scheme has sought to address this concern by providing more useable garden space for each of the dwellings. The reduction in the size of the dwellings, their repositioning and the removal of the garages from the scheme has aided this albeit the trees still would still somewhat dominate much of the external space, particularly with House 1, and would still need to be managed as woodland. Notwithstanding this I am mindful that the future occupiers of the dwellings would be aware of the limitations of the garden in advance and that not all occupiers would be concerned by this management requirement. As the land slopes, details of land contours can be clarified by condition but it would be expected that no alterations to the land levels would need to occur.

The loss of the garages from the scheme has resulted in the loss of ability to store domestic paraphernalia for residents such that the applicant was invited to consider the siting of an appropriate sized shed at this stage. This was particularly important given that I would be recommending the removal of permitted development rights in the event of an approval. The applicant has advanced a plan to show each dwelling provided with a small shed measuring 1.83m x 1.24m. No elevation details have been forthcoming albeit the height has been given as 1.83m to eaves and 2.11m to ridge. I am satisfied that this would not adversely affect residential amenity.

On balance I find that the level of amenity space and its usability has now tipped over into being acceptable.

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.

The site offers ecological value within its woodland habitat. An Extended Phase 1 Habitat Survey and Tree Assessment for Bats (November 2016) was undertaken in support of the application and this was updated in April 2019 given the passage of time.

The survey concludes that there is potential foraging, hibernating and commuting habitat suitable for Great Crested Newts which could be supported on a pond outside of the site c250m to the south-west, however given the lack of connectivity it is not considered to be a constraint to development. The site supports good foraging and commuting habitat for bats although no evidence of bat activity was found during the tree survey and likewise there was no evidence of badgers or other protected species. The trees also provide suitable bird nesting habitat.

Invasive non-native species (4 types) were also found on the site in 2019; none were previously found in 2016. It is an offence to allow these to spread. However unless these are causing a nuisance no formal action can be taken. However I consider that it would be reasonable to require these to be removed as part of a landscaping scheme in the event that the application is approved which would be a betterment that otherwise could not at this stage be obtained.

I note that Natural England raise no objections to the proposal.

Having following the Standing Advice issued by Natural England and in line with the recommendations of the Survey, given I have no evidence to the contrary I am satisfied that any harm could be mitigated through conditions and that habitat creation and enhancements could also be secured by condition. Subject to this the proposal would accord with Core Policy 12 and Policy DM7.

Impact on Highway Safety

Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision.

I note that local residents have raised concerns that there are no pavements along Yew Tree Way and that garages at many properties along this Way are used for storage and there are parking problems already. During site visits I did not encounter any obvious parking issues. The garages have now been removed from the scheme and as a consequence longer driveways have been provided for each unit which would allow for the parking of at least two cars each which is sufficient for three bedroom dwellings. I note that the Highways Authority raise no objection to the scheme in terms of highway or pedestrian safety.

It is therefore considered that the proposal does not result in any highway safety issues and complies with SP7 and Policy DM5 of the Core Strategy and DPD respectively.

Other Matters (Not already covered)

I note that local residents have raised concerns that the local schools are already oversubscribed. Whilst this may well be true, an application for just two dwellings is not required to contribute towards primary education (as the trigger for developer contributions is set at 11 units) and indeed secondary education would be covered by CIL in any event.

Concerns have also been raised regarding drainage which I am satisfied could be controlled by conditions if the application were to be recommended for approval.

Lack of communication from the planning office is cited by residents to the Parish Council as being of concern. I can confirm that appropriate public consultation has been undertaken on the application. As is pointed out in the neighbour notifications, officers are unable to respond individually to each concern raised. This report is essentially that response.

If soakaways need to be removed, this would require the consent of the relevant authority. If it is not possible to relocate them as suggested by some third party comments, then it could mean that the planning permission is unable to be implemented in the same way that one couldn't implement a scheme on land that one doesn't own.

The issue of fencing not being in the correct position appears to be a civil issue rather than a planning one.

Planning Balance and Overall Conclusion

Having regard to the criteria contained within SP3, the principle of development within Coddington village is considered acceptable. Having carefully considered the site specific impacts I conclude that there would be no demonstrable harm in terms of heritage and highway safety.

I appreciate the concerns of the Parish Council and those of the residents who raise strong objections. I also appreciate the planning history relating to the site and events that have lead up to the submission of this latest submission.

With regards to the design of the new dwellings and whether they fit with the character of the area is subjective. However I have found that these would be acceptable for their context and would offer needed (in a district and national sense) 2 x 3 bedroom dwellings in a relatively sustainable settlement.

Three category C grade trees and some shrubbery would need to be removed from the site in order to facilitate the development. The Tree Officer has raised no concerns to this loss given their low amenity value. A reasonable level of useable garden space is now available to each dwelling such that the amenity space is now considered acceptable. Whilst the potential pressure for pruning would not fully disappear, I, like the Tree Officer am satisfied that due to the proximity of the dwelling and the age of the species closest to the dwelling, this pressure would not be undue. Seasonable debris is a matter for the owners to manage acknowledging that the external space would need to be managed as a woodland rather than gardens. However this is no different to the host dwelling and others in the vicinity. Not all occupiers would be put off by this prospect.

In terms of ecology no specific harm was identified. Four types of 4 invasive species found on site could be sought to be removed through a landscaping condition which would be a betterment which I give some limited positive weight to. Any other potential harm can be mitigated by condition and I consider that enhancements could also be achieved.

All relevant matters need to be weighed in the planning balance. I have considered all of the above and have come to the view that the previous refusal reasons have been adequately addressed and any harm could be mitigated by conditions. I therefore offer a recommendation of approval.

RECOMMENDATION

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

Conditions

01 (Time for Implementation)

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 (Construction Management Plan)

No development shall be commenced, including any works of demolition or 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. The Statement shall provide for:

- i. the parking of vehicles of site construction workers and visitors;
- ii. loading and unloading of plant and materials;
- iii. storage of plant and materials used in constructing the development specifically avoiding root protection areas of retained trees;
- iv. the erection and maintenance of any security fencing required including the positioning of this with specific consideration in relation to retained and protected trees.

Reason: In the interests of ensuring that protected and retained trees are protected during the construction phase and in the interests of residential amenity.

03 (Prohibited Activities near trees)

During the construction period 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 soak-aways 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 ensure that existing trees and hedges to be retained are protected, in the interests of visual amenity and nature conservation.

04 (No machine digging underneath tree canopy)

Unless otherwise agreed in writing by the Local Planning Authority, no machines shall be used and only hand digging shall be undertaken when excavating beneath the crown spread of any trees on site. Any roots exposed over 25mm diameter, shall be retained, undamaged and protected i.e. from unnecessary damage and drying out. All backfilling over exposed roots shall be of top soil or washed sand, carefully tamped by hand around and over all roots before continuing to backfill with other materials required for the finished treatment.

Reason: To ensure that adequate protection is afforded to the existing vegetation and trees to remain on site, in the interests of visual amenity and biodiversity.

05 (Tree Protection)

No works or development shall take place until the trees shown to be retained have been protected in accordance with the details contained within the Arboricultural Method Statement prepared by AWA Tree Consultants as amended and submitted to the Local Planning Authority on 2nd October 2019. All works/development shall be carried out in full accordance with the approved tree/hedgerow protection scheme. The protection measures shall be retained during the construction phase of the development.

Reason: To ensure that existing trees and hedges to be retained are protected, in the interests of visual amenity and nature conservation.

06 (Updated Tree Protection Plan for Sheds)

Prior to the installation of the approved timber sheds within each garden, a revised Tree Protection Plan (TPP) shall be submitted to and approved in writing by the Local Planning

Authority. The approved tree protection shall then be installed on site prior to the installation of the sheds and shall only be removed once these sheds have been installed.

Reason: The TPP has not been updated to reflect the provision of the garden sheds and this condition is necessary to ensure that existing trees and hedges to be retained are protected, in the interests of visual amenity and nature conservation.

07 (Drainage)

No development shall be commenced until details of the means of foul drainage and surface water disposal have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out thereafter prior to first occupation in accordance with the approved details.

Reason: To ensure the provision of satisfactory means of foul sewage/surface water disposal.

08 (External Facing Materials)

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.

09 (Architectural 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 be undertaken and retained for the lifetime of the development in accordance with the approved details.

External windows including roof windows, doors and their immediate surroundings, including details of glazing and glazing bars.

Treatment of window and door heads and cills

Verges and eaves

Reason: In the interests of visual amenity.

010 (Hard and Soft Landscaping)

Prior to first occupation of the development hereby approved, 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;

proposed finished ground levels or contours;

means of enclosures to each curtilage;

hard surfacing materials;

Reason: In the interests of visual amenity and biodiversity.

011 (Implementation of landscaping)

The approved soft landscaping shall be completed during the first planting season following the first occupation/use 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. All tree, shrub and hedge planting shall be carried out in accordance with BS 3936 -1992 Part 1-Nursery Stock-Specifications for Trees and Shrubs and Part 4 1984-Specifications for Forestry Trees ; BS4043-1989 Transplanting Root-balled Trees; BS4428-1989 Code of Practice for General Landscape Operations. The approved hard landscaping scheme shall be completed 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.

012 (Further Bat Survey)

No development or clearance works shall begin later than 12th April 2021 unless a further daytime bat survey has been undertaken on site by an appropriately qualified/experience ecologist and the results and proposed mitigation where required has been submitted to and approved in writing by the Local Planning Authority. The approved mitigation shall be implemented on site in accordance with an approved timetable and shall be retained on site in perpetuity where this is deemed necessary.

Reason: To ensure that adequate protection is afforded to bats that could be on site in line with the findings of the Extended Phase 1 Habitat Survey dated April 2019 by Rachel Hacking Ecology which after this date will be considered to be out of date.

013 (Habitat Enhancement and Creation)

No dwelling on site shall be occupied until details of a habitat enhancement and creation scheme has been submitted to and approved in writing by the Local Planning Authority. This should include, but is not limited to, the provision of bird nest boxes/bricks and artificial bat roosts and should set out the type (manufacturer) the number and their precise positioning including their heights. The habitat creation and enhancement scheme shall then be implemented on site, prior to occupation, in accordance with the approved details and retained thereafter for the lifetime of the development.

Reason: In the interests of enhancing biodiversity in line with the requirements of the Development Plan, the NPPF and in line with the recommendations of the Extended Phase 1 Habitat Survey dated April 2019 by Rachel Hacking Ecology.

014 (Removal of Invasive Species)

No dwelling on site shall be occupied until a methodology for the removal of the four invasive species found on the application site has been submitted to and approved in writing by the Local Planning Authority. The invasive species should then be removed from the site as detailed within the methodology prior to first occupation of the dwellings hereby approved.

Reason: In the interests of enhancing biodiversity in line with the requirements of the Development Plan, the NPPF and in line with the recommendations of the Extended Phase 1 Habitat Survey dated April 2019 by Rachel Hacking Ecology.

015 (Protection for nesting Birds)

No hedge or tree that is to be removed as part of the development hereby permitted shall be lopped, topped, felled or otherwise removed during the bird nesting period (beginning of March to end of August inclusive) unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that adequate provision is made for the protection of nesting birds on site.

016 (External Lighting)

Prior to first occupation details of any external lighting to be used in the development shall be submitted to and approved in writing by the Local Planning Authority. The details shall include location, design, levels of brightness and beam orientation, together with measures to minimise overspill and light pollution in terms of the surrounding habitat and nocturnal wildlife. The lighting scheme shall thereafter be carried out in accordance with the approved details and the measures to reduce overspill and light pollution retained for the lifetime of the development.

Reason: In the interests of affording protection to nocturnal wildlife on the site.

017 (Provision of bound driveway)

No dwelling forming part of the development hereby permitted shall be occupied until its associated drive/parking area is surfaced in a hard bound material (not loose gravel) for a minimum of 5 metres behind the Highway boundary. The surfaced drive/parking area 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.).

018 (Dropped Curb)

No dwelling forming part of the development hereby permitted shall be occupied until its associated dropped kerb vehicular crossing is available for use and constructed in accordance with the Highway Authority's specification.

Reason: In the interests of highway safety.

019 (Approved Plans)

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

- L (03)51 Rev A – Proposed Elevations Option 10
- L(03)50 Rev D – Proposed Plans Option 10
- Site Location Plan (unreferenced but received 28.01.2019)

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.

020 (Removal of Permitted Development Rights)

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

Schedule 2, Part 1 of the Order in respect of:

Class A: The enlargement, improvement or other alteration of a dwellinghouse.

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: Buildings etc incidental to the enjoyment of a dwellinghouse.

Class F: Hard surfaces incidental to the enjoyment of a dwellinghouse.

Or Schedule 2, Part 2:

Class A: The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.

Class B: Means of access to a highway.

Class C: The painting of the exterior of any building.

Or Schedule 2, Part 40 of the Order in respect of:

Class A: The installation, alteration or replacement of solar PV or solar thermal equipment.

Class B: The installation, alteration or replacement of standalone solar within the curtilage of a dwelling house.

Class C: The installation, alteration or replacement of a ground source heat pump within the curtilage of a dwellinghouse.

Class D: The installation, alteration or replacement of a water source heat pump within the curtilage of a dwellinghouse.

Class E: The installation, alteration or replacement of a flue, forming part of a biomass heating system, on a dwellinghouse.

Class F: The installation, alteration or replacement of a flue, forming part of a combined heat and power system, on 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) (England) Order 1995 or any amending legislation) given the presence of protected trees within the garden curtilages of these dwellings and in the interests of amenity.

Note to applicant

01

The development makes it necessary to construct vehicular crossings over a footway/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 to arrange for these works to be carried out. Email: licences@viaem.co.uk Tel. 0300 500 8080 and further information at:

<https://www.nottinghamshire.gov.uk/transport/licences-permits/temporary-activities>”

02

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

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/ or from the Planning Portal: www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil

03

The trees on site are protected by tree preservation orders and you are advised that should you wish to lop, top or fell such a tree or trees, or their undergrowth the prior consent in writing of Newark and Sherwood District Council is likely to be required. The gardens will need to be managed as woodland and the occupiers should be aware of this.

04

The applicant's attention is drawn to those conditions on the decision notice, which should be discharged before the development is commenced. It should be noted that if they are not appropriately dealt with the development may be unauthorised.

05

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 accord Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

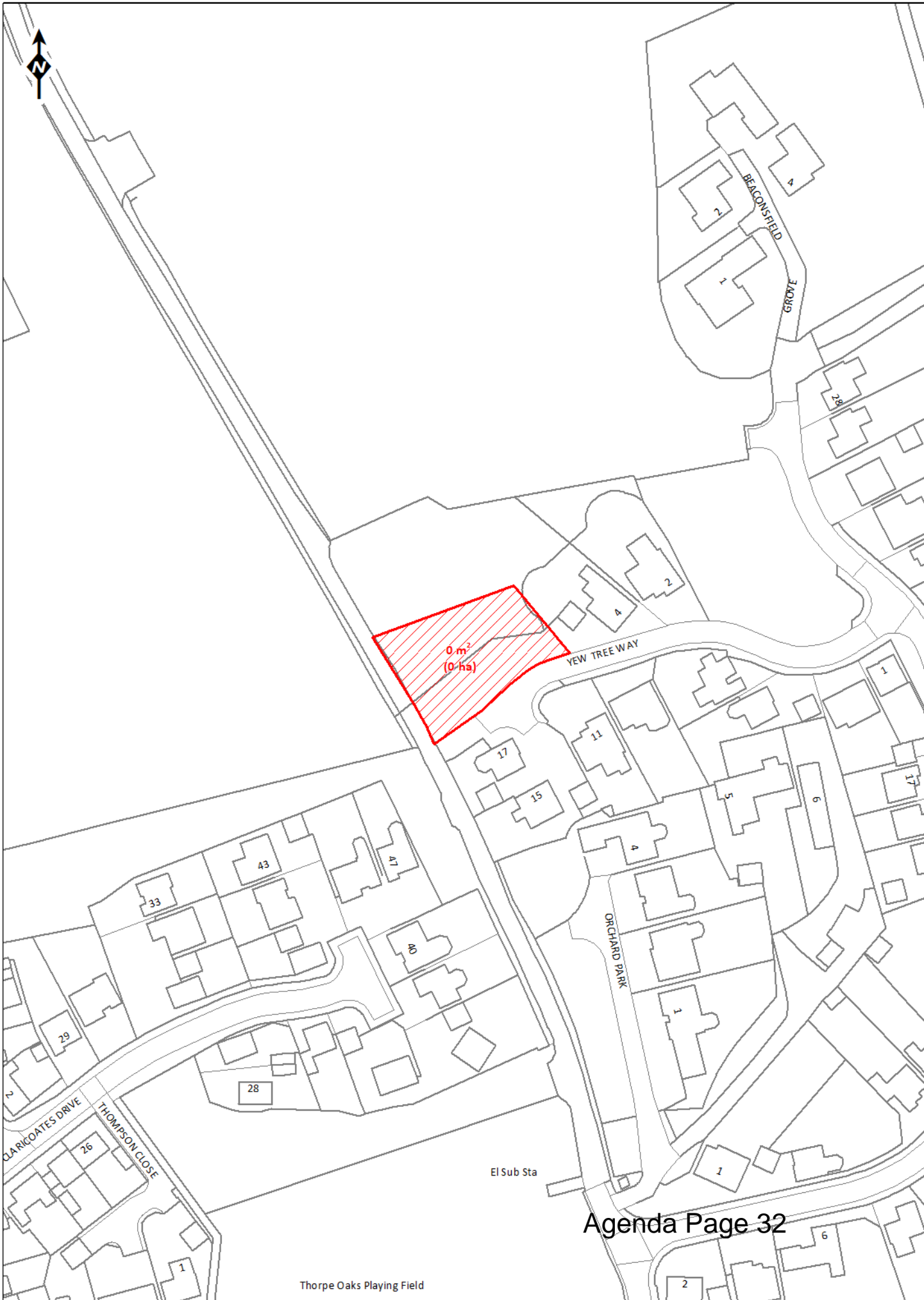
BACKGROUND PAPERS

Application case file.

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

All submission documents relating to this planning application can be found on the following website www.newark-sherwooddc.gov.uk.

Lisa Hughes
Business Manager – Planning Development



PLANNING COMMITTEE – 14 JANUARY 2020

Application No:	19/01811/FUL
Proposal:	Demolition of existing garages and development of 1no. 1-bed bungalow.
Location:	Garages and Public Area Adjacent to 1 The Meerings, Sutton On Trent, Nottinghamshire
Applicant:	Newark & Sherwood District Council
Agent:	Vicky Heath – RG+P Ltd
Link to File:	https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PYUV7NLBLNI00
Registered:	10.10.2019
	Target Date: 05.12.2019
	Extension agreed until: 17.01.2020

This application is being referred to the Planning Committee for determination by the local ward member (Cllr S Michael) on behalf of the Parish Council who object to the application on the grounds of impact upon the highway and loss of communal space for neighbouring properties.

The Site

The site comprises a corner parcel of communal land at the junction of 'The Meerings' to the south (S) and 'Crow Park Avenue' to the east (E). The site is paved with hard standing with hedges around the perimeter creating a through walkway. Two flat roof garages are present to the eastern (E) portion of the site. The site is bound to the north by a brick wall that is stepped in height decreasing to the west (W) and to the east by the side wall of the existing garages. To the south (S) and west the boundaries comprise hedgerows and a post and rail knee rail. The area is residential in character with properties of varying style and size – predominately comprising two-storey dwellings but with occasional single storey properties (for example to the W of the site). A similar parcel of land exists to the S of the site across the highway.

Relevant Planning History

No relevant planning history.

The Proposal

Full planning permission is sought for the demolition of two garages albeit part of the existing northern boundary wall of the garage would be retained.

The proposed one bedroom bungalow has a square footprint which measures c7.75m wide by c8.88m deep to a ridge height of c4.8m and eaves of c.2.5m. This would be orientated to face Crow Park Avenue. The dwelling is of a simple design with a slight projecting gable to the front elevation. The dwelling would comprise a hall, open plan kitchen dining/living room, bedroom,

bathroom and store.

Proposed materials are cited as Welford Buff bricks and the use of Russell Grampian roof tiles in Slate Grey. Parex Monorex GM (medium scraped) through coloured render in off white is also proposed. Windows are proposed to be white uPVC and the front door would be a black nationwide type.

Two parking spaces would be provided to the front (W) and access would be taken from the western boundary off Crow Park Avenue.

A small garden area is to be provided to the rear (E) and to the front (W). Boundaries to the rear garden include the retained boundary wall along the northern boundary a newly constructed brick wall to match the retained wall to the eastern side of this boundary, a 1.8 m close boarded fence to the east in addition to a timber pedestrian gate. A bin storage area is to be provided to the east in the rear garden.

The application is accompanied by the following plans and supporting information:

- Amended Site Location Plan - Ref. 100-416/ID157/001A
- Amended Proposed Site Layout - Ref. 100-416/ID157/003G
- Amended Proposed Plans and Elevations - Ref. 100-416/ID157/004
- Boundary Treatment Plan – Ref. 100-416/ID157/005B
- Phase 1 Desk Top Study Report – Amended – Received 28.10.19
- CIL Forms

Departure/Public Advertisement Procedure

Occupiers of 24 properties have been individually notified by letter.

Planning Policy Framework

The Development Plan

Newark and Sherwood Core Strategy DPD (adopted March 2019)

Spatial Policy 1 - Settlement Hierarchy

Spatial Policy 2 - Spatial Distribution of Growth

Spatial Policy 7 - Sustainable Transport

Spatial Policy 8 – Protecting and Promoting Leisure and Community Facilities

Core Policy 1 – Affordable Housing Provision

Core Policy 3 – Housing Mix, Type and Density

Core Policy 9 -Sustainable Design

Core Policy 10 – Climate Change

Core Policy 12 – Biodiversity and Green Infrastructure

Allocations & Development Management DPD

DM1 – Development within Settlements Central to Delivering the Spatial Strategy

DM5 – Design

DM7 – Biodiversity and Green Infrastructure

DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

- National Planning Policy Framework 2019
- Planning Practice Guidance

Consultations

Sutton on Trent Parish Council – Object to the proposal “At a meeting of the Parish Council on Tuesday 12th November, the members voted to object to this application on the grounds of:

- highway safety with additional vehicles parked on the street in this area and the loss of off-street parking should the garages be demolished
- loss of a communal area for neighbouring residents

Concerns were also expressed for the impact on a neighbouring property’s boundary wall due to the proposed demolishing of the garages.”

NCC Highways Authority – “Whilst the loss of off-street parking is regrettable the proposal is acceptable in principle and provides sufficient parking provision for its own use.

It is not considered that any significant road safety or capacity issue will arise as a result of the development and therefore no objections are raised subject to the following conditions:

No part of the development hereby permitted shall be occupied until the access/driveway and parking area are surfaced in a hard bound material (not loose gravel) for a minimum of 5 metres behind the Public Highway boundary. The surfaced access/driveway and parking area shall then be maintained in such hard bound material for the life of the development.

Reason: To reduce the possibility of deleterious material being deposited on the public highway (loose stones etc.).

No part of the development hereby permitted shall be occupied until a dropped vehicular footway crossing is available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.

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

No part of the development hereby permitted shall be occupied until the existing vehicle access off The Meerings that has been made redundant as a consequence of this consent is permanently closed and the access crossing reinstated as footway in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.

Reason: In the interests of pedestrian safety.

Note to Applicant:

The development makes it necessary to construct and remove a vehicular crossing over a footway of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact the County Council’s Agent, Via East Midlands to arrange for these works to be carried out. Email: licences@viaem.co.uk

Tel. 0300 500 8080 and further information
at: <https://www.nottinghamshire.gov.uk/transport/licences-permits/temporary-activities>”

NSDC Contaminated Land – “With reference to the above development, I have received a revised Phase I Desktop Study report (revision A) submitted by Collins Hall Green acting on behalf of the developer.

This includes an environmental screening report, an assessment of potential contaminant sources, a brief history of the sites previous uses and a description of the site walkover.

The report identifies the presence of historic farm buildings as a potential source of contamination and goes on to recommend a scope of intrusive sampling as a result. I generally concur with the recommendations, however I note that the desktop fails to consider potential contamination from the garages and parking spaces. I would expect the phase 2 site investigation to take these potential sources into account with targeted sampling and risk assessment and update of the conceptual site model.

Due to the above, I would recommend the use of the full phased contamination condition.”

Representations have been received from 6 local residents/interested parties which can be summarised as follows:

Objection:

- Garages are used to store cars which would be parked on the highway if demolished, increasing the highways issues currently experienced;
- Loss of a green area which are already in shortage as a result of new developments which would impact the quality of life;
- Parking situation in the area is already a problem;
- Demolition of the garages would mean people have to find other parking facilities at their expense;
- The proposal is an invasion of privacy;
- There have already been 7 new dwellings at the end of Crow Park Avenue;
- Loss of communal space;
- Request that the garage walls be retained rather than replaced with fences;
- Comment that a consultation process with neighbours was not undertaken;
- Query whether pre-consultation was undertaken before submission;
- The Meerings is a narrow road and there could be highways issues ;
- There would be amenity concerns given the proximity of the new house to existing.

Comments of the Business Manager

The Council is of the view that it has and can robustly demonstrate a 5 year housing land supply and for the purposes of decision making the Development Plan is up to date

Principle of Development (including loss of Green Space)

The site is located within the main built up area of Sutton on Trent which is defined as a ‘Principal Village’ in the Amended Newark and Sherwood Core Strategy (2019) where there is a good range of facilities to support further housing. Therefore there is no objection in principle to housing within this settlement which is considered to be sustainable and acceptable in accordance with the Local Development Framework, the NPPF and its Planning Policy Guidance

It could be argued that the site is a community facility and I have therefore assessed the scheme against SP8 (Protecting and Promoting Leisure and Community Facilities). This provides that the loss of existing community and leisure facilities will not be permitted unless it can be demonstrated that its continued use as a community facility is no longer feasible, or there is sufficient provision elsewhere or alternative provision has been or will be made elsewhere which is the same or better quality.

The supporting texts to SP8 sets out a list of 'community facilities' to which policy SP8 applies such as Community Halls, Village Halls, Halls related to places of worship, village shops, post offices and public houses), built sports and cultural facilities (including libraries), sports fields, education facilities, school playing fields, public open space, amenity open space, children's play area and allotments. It could be argued that this land provides amenity open space value however the application site is only c. 220m² and comprises an area of formal hedge planting with a cross shaped path through it. Because of its size and arrangement I do not consider it likely that this land used functionally by the public as there are no benches or grass to use for sitting, only the small paved area to walk through (in addition to the pedestrian footpath that runs along the outside). The land is not functional given people cannot use it recreationally and as such I do not consider it constitutes a true community facility, particularly given its loss would not reduce the community's ability to meet its day to day needs. Nevertheless I do appreciate that this land provides some visual relief from the surrounding built form despite its limited functionality.

In light of this, Chapter 11 of the NPPF refers to making effective use of land, advising that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions (para. 117). This chapter goes on to state how planning decisions should also promote and support the development of under-utilised land especially if this would help to meet identified needs for housing (para.118.d). Para. 119 explains how LPA's should take a proactive role in identifying and helping to bring forward land that may be suitable for meeting development needs, such as the supply of affordable housing with para 120 reiterating that planning decisions "need to reflect changes in the demand for land".

I consider the aforementioned parts of the NPPF to be particularly relevant to the application at hand; the land is under utilized and does not have functional community value and would be used in this case to meet an identified need for affordable housing. Whilst I accept that the land provides some visual relief to the area, it is not land that has the ability to be physically used by residents, and I do note that the western portion of the site is proposed to provide some amenity greenery for the dwelling which would also provide some visual relief to surrounding built form.

In my view the loss of this land would not unduly impact the character and appearance of the area, and whilst I note comments from interested parties regarding the loss of green space, I do not consider this land to be particularly valuable given its arrangement – its functional value is not considered to be high and the soft landscaping proposed to the new dwelling would still provide some greenery to the area. In this regard I conclude that the loss of the green space is acceptable in this context.

Impact on the Character of the Area

A double bay flat roofed garage exists to the E which is proposed to be demolished as part of this application. The garage is of no architectural merit that would warrant its retention and therefore there is no objection in principle to its demolition.

The development proposes a one bedroom bungalow of a traditional and simple design that would be sited c. 8 m back from the edge of the highway (W). Surrounding properties are of varying styles and sizes, surrounding the site there are two storey semi-detached dwellings and across the highway to the NW is a collection of single storey dwellings. Overall there is no overriding character of property size and I am satisfied that a single storey property would not be unduly out of character here. The new dwelling would be set in line with the dwelling to the north with its principal elevation facing west. This would aid in the assimilation of the dwelling into the wider area as the street scene would remain fairly uniform. The design of the dwelling is considered to be appropriate for this context in addition to the proposed materials which are modern but not dissimilar to surrounding properties.

The northern stepped boundary wall is proposed to be retained between the site and no. 39 Crow Parke Avenue. The garage wall which abuts this wall was proposed to be demolished and replaced with a timber fence; however upon request the agent has amended the scheme to include a wall built to match the height of the existing wall it would abut to maintain the appearance of the boundary as a whole. The revised boundary treatment is considered to be more suitable to the overall appearance of the boundary.

Overall I conclude that the proposal accords with Core Policy 9 and DM5 in terms of its design and impact upon the character of the area.

Housing Need

I note that this proposal is for 1 affordable dwelling which is part of a wider capital programme for investment and delivery of affordable housing provisions within this District over the next 5 years. For the avoidance of doubt there is an affordable housing need across the District, which includes Sutton-on-Trent. The need is not Sutton-on-Trent specific in that there is no local housing needs survey for the area. The need covers a slightly wider geographical area, including Newark. The district wide Housing Market and Needs Assessment (2014) identified that within the Sutton on Trent sub area, 1 and 2 bedrooms account for the majority of need for affordable housing (1 bedroom – 61.1%, 2 bedroom – 38.9%) along with the desired property type being a bungalow followed by semi-detached properties. Sutton-on-Trent is the most sustainable settlement being a Principal Village within this sub area. It is therefore considered that a need exists within the sub area for 1 bedroom affordable units and this proposed development would assist in meeting that need in accordance with CP1. This weighs positively for the scheme.

Impact on Neighbouring Amenity

The site is surrounded by existing residential properties and as such consideration of the perceived impact on neighbouring amenity forms a material consideration in line with the requirements of DM5.

The principle elevation would have one window to serve the bedroom and the front door. The rear has a set of patio doors and a small window, one to serve the dining/living room and the other the kitchen. The northern side elevation is proposed to be blank and the southern elevation would have one small window to serve the bathroom.

The dwelling would be sited in line with the principal elevation of the neighbouring property to the north (39 Crow Parke Avenue) c. 6.6 m from the side elevation of this dwelling. The boundary here is proposed to be retained with the existing boundary wall and a 1.8 m close boarded fence further east. The side elevation of the new dwelling is proposed to be blank and would face the neighbouring properties side elevation which has two windows at ground floor, one serving a

downstairs WC and the other appears to serve the kitchen area. Given the height of the proposed dwelling I do not consider it likely that the property would result in any overbearing or overshadowing impact on the neighbouring property, nor would there be any overlooking impact to consider. I am also conscious that the neighbour to the north uses the space to the side of their property to park cars and given the high wall arrangement the new dwelling is unlikely to significantly alter the existing impact on the ground floor windows.

To the east, no. 1 The Meerings lies c.7.9m to the east of the garages that are proposed to be demolished as part of this application. This dwelling also has off street parking to the west of its side elevation which would buffer between the application site and the side of this property. This side elevation has one window at ground floor which appears to serve a downstairs cloakroom. The rear elevation of the new dwelling would have patio doors and a window to serve the open plan kitchen dining/living room area which would look onto the rear amenity space and the side elevation of no. 1 The Meerings. The separation distance would be close, however I do not consider the relationship would be unacceptable given the intervening boundary treatment proposed and the fenestration on the side elevation of the neighbouring property.

The nearest dwellings to the south would be c. 20m away and to the west would be 18 m away across the highway. Given this distance I do not consider there would be any unacceptable impact on either property by virtue of separation.

Turning now to consider the amenity of the proposed dwelling, I am mindful that the private residential amenity space to the rear of the dwelling would be small at c. 30 m². However I am also conscious that this dwelling is a one bedroom property. The size of the amenity space is commensurate with the size of the dwelling and I do not consider it would be unacceptable in this context.

Overall, taking into account the above considerations it is considered the proposal would not conflict with the amenity criteria under Policy DM5 as there would be no unacceptable impact on neighbouring amenity through overlooking, overshadowing or overbearing.

Impact on Highways Safety

SP7 provides, amongst other things, that development should provide for safe, convenient access, be appropriate for the highway network in terms of the volume and nature of traffic generated, ensure that the safety, convenience and free flow of traffic using the highway are not adversely affected; provide appropriate and effective parking provision and ensure that vehicular traffic generated does not create new, or exacerbate existing on street parking problems, nor materially increase other traffic problems. Policy DM5 reflects this.

I note that a number of interested parties and the Parish Council refer to the impact of the proposal on the highway network. NCC Highways have commented on this application and have advised that whilst the loss of off-street parking is regrettable in that two garage spaces would be lost, the proposal is acceptable and provides sufficient parking for its own use. It is not considered that any significant road safety or capacity issue will arise as a result of the development and therefore no objections have been raised subject to conditions relating to hard surfacing of the driveway, installation of a dropped vehicular footway and the removal of the dropped curb on The Meerings side of the site which currently serves the garages.

Whilst I accept the comments of local residents and the Parish Council regarding the displacement of cars, the applicant has provided information that both of the garages are rented by the same family and from my site visit I can confirm that this property has current off street parking

provision. In addition one of the two garages 35 m east on The Meerings is void and would be reserved for the current tenants of the application site should they wish to continue renting a garage. The applicant has also confirmed that there is no current intention to develop this site due to its constraints. Overall I do not consider that the proposal is likely to result in the displacement of cars onto the highway given the aforementioned context, however even if 2-4 cars (depending on whether vehicles park within and outside the garages at the same time) were displaced it is not considered that this would amount to such harm that it would warrant a reason for refusal that could be successfully defended on appeal – the Highways Authority have also raised no concerns in this regard. Surrounding properties in the vicinity also appear to mostly have off street parking facilities (for 1-2 vehicles) or the ability to adapt their front gardens to provide such. Therefore I consider the application accords with SP7 and DM5 in this regard.

Contaminated Land

A Phase I Desktop study report has been submitted with the application assessing the environmental condition of the site. The internal Environmental Health Officer has identified that the report fails to consider potential contamination from the garages and parking spaces. The Phase 2 ground investigation is required to take these potential sources into account with targeted sampling and risk assessment and an update of the conceptual site model. As such they have requested the imposition of the full phased contaminated land condition.

Planning Balance and Conclusion

Overall I consider the principle of a new dwelling is this location to be acceptable. I have concluded that the site is not a community facility in its true sense but appreciate that it adds a sense of relief to the built form of its surroundings. However its loss would not in my view be so harmful to either the ability of residents to meet day to days needs nor the character and appearance of the area such that it would warrant a refusal for refusal, particularly when balanced against the need for a one bedroom affordable dwelling in a sustainable location. I have concluded that the loss of the garages is unlikely to displace cars towards on-street parking and there is not identified highway harm arising from the development. The new dwelling would not unduly impact the character and appearance of the area, nor would it result in any neighbour amenity issues. Overall I conclude that the application is in accordance with the policies contained within the Councils Amended Core Strategy (2019) and Allocations and Development Management DPD which together form the Development Plan in addition to the provisions of the NPPF (2019), a material planning consideration. I therefore consider that the application should be approved.

RECOMMENDATION

That full 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 accordance with the following approved plans:

- Amended Site Location Plan - Ref. 100-416/ID157/001A
- Amended Proposed Site Layout - Ref. 100-416/ID157/003G
- Amended Proposed Plans and Elevations - Ref. 100-416/ID157/004
- Boundary Treatment Plan – Ref. 100-416/ID157/005B

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

Reason: So as to define this permission.

03

The development hereby permitted shall be constructed entirely of the materials details submitted as part of the planning application unless otherwise agreed in writing by the local planning authority through an application seeking a non-material amendment.

Reason: In the interests of visual amenity.

04

Prior to first occupation of the development hereby approved 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;

proposed finished ground levels or contours;

car parking layouts and materials;

other vehicle and pedestrian access and circulation areas;

hard surfacing materials;

Reason: In the interests of visual amenity and biodiversity.

05

The approved soft landscaping shall be completed during the first planting season following the first occupation/use 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. All tree, shrub and hedge planting shall be carried out in accordance with BS

3936 -1992 Part 1-Nursery Stock-Specifications for Trees and Shrubs and Part 4 1984-Specifications for Forestry Trees ; BS4043-1989 Transplanting Root-balled Trees; BS4428-1989 Code of Practice for General Landscape Operations. The approved hard landscaping scheme shall be completed prior to first occupation or use.

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

Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until Parts A to D of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until Part D has been complied with in relation to that contamination.

Part A: Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

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

This must be conducted in accordance with DEFRA and the Environment Agency's '*Model Procedures for the Management of Land Contamination, CLR 11*'.

Part B: Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The

scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Part C: Implementation of Approved Remediation Scheme

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

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

Part D: Reporting of Unexpected Contamination

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

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

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

07

No development shall be commenced on site, including any demolition, until a methodology for the demolition of the garages along with details of temporary boundary treatments to be erected during the construction phase have been submitted to and approved in writing by the Local Planning Authority. The demolition shall then be in accordance with the approved methodology submission.

Reason: In in the interests of amenity and site safety.

08

No part of the development hereby permitted shall be occupied until the access/driveway and parking area are surfaced in a hard bound material (not loose gravel) for a minimum of 5 metres behind the Public Highway boundary. The surfaced access/driveway and parking area shall then be maintained in such hard bound material for the life of the development.

Reason: To reduce the possibility of deleterious material being deposited on the public highway (loose stones etc.).

09

No part of the development hereby permitted shall be occupied until a dropped vehicular footway crossing is available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.

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

10

No part of the development hereby permitted shall be occupied until the existing vehicle access off The Meerings that has been made redundant as a consequence of this consent is permanently closed and the access crossing reinstated as footway in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.

Reason: In the interests of pedestrian safety.

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/

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

The development makes it necessary to construct and remove a vehicular crossing over a footway of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact the County Council's Agent, Via East Midlands to arrange for these works to be carried out. Email: licences@viaem.co.uk Tel. 0300 500 8080 and further information at: <https://www.nottinghamshire.gov.uk/transport/licences-permits/temporary-activities>

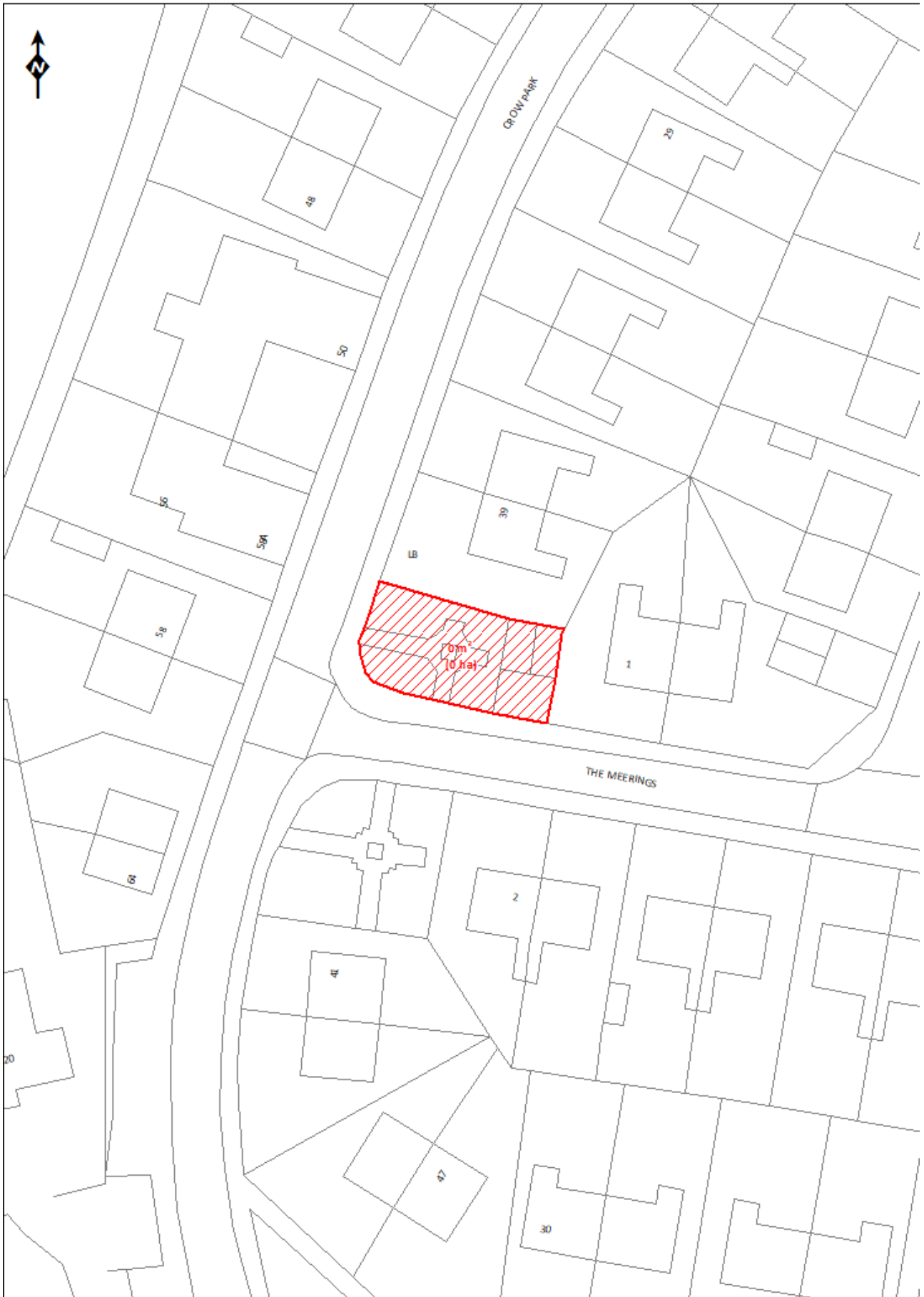
BACKGROUND PAPERS

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.

Lisa Hughes
Business Manager – Growth and Regeneration



PLANNING COMMITTEE - 14 JANUARY 2020

Application No:	19/01900/FUL
Proposal:	Temporary Planning Permission for Static Caravan (renewal of 14/01068/FUL)
Location:	Abbey Wood Farm, Edwinstowe Road, Rufford, NG22 9DB
Applicant:	Mr S Holmes
Agent:	Ellis Riley & Son Ltd - Stephen Riley
Registered:	24 October 2019 Target Date: 19 December 2019
Website Link:	https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PZTCP9LBLW000

This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as the Parish Council has supported the application which differs to the professional officer recommendation. Councillor Smith called the application to committee which has been supported by the Chairman of the Planning Committee.

The Site

The site is located outside of the main settlement of Edwinstowe and Rufford and therefore within the open countryside. The caravan is located within an area whereby there are existing buildings comprising of the owners bungalow and outbuildings (to the south of the site) and the northern are of the site is used as an external karting centre with a track, spectator area and associated car park.

The sole vehicular access is located to the south of the site from Edwinstowe Road, on the opposite side of the road to the main entrance to Centre Parcs (Sherwood) Holiday Park.

Relevant Planning History

14/01068/FUL - Temporary planning permission for static caravan (5 years) – Approved by Committee Members at September 2014 committee contrary to Officer recommendation with the following conditions:

01

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

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

02

The use of the caravan as a dwelling hereby permitted shall be discontinued, the caravan removed and reinstated to its former condition, including the removal of all ancillary works and structures at or before the expiration of a period of 5 years from the date of this decision.

Reason: In recognition of the special circumstances, without which the local planning authority would not have been prepared to grant planning permission.

03

The development hereby permitted shall not be carried except in complete accordance with the following approved plans, reference 2014-050 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

04

The caravan hereby permitted shall be occupied only by Mr Cecil Walker.

Within 3 months of the caravan being ceased to be occupied by Mr Cecil Walker the use hereby permitted shall cease and the caravan and all associated materials and equipment brought on to the premises in connection with the use shall be removed.

Reason: In recognition of the special circumstances of the development, namely the location of the development within the open countryside without which the local planning authority would not have been prepared to grant planning permission.

00/01695/FUL - Proposed single storey rear extension, porch and conservatory – Approved 16.01.2001

00/01348/OUT - Construction of bungalow as a new domestic dwelling – Refused 29.12.2000

FUL/991064 - Change of use of building from car repair business to domestic outbuildings – Approved 10.12.1999

FUL/991201 - Create new driveway to property and remove old driveway – Approved 20.03.2000

830083 - Erect stables – Approved 07.04.1983

80268 - Extend existing dwelling – Approved 16.04.1980

The Proposal

The proposal comprises of the retention of the existing caravan occupied by a family member since consent was granted in 2014. The caravan and subsequent occupation of such was granted by Members at planning committee in 2014, contrary to officers recommendation, but with a temporary condition for 5 years whereby after 16 September 2019 the caravan should be

removed and all land reinstated to its former condition. The family member is still residing in the caravan and it still remains onsite and as such is in breach of condition against 14/01068/FUL

List of plans/documents considered

DRWG no. 2014-050Rev1 Block plan – site location plan;
Planning statement

Departure/Public Advertisement Procedure

Occupiers of four properties have been individually notified by letter.

Planning Policy Framework

Development Plan

Newark and Sherwood Amended Core Strategy DPD (March 2019) (ACS)

Spatial Policy 1 Settlement Hierarchy
Spatial Policy 2 Spatial Distribution of Growth
Spatial Policy 7 Sustainable Transport
Core Policy 9 Sustainable Design

NSDC Allocations and Development Management DPD (July 2013) (ADMDDP)

DM5 Design
DM8 Development in the Open Countryside

Other Material Considerations

National Planning Policy Framework (NPPF) 2019
Planning Practice Guidance (PPG) 2014

Consultations

Rufford Parish Council – No objections

No letters of representation have been received from local residents/interested parties

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 amended 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 Amended 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. Where development is considered to not be 'in village' these locations will be considered as being within the open countryside whereby policy DM8 of the ADMDPD applies. This site is considered to fall within the latter category as it is not located within an existing settlement.

Whilst the application is for a caravan, it still needs to be assessed in planning terms as a new dwelling due to the complete level of facilities provided and the self-contained, independent capabilities of its occupation. The site is located within the open countryside where national and local planning policies seek to resist dwellings within such locations unless they are absolutely essential. That is not the case for this application. Policy DM8 of the Allocation and Development Management DPD 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.*' Paragraph 79 of the NPPF states that decisions should avoid the development of isolated homes in the countryside unless there is an essential need for a rural worker, involves the re-use of a heritage asset or disused building or is of exceptional quality. The static caravan and its occupation is not for use by a rural worker and is not of exceptional quality or innovative design and whilst its location is not considered to cause unacceptable visual impacts upon the open countryside, the proposal it fails to accord with the fundamental principles of Policy DM8 and the NPPF.

The proposal is for the retention of a self-contained static caravan for a temporary period of which has not been specified by the applicant, for sole occupation of a relative of the owners of the existing bungalow. The caravan is located within an existing spaced out cluster of development on the southern part of the site formed by the host dwelling, garage and stable building. The caravan is located approximately 34m west from the existing bungalow.

The applicants have stated they chose a caravan and sited it in the specified location to allow the relative a degree of independence which he has gained for the past 5 years living on site, whilst still remaining close to his daughter in the event of care being required. Whilst the Council is sympathetic to the personal circumstances of the applicant, the location of the caravan within an unsustainable location is inappropriate and fails to accord with the NPPF and Policy DM8. Alternative options have not been explored by the applicant to enable the relative to live elsewhere on the site within the meantime or in the event the caravan should be removed.

Therefore on this basis due to the siting within the open countryside, the principle of a new dwelling within this location is contrary to local and national planning policy. There are however other material considerations which will need to be taken in to account of and weighed in the overall balance and these are outlined in the following sections of this report.

Impact on the countryside

Whilst the site is located within the open countryside it is sited close to an existing building and it is well screened from the public highway and surrounding areas. It is considered that the visual impact from the proposed development would be minimal.

Highway impact

There are no proposals to alter the existing access arrangements to the site as it is already served by the existing access to the bungalow and the karting track. NCC highways have not raised any

objection to the proposal subject to a condition imposed linking the caravan to the bungalow. The Council has no objections to the access arrangements and do not consider it to cause a significant detrimental impact upon highway safety.

Neighbour amenity

There are no immediate neighbours within the vicinity apart from the existing host bungalow. The nearest dwelling apart from the bungalow is approximately 170m from the application site and due to this it is not considered to detrimentally impact upon neighbour amenity.

Flooding

The site is located within flood zone 1 and therefore at the lowest risk from flooding. It is not necessary to apply the sequential test approach in this case as set out in the NPPF and therefore the proposal is considered acceptable on grounds of flooding.

Conclusion

All material planning considerations have been taken in to account as set out above and appropriate weight has been given to each issue and it is concluded that the application is fundamentally contrary to planning policy which seeks to protect the open countryside from non-essential dwellings. The Council has every sympathy with the personal circumstances of the applicants and the care required for their elderly father, however, the initial temporary permission Members approved in 2014 has now lapsed and further temporary consents could lead to a more permanent one. Putting more weight on the personal circumstances in this case could set a dangerous precedent for similar cases in the future. Whilst the applicants state that they would be willing to be bound by any condition relating to the use of the caravan to be solely for the use of the relative, such is the situation with the previous application, it is not considered to be sufficient to allow for a further temporary permission.

When assessing the application for a temporary dwelling it is necessary to assess whether a permanent dwelling would also be acceptable given the similarity of the use and the degree of independence a static caravan has in terms of occupation. The case has not been made that a dwelling in this location is required in connection with an essential need in planning terms and the applicant should explore other options such as accommodation within or to the existing bungalow. The caravan is located within the open countryside and paragraph 79 of the NPPF advises against allowing isolated homes in the countryside unless there are sound planning reasons for doing so, whereby none of such reasons apply in this case. The limited visual harm, temporary nature and personal circumstances of this case are given some limited weight in favour of this proposal but this does not outweigh the clear national and local planning policies that weigh heavily against the proposal.

Therefore, in balancing all the material considerations of this case, a recommendation of refusal to Members is proposed as the principle of the proposal located in open countryside fails to accord with the NPPF and policy DM8 of the Allocation and Development Management DPD, and there are no other material planning considerations that would outweigh this policy stance in this case.

Enforcement action

The application gained planning consent in 2014 by Members as outlined in the relevant planning history section above. This consent allowed one caravan to be erected for a period of 5 years, of which expired in September 2019. As such the applicant is in breach of planning condition relating to condition 02 of 14/01068/FUL and therefore a breach of planning condition notice could be served seeking the caravans' removal from site in the event that Members resolve to refuse this planning application. Members should be conscious however that the caravan is currently occupied and should the application be refused, enforcement colleagues would first engage in negotiations with the applicant to seek a resolution to its removal before resorting to formal action as a last resort due to the sensitive nature of the occupier.

A breach of condition notice does not have to be issued at the same time as any decision of this authority as there is no right of appeal. Therefore a formal resolution of Members is not required in which to seek action.

RECOMMENDATION

That planning permission is refused for the following reasons:

01

The proposal represents the retention of a self-contained caravan, which constitutes a dwelling, in the open countryside which is contrary to national and local planning policies. New housing should be directed to more sustainable and easily accessible locations which have access to facilities and are not reliant on the use of car borne journeys. Paragraph 79 of the NPPF and Policy DM8 of the Allocations and Development Management DPD seeks to protect the open countryside from the harm of non-essential new housing development, even on a temporary basis, and this proposal is considered to result in an unsustainable and unjustified form of development within the open countryside. Therefore the proposal is contrary to the National Planning Policy Framework 2019 and policy DM8 of the Adopted Allocations and Development Management DPD 2013.

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/

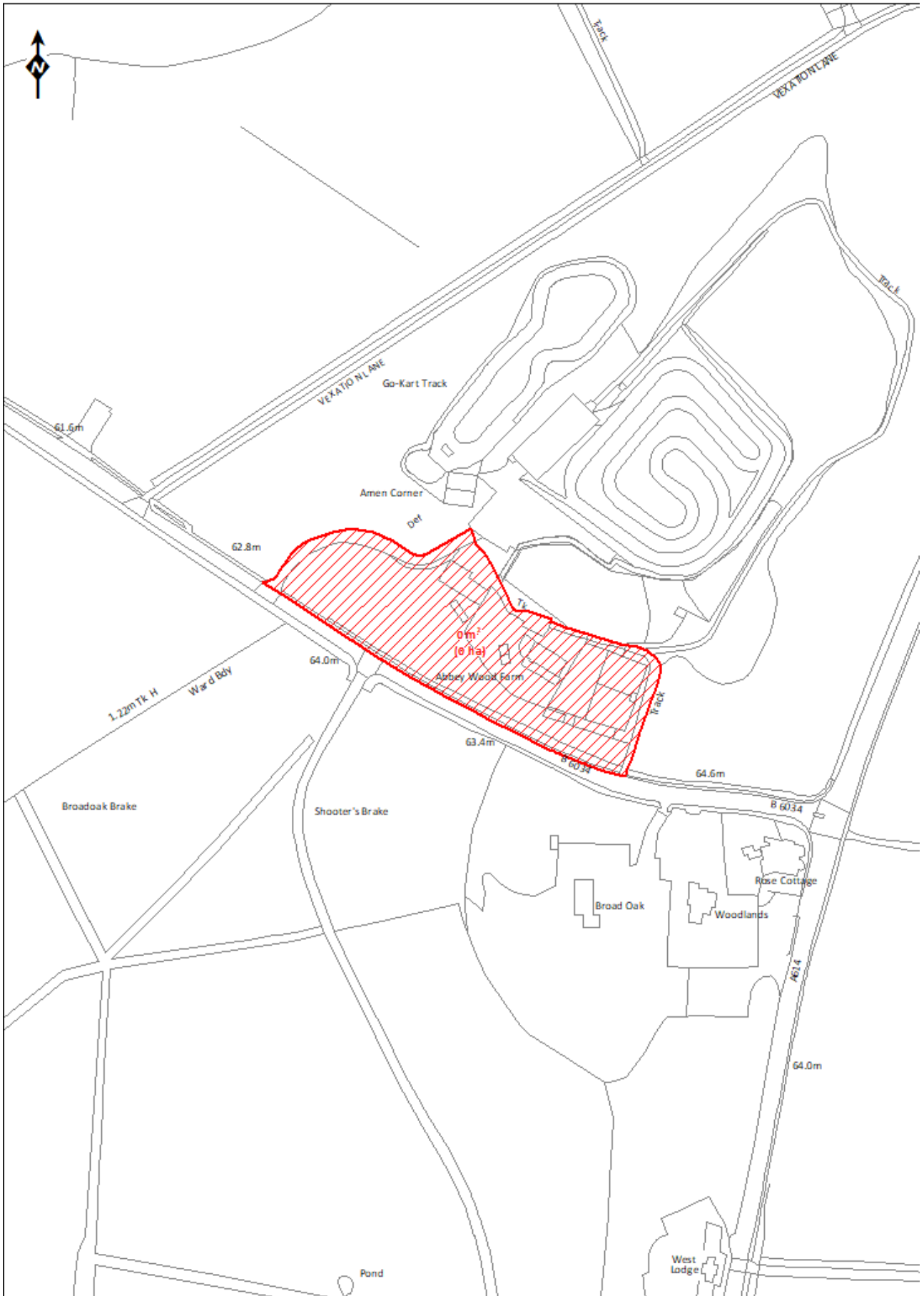
BACKGROUND PAPERS

Application case file.

For further information, please contact Lynsey Preston on ext 5329.

All submission documents relating to this planning application can be found on the following website www.newark-sherwooddc.gov.uk

Lisa Hughes
Business Manager – Planning Development



PLANNING COMMITTEE – 14 JANUARY 2020

Appeals Lodged

- 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.

Further information regarding the relevant planning application and appeal can be viewed on our website at <https://publicaccess.newark-sherwooddc.gov.uk/online-applications/search.do?action=simple&searchType=Application> or please contact our Planning Development Business Unit on 01636 650000 or email planning@nsdc.info quoting the relevant application number.

Lisa Hughes
Business Manager – Planning Development

Appendix A: Appeals Lodged (received between 15 November 2019 and 30 December 2019)

Appeal reference	Application number	Address	Proposal	Procedure	Appeal against
APP/B3030/W/19/32340 51	18/01363/FULM	Land Off Lower Kirklington Road Southwell Nottinghamshire	Proposed residential development for 80 dwellings	Hearing	Refusal of a planning application
APP/B3030/C/19/323664 2	19/00098/ENF	Crossways Great North Road Weston Newark On Trent Nottinghamshire NG23 6TP	Without planning permission, the erection of a brick- built structure shown in figure 1. The building has not yet been completed but has been refused planning permission under reference 19/01034/FUL. The structure does not accord with the details approved under reference 18/00264/AGR.	Written Representation	Service of Enforcement Notice
APP/B3030/W/19/32367 18	19/00768/FUL	Land To The Rear Of 15 Cheyne Drive Bilsthorpe Nottinghamshire NG22 8SB	Erection of a dormer bungalow with existing access and driveway from Archers Drive, and erection of a new boundary wall	Written Representation	Refusal of a planning application
APP/B3030/X/19/323765 5	19/00127/LDC	13 Pinfold Lane Elston NG23 5PD	Demolish porch and erect replacement	Written Representation	Refusal of a planning application

APP/B3030/W/19/32394 39	19/01097/FULM	Kilvington Newark On Trent Nottinghamshire NG13 9PD	Application for removal of condition 21 attached to planning permission 14/02023/FULM which relates to the restriction of a person/s from staying on site for more than 6 weeks per year.	Written Representation	Refusal of permission to vary a condition(s)
APP/B3030/C/19/323953 8	19/00194/ENF	2 Willow Holt Lowdham Nottinghamshire NG14 7EJ	Without planning permission, development consisting of the erection of a fence (means of enclosure) along the front (eastern) and side (north eastern) boundaries, as shown on photographs 1 & 2, and outlined in RED on Plan A.	Written Representation	Service of Enforcement Notice
APP/B3030/D/19/324030 7	19/00848/FUL	Grange Barn Newark Road Caunton NG23 6AE	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	Written Representation	Refusal of a planning application

APP/B3030/X/19/324064 1	19/01842/LDC	The Shambles Low Road Besthorpe Newark On Trent Nottinghamshire NG23 7HJ	Certificate of Lawfulness for proposed single storey rear extension.	Written Representation	Refusal of a planning application
APP/B3030/W/19/32408 28	19/01118/FUL	Land Adjacent 8 Harrisons Way Newark On Trent Nottinghamshire	One bedroomed bungalow	Written Representation	Refusal of a planning application
APP/B3030/W/19/32409 10	19/00231/FUL	Elston Lodge Farm Lodge Lane Elston Newark On Trent Nottinghamshire NG23 5PG	Change of use of the site to Tractor/Mower machinery repair commercial use, erection of storage building in connection with the commercial use of the site and formation of new vehicular access from Fosse Road plus retrospective permission for the installation of hard surfacing.	Written Representation	Refusal of a planning application
APP/B3030/W/19/32418 43	19/01237/FUL	Carlton Manor Mobile Home Park Ossington Road Carlton On Trent Nottinghamshire	Permanent siting of one additional park home with concrete base.	Written Representation	Refusal of a planning application

APP/B3030/D/19/324158 8	19/01334/FUL	Lowbank Farm Radley Road Halam Newark On Trent Nottinghamshire NG22 8AN	Proposed extension to property to create an annexe (Resubmission)	Fast Track Appeal	Refusal of a planning application
APP/B3030/D/19/324204 8	19/01012/FUL	Shetlands Old Chapel Lane Elston NG23 5NY	Householder application for external rendering	Fast Track Appeal	Refusal of a planning application
APP/B3030/D/19/323935 3	19/01139/FUL	Poachers Cottage 2 Barrel Hill Road Sutton On Trent Nottinghamshire NG23 6PR	Householder application for two storey front extension	Fast Track Appeal	Refusal of a planning application
APP/B/3030/D/19/32412 77	19/01512/FUL	Hall Close Main Street Hoveringham Nottinghamshire NG14 7JR	Householder application to construct a utility extension	Fast Track Appeal	Refusal of a planning application

PLANNING COMMITTEE – 14 JANUARY 2020

Appendix B: Appeals Determined (15 November 2019 and 30 December 2019)

App No.	Address	Proposal	Application decision by	Decision in line with recommendation	Appeal decision	Appeal decision date
19/00814/FUL	Lowdham Cars Lowdham Road Gunthorpe Nottinghamshire NG14 7ER	Variation of condition 2 and removal of condition 7 attached to planning permission 18/00279/FUL	Planning Committee	O - Overturned	Appeal Allowed	25th November 2019
19/00779/FULM	Springfield Bungalow Nottingham Road Southwell NG25 0QW	Application 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	Planning Committee	O - Overturned	Appeal Allowed	28th November 2019
19/00689/FUL	Springfield Bungalow Nottingham Road Southwell Nottinghamshire NG25 0QW	Application for 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	Planning Committee	O - Overturned	Appeal Allowed	28th November 2019
18/02281/FUL	Land Adjacent To Holly House Silver Street North Clifton Nottinghamshire	Residential Development for one dwelling and detached garage	Delegated Officer	Not applicable	Appeal Dismissed	27th November 2019
18/00217/FUL	2 Brackner Lane Bilthorpe Nottinghamshire NG22 8TU	Demolition of existing dwelling and out-buildings and erection of a replacement new 3 bed dwelling	Delegated Officer	Not applicable	Appeal Dismissed	19th December 2019
18/00868/FUL	Land To The Rear Of 8 Main Street Sutton On Trent Nottinghamshire	Erection of 4(No.) Dwellings and Associated Garages (Re-submission of 18/00599/FUL)	Planning Committee	O - Overturned	Appeal Dismissed	13th December 2019

18/01741/FULM	Part Of Naishs Field Swinecote Road Edwinstowe Nottinghamshire	Change of use from agricultural field to camping and caravan site	Delegated Officer	Not applicable	Appeal Dismissed	5th December 2019
18/00034/ENF	The Workshop Cockett Lane Farnsfield Nottinghamshire NG22 8JQ	Without planning permission, development consisting of the material change of use of the Land from agricultural use to use for of the Land involving the importation, storage and distribution of (non waste) building and construction materials including but not limited to stone, rock, sand, aggregates, etc, and associated services.	Delegated Officer	Not applicable	Appeal Withdrawn	6th December 2019

Recommendation

That the report be noted.

Background papers

Application case files.

Further information regarding the relevant planning application and appeal can be viewed on our website at <https://publicaccess.newark-sherwooddc.gov.uk/online-applications/search.do?action=simple&searchType=Application> or please contact our Planning Development Business Unit on 01636 650000 or email planning@nsdc.info quoting the relevant application number.

Agneta Hughes
Business Manager – Planning Development



Appeal Decisions

Site visit made on 15 October 2019

by Julia Gregory BSc(Hons) BTP MRTPI MCMi

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 28 November 2019

Appeal A: APP/B3030/W/19/3234470

Springfield Bungalow, Nottingham Road, Southwell NG25 0QW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Springfield Eco Ltd against the decision of Newark & Sherwood District Council.
 - The application Ref 19/00779/FULM, dated 23 April 2019, was refused by notice dated 26 July 2019.
 - The application sought planning permission for residential development of 38 dwellings and conversion and extension of existing residential property to form 12 supported living units without complying with a condition attached to planning permission Ref 15/01295/FULM, dated 13 December 2017
 - The condition in dispute is No 11 which states that: *No part of the development hereby permitted shall be commenced until visibility splays of 2.4m x 43m (minimum) are provided at the junction with Halloughton Road.*
 - The reason given for the condition is: *In the interests of highway safety.*
-

Appeal B: APP/B3030/W/19/3234471

Springfield Bungalow, Halloughton Road, Southwell NG25 0QW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Springfield Eco Ltd against the decision of Newark & Sherwood District Council.
- The application Ref 19/00689/FUL, dated 7 April 2019, was refused by notice dated 26 July 2019.
- The application sought planning permission for alteration of existing vehicular access on Halloughton Road, installation of kerb radii and provision of visibility splay without complying with conditions attached to planning permission Ref 16/01369/FUL, dated 31 March 2017.
- The conditions in dispute are Nos 2, 3, 4 and 5 which state that: (2) *The development hereby permitted shall be carried out in accordance with the following approved plan:- 12/1889/750; (3) No development shall be commenced until details of drainage and surface water disposal 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; (4) No part of the development hereby permitted shall take place until details of the new access road have been submitted to and approved in writing by the Local Planning Authority including longitudinal and cross sectional gradients, street lighting, drainage and outfall proposals, construction specification, provision of utilities services, and any proposed structural works. The development shall be implemented in accordance with*

these details to the satisfaction of the Local Planning Authority; (5) No part of the development hereby permitted shall be brought into use until the visibility splays of 2.4m x 43m shown on drawing no. 12/1889/750 are provided. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.25 metres in height unless otherwise agreed with the Highway Authority.

- The reasons given for the conditions are: (2) *So as to define this permission;* (3) *To ensure the provision of satisfactory means of foul sewage/surface water disposal;* (4) *To provide a suitable standard of access and to allow for future maintenance;* and (5) *For the avoidance of doubt.*
-

Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for residential development of 38 dwellings and conversion and extension of existing residential property to form 12 supported living units at Springfield Bungalow, Nottingham Road, Southwell NG25 0QW in accordance with the application 19/00779/FULM, dated 23 April 2019, subject to the conditions in annexe A.

Appeal B

2. The appeal is allowed and planning permission is granted for alteration of existing vehicular access on Halloughton Road, installation of kerb radii and provision of visibility splay without complying with conditions attached to planning permission Ref 16/01369/FUL, dated 31 March 2017 at Springfield Bungalow, Halloughton Road, Southwell NG25 0QW in accordance with the application Ref 19/00689/FUL, dated 7 April 2019, subject to the conditions in annexe B.

Preliminary matters

3. In respect of both appeals, the applicant name given on the application form is the agents. It was confirmed as part of validating the appeal that the original applicant was altered to Springfield Eco Limited. This conforms with the applicant details on the decision notices. I have therefore used this name in the banner headings.
4. The appellant has submitted a deed of variation to a S106 agreement which accompanied 15/01295/FULM, dated 13 December 2017. The deed of variation dated 4 November 2019 deletes clause 14 of the original agreement and replaces it with new clauses 14.1 and 14.2. These clauses ensure that the original deed would continue to have effect in the event of new planning permissions being granted.
5. The application for appeal A states that it is to construct the new access wholly within highway land or that owned by the applicant to comply with revised drawing submitted HALL-BSP-ZZ-XX-DR-C-100-P6. Although not specified on the application form, this would result in non-compliance with condition 11. Although the application says that it is not retrospective, the development is under way. I have therefore considered the application as being under s73A of the Act. Although the access has been created, modifications to the footway are proposed as part of the application.
6. The description of development on appeal B application form is alteration of existing vehicular access on Halloughton Road, installation of new radii and

provision of visibility splay. The application relates to conditions 2,3,4, and 5. Works have been carried out but the appellant accepts that further modifications are necessary to the access which could be required by way of planning conditions. A revised plan 37049-BSP-ZZXX-DR-C-101 Rev P4 was submitted as part of the application which seeks to demonstrate that crossfall and gradient adjustments could be made within highway limits. I have taken this plan into account in my determination of the appeals.

7. Although application site addresses differ, they both relate to the same site which has access from Halloughton Road.
8. Both appeals relate to the adequacy of the design of the access. Although the dimensions of the visibility splays are shown on the plans as 2.3 x 43m to the east and 2.3m X 29m to the west, these distances are not shown on the application forms or within the description of development. They are shown as lines on submitted plans. The Highway Authority confirmed that 2.3m by 43m can be achieved in both directions, but the hedgerow needs to be maintained to ensure that growth on land in third party ownership does not impede these splays.
9. I have given consideration as to whether I should determine the proposal on the basis of the visibility shown on the plans or that which can be achieved. I have taken into account the representations made in response to this question from the Council and the appellant, who both consider that I should determine it on the basis of the visibility that can be achieved. I shall proceed on that basis.

Applications for costs

10. Applications for costs have been made by the appellant against the Council. These applications are the subject of a separate Decisions.

Main Issue

11. The main issue in both appeals is the effect of non-compliance with the conditions on highway safety.

Reasons

12. There has been a land ownership dispute at the frontage of the site with Halloughton Road in the vicinity of the access. This has meant that the minimum required by the conditions of 2.4m x 43m visibility splays are not available at the access on land that can be assured to be within highway land. According to the evidence the strip in dispute amounts to only some 20cm in depth, with 1.8m to the carriageway edge re-confirmed as highway.
13. A lesser standard of visibility of 2.3m by 43m can be achieved, so long as vegetation on adjoining land is kept cut back. That is within the legislative control of the highway authority if problems occur. This represents a reduction of the "x" distance of only 100mm.
14. Halloughton Road is lightly trafficked with according to the Highway Authority some 900 vehicles per day two-way traffic, even though it may be used as a rat-run. Even in peak hours there would only be a flow of some 110 vehicles. That would average about 1 vehicle every 33 seconds according to the Highway Authority. This would allow significant gaps in traffic to enable cars leaving the

side junction serving this relatively modest new development to access Halloughton Road. It has not been demonstrated that the traffic likely to be generated and using the access would be harmful to highway safety conditions. Furthermore, the nature of the road is of a relatively short lane with a pronounced right angled bend a short distance to the west within the town. These features do not promote high speeds within the maximum permitted 30mph limit.

15. Local highway standards relating to visibility splay specifications are guidance. The Nottinghamshire Design Guidance allows flexibility. Also, Manual for Streets identifies that an "x" distance as low as 2.0m set back can be used in some very lightly trafficked and slow speed situations. As a result the Highway Authority has, during the course of considering the applications determined that the conditions are not necessary in the form given. They have accepted that 2.3m by 43m in both directions can be achieved and that it may be greater than this but just not within highway land. Given that 2.3m by 43m can be achieved in both directions and that is a very marginal difference in visibility I consider this acceptable.
16. Furthermore, the Highway Authority has agreed the revised design of the footway, including its gradient and crossfall, the proximity of crossovers, the 5m access corner radii and kerbing and the varied width of the footway. These are all not so far from standard specifications as to be materially harmful to highway safety and accessibility for those with mobility impairments. Damage to kerbs by construction vehicles seem to be the result of lack of care by construction traffic which will cease on completion.
17. For these reasons, I conclude that the variations to the design of the access, including the modest reduction in visibility would not be harmful to highway safety. It would therefore comply with Newark and Sherwood Amended Core Strategy Spatial Policy 7 which requires that safe, convenient and attractive access should be provided for all.
18. It would also comply with Newark and Sherwood Local Development Framework Allocations and Development Management Development Plan Document Policy DM5 which requires safe and inclusive access to new development, and Southwell Neighbourhood Plan Policy TA3 which requires contributions from developers to mitigate the impact of negative impacts on the highway network.
19. As I have concluded that the conditions in their current form are not necessary to secure safe access, it follows that they would not comply with one of the six tests for planning conditions set out in the National Planning Policy Framework, and that subject to the imposition of replacement conditions to secure variations, that the appeals should be allowed.

Other matters

20. I acknowledge local concerns including about flooding and the buffer zone, but the focus of my attention is on the conditions relevant to this appeal, rather than the original grant of planning permission, the principle of which has been established. Surface water drainage on the footway would be controlled by Appeal A conditions 14 and 15 and Appeal B condition 3.

21. The involvement of the contracting arm of the Highway Authority in constructing the scheme, which is to be corrected, is noted. It is not for me to comment on the actions or any conflicts of interest of the Highway Authority. Those are matters of local accountability.

Conditions

22. As identified in the Council's committee reports, new planning permissions would be granted subject to varied conditions. The Council has suggested alterations to the conditions in dispute if I were minded to allow the appeals, which I am. These would secure revisions to the access and I consider that these are necessary in the interests of highway safety.
23. I have referred to the revised plan No 37049-BSP-ZZXX-DR-C-101 Rev P4 in appeal A conditions 11 and 23 and Appeal B conditions 1, 3, 4 and 5 as this is the most recent plan. I have used the distances of 2.3m by 43m in both directions in appeal A condition 11 and appeal B condition 4 as this can be achieved within the highway, in the interests of highway safety. I have made clear the visibility splays are revised in appeal A condition 11 and Appeal B condition 4 to ensure that the visibility splay is retained notwithstanding what is shown on the plan.
24. Although a request was made to specify that the Highway Authority use its powers under S154 of the Highways Act 1980 in the event of vegetation overgrowing the sight lines, the Highway Authority has this power and so the reference is unnecessary.
25. I have amended condition 23 and appeal B condition 5 to allow for a short period to apply for and obtain a temporary road closure as I understand that this could delay implementation of the alterations to the access.
26. I understand from correspondence that the alterations to the other conditions 2, 3, 4, 5, 12, 13, 14, 16, 18 and 20 of appeal A reflect the fact that these matters have been addressed, and they are agreed by the appellant. I have therefore changed the conditions subject to the appeal to reflect the variations sought. All of those conditions are justified for the reasons originally given.

Conclusions

27. For the reasons given above I conclude that the appeals should be allowed.

Julia Gregory

Inspector

Annex A

APP/P3030/W/19/3234470 - Conditions Schedule

1. The development hereby permitted shall not be carried out except in complete accordance with the following approved plans and documents unless otherwise agreed in writing by the local planning authority through the approval of a non material amendment to the permission.
 - Drawing No. 12/1889/LP Rev D Revised Site plan
 - Drawing No. 12/1889/101/Rev F - Revised site layout
 - Drawing No. 12/1889/102/Rev A - proposed roofscape
 - Drawing No. 12/1889/103/Rev A - proposed street elevation
 - Drawing No. 12/1889/120/Rev A - House type A
 - Drawing No. 12/1889/121/Rev A - House type B
2. The development hereby approved shall be carried out in accordance with the following external materials approved by the Local Planning Authority in correspondence dated 7 May 2019 under application ref. 19/00317/DISCON unless otherwise agreed in writing by the Local Planning Authority.
 - Bricks--Butterley Forterra Woodside Mixture
 - Roof - traditional single clay pantile
3. The development hereby approved shall be carried out in accordance with the ground and finished floor levels approved by the Local Planning Authority in correspondence dated 7 May 2019 under application ref. 19/00317/DISCON unless otherwise agreed in writing by the local planning authority.
4. The development hereby approved shall be carried out in complete accordance with the details of hard and soft landscaping approved by the Local Planning Authority in correspondence dated 7th May 2019 under application ref. 19/00317/DISCON unless otherwise agreed in writing by the local planning authority.
5. The development hereby approved shall be carried out in accordance with the Landscape Management Plan produced by Influence Environmental Ltd ref. INF N0559 R01-Rev A deposited on the 16th April 2019 and approved by the Local Planning Authority in correspondence dated 7th May 2019 under application ref. 19/00317/DISCON. No trees, shrubs or hedges within the site which are shown as being retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior consent in writing of 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.
6. The approved soft landscaping shall be completed during the first planting season following the first occupation/use 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. All tree, shrub and hedge planting shall be carried out in accordance with BS 3936 -1992 Part 1- Nursery Stock-Specifications for Trees and Shrubs and Part 4 1984- Specifications for Forestry Trees ; BS4043-1989 Transplanting Root-balled Trees; BS4428-1989 Code of Practice for General Landscape Operations. The approved hard landscaping scheme shall be completed prior to first occupation or use.

7. No part of the residential development hereby permitted shall be occupied until all associated drives and any parking or turning areas are surfaced in a hard bound material (not loose gravel) for a minimum of 2 metres behind the Highway boundary. The surfaced drives and any parking or turning areas shall then be maintained in such hard bound material for the life of the development.
8. Any garage doors shall be set back from the highway boundary a minimum distance of 5 metres for sliding or roller shutter doors, 5.5 metres for up and over doors or 6 metres for doors opening outwards.
9. The new shared private driveway serving Springfield Bungalow shall be laid out to a width of not less than 4.8 metres for at least 10 metres back from the nearside edge of carriageway and shall provide for vehicle parking and turning areas in accordance in accordance with the approved plan. The vehicle parking and turning areas shall not be used for any purpose other than the turning and parking of vehicles.
- 10.No part of the Supported Living Units hereby permitted shall be brought into use until the new dropped vehicular verge crossing serving Springfield Bungalow is available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.
- 11.Notwithstanding the visibility splays shown on plan No HALL-BSP-ZZ-XX-DR-C-100 Rev P6 and plan No 37049-BSP-ZZXX-DR-C-101 Rev P4, prior to the first occupation of any part of the development hereby approved visibility splays of 2.3m x 43m shall be provided at the junction with Halloughton Road and shall be retained thereafter.
- 12.No residential unit or 'supported living unit' hereby permitted shall be occupied until its associated private access/driveway/parking area is constructed with provision to prevent the unregulated discharge of surface water from the access/driveway/parking area to the public highway in accordance with details first submitted to and approved in writing by the LPA. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.
- 13.The development hereby approved shall be implemented in complete accordance and to the satisfaction of the Local Planning Authority with the details of the drainage and outfall proposals for the new residential access road as indicated on drg.no. Drawing HALL-BSP-ZZXX- DR-C-240-P2 approved by the Local Planning Authority in correspondence dated 7th May 2019 under application ref. 19/00317/DISCON.

14. The development hereby approved shall be implemented in complete accordance and to the satisfaction of the Local Planning Authority with the following drainage plans for the disposal of surface water and foul sewerage drainage and precise drainage design approved by the Local Planning Authority in correspondence dated 7th May 2019 under application ref. 19/00456/DISCON, Drainage Strategy produced by bsp Consulting dated 01/12/19, Storm Sewer Design produced by bsp Consulting dated 04.03.19, Additional correspondence dated 03/04/19 from bsp Consulting, and Private Drainage Layout plan (bsp consulting) drg. ref. HALL-BSP-22-XX-DR-C-240 rev P2.
15. The drainage system on site shall be designed so that the positive discharge will be restricted to a maximum of 3.5 l/s in accordance with confirmation stated in correspondence deposited on the 8th March 2019 and connected to the public combined sewer in accordance with paragraph 3.9 of the Flood Risk Assessment Addendum produced by ACS and dated 28/10/15 revised 18/12/15. There should be no surcharge of the pipes on a 1 year storm. No surcharge in a 30 year site boundary in a 100 year +30 climate change storm.
16. The Written Scheme of Investigation produced by Locus Consulting Ltd dated 31/01/2019 and by the Local Planning Authority in correspondence dated 7th May 2019 shall be implemented in full accordance with the approved details under application ref. 19/00317/DISCON.
17. Removal of vegetation (including any trees to be removed following confirmation and approval of precise details through a reserved matters application) should not take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority prior to removal of any such vegetation and once approved all works shall be in accordance with these details.
18. The tree and hedgerow protection measures including timetable for these measures to be retained shall be implemented in full accordance with the Arboriculture Method Statement produced by Influence Environmental (ref. RSE_2057-01-V2) and Tree Protection Plan (Drg, ref. RSE_2057-7PP Revision-V2 approved by the Local Planning Authority in correspondence dated 7th May 2019 under application ref. 19/00317/DISCON.
19. Before development is commenced the Poplar Tree identified as being within G3 in Appendix 1 of the Tree Survey prepared by Chris Barker and dated 11th November 2015 shall be checked for the presence of roosting bats in accordance with the recommendations of the Ecological Appraisal and letter prepared by CBE Consulting dated 9th November 2012 and 5th January 2015.
20. The details of ecological enhancement and mitigation measures contained within the Habitat and Ecological Management Plan produced by Influence

Environmental Ltd ref. RSE_2057-02-V1 dated January 2019 and approved by the Local Planning Authority in correspondence dated 7th May 2019 shall be fully implemented in accordance with the approved details under application ref. 19/00317/DISCON.

21. Management of hedgerows should be undertaken in an ecologically sensitive manner. Only one third of (the total length of) hedgerows onsite should be cut each year, on a three year rotation. These should be cut in January/February, outside of the bird breeding season, and to allow wildlife to utilise the winter berry crop. Cutting hedgerows into an "A" shape will prolong the life of the hedgerow and create denser cover for wildlife.

22. 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 dwelling house, 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.

23. Within 14 days of the date of this decision an application shall be submitted for a road closure under S14 of the Road Traffic Regulation Act 1984 to enable works at the access. Within 4 weeks of the date a temporary highway closure order being granted, the existing footway gradient shall be reconfigured to provide a maximum gradient of 1 in 12 as shown on drawing 37049-BSP-ZZXX-DR-C-101 Rev P4. Any damage to the existing kerb edging, footway surface and tactile paving shall be re-instated to the original specification as shown on approved drawing HALL-BSP-ZZ-XX-DR-C-100 Rev 6.

Annexe B

APP/P3030/W/19/3234471- Conditions Schedule

1. The access hereby permitted shall be constructed in accordance with the following approved plan: -HALL-BSP-ZZ-XX-DR-C-100 Rev P6 deposited 7th April 2019 (Notwithstanding gradients) and 37049-BSP-ZZXX-DR-C-101 Rev P4.
2. The development shall be retained in accordance with details of drainage and surface water disposal shown on the plan approved by condition 1 of this permission ref: HALL-BSP-ZZ-XXDR-C-100 Rev P6 deposited 7th April 2019.
3. The development shall be retained in accordance with drainage and outfall proposals and construction specification as shown on the approved plan approved by condition 1 of this permission ref: HALL-BSP-ZZ-XX-DR-C-100 Rev P6 deposited 7th April 2019 (Notwithstanding gradients) and ref. 37049-BSP-ZZXX-DR-C-101 Rev P4..
4. Notwithstanding the visibility splays shown on plan No HALL-BSP-ZZ-XX-DR-C-100 Rev P6 and plan No 37049-BSP-ZZXX-DR-C-101 Rev P4 no part of the development hereby permitted shall be brought into use until visibility splays of 2.3m x 43m are provided. The visibility splays shall be retained. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.25 metres in height unless otherwise agreed with the Highway Authority.
5. Within 14 days of the date of this decision an application shall be submitted for a road closure under S14 of the Road Traffic Regulation Act 1984 to enable works at the access. Within 4 weeks of the date of a temporary highway closure order being granted, the existing footway gradient shall be reconfigured to provide a maximum gradient of 1 in 12 as shown on drawing 37049-BSP-ZZXX-DR-C-101 Rev P4. Any damage to the existing kerb edging, footway surface and tactile paving shall be re-instated to the original specification as shown on approved drawing HALL-BSP-ZZ-XX-DR-C-100 Rev 6.



Appeal Decisions

Site visit made on 15 October 2019

by Julia Gregory BSc(Hons) BTP MRTPI MCMi

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 28 November 2019

Appeal A: APP/B3030/W/19/3234470

Springfield Bungalow, Nottingham Road, Southwell NG25 0QW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Springfield Eco Ltd against the decision of Newark & Sherwood District Council.
 - The application Ref 19/00779/FULM, dated 23 April 2019, was refused by notice dated 26 July 2019.
 - The application sought planning permission for residential development of 38 dwellings and conversion and extension of existing residential property to form 12 supported living units without complying with a condition attached to planning permission Ref 15/01295/FULM, dated 13 December 2017
 - The condition in dispute is No 11 which states that: *No part of the development hereby permitted shall be commenced until visibility splays of 2.4m x 43m (minimum) are provided at the junction with Halloughton Road.*
 - The reason given for the condition is: *In the interests of highway safety.*
-

Appeal B: APP/B3030/W/19/3234471

Springfield Bungalow, Halloughton Road, Southwell NG25 0QW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Springfield Eco Ltd against the decision of Newark & Sherwood District Council.
- The application Ref 19/00689/FUL, dated 7 April 2019, was refused by notice dated 26 July 2019.
- The application sought planning permission for alteration of existing vehicular access on Halloughton Road, installation of kerb radii and provision of visibility splay without complying with conditions attached to planning permission Ref 16/01369/FUL, dated 31 March 2017.
- The conditions in dispute are Nos 2, 3, 4 and 5 which state that: (2) *The development hereby permitted shall be carried out in accordance with the following approved plan:- 12/1889/750; (3) No development shall be commenced until details of drainage and surface water disposal 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; (4) No part of the development hereby permitted shall take place until details of the new access road have been submitted to and approved in writing by the Local Planning Authority including longitudinal and cross sectional gradients, street lighting, drainage and outfall proposals, construction specification, provision of utilities services, and any proposed structural works. The development shall be implemented in accordance with*

these details to the satisfaction of the Local Planning Authority; (5) No part of the development hereby permitted shall be brought into use until the visibility splays of 2.4m x 43m shown on drawing no. 12/1889/750 are provided. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.25 metres in height unless otherwise agreed with the Highway Authority.

- The reasons given for the conditions are: (2) *So as to define this permission;* (3) *To ensure the provision of satisfactory means of foul sewage/surface water disposal;* (4) *To provide a suitable standard of access and to allow for future maintenance;* and (5) *For the avoidance of doubt.*
-

Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for residential development of 38 dwellings and conversion and extension of existing residential property to form 12 supported living units at Springfield Bungalow, Nottingham Road, Southwell NG25 0QW in accordance with the application 19/00779/FULM, dated 23 April 2019, subject to the conditions in annexe A.

Appeal B

2. The appeal is allowed and planning permission is granted for alteration of existing vehicular access on Halloughton Road, installation of kerb radii and provision of visibility splay without complying with conditions attached to planning permission Ref 16/01369/FUL, dated 31 March 2017 at Springfield Bungalow, Halloughton Road, Southwell NG25 0QW in accordance with the application Ref 19/00689/FUL, dated 7 April 2019, subject to the conditions in annexe B.

Preliminary matters

3. In respect of both appeals, the applicant name given on the application form is the agents. It was confirmed as part of validating the appeal that the original applicant was altered to Springfield Eco Limited. This conforms with the applicant details on the decision notices. I have therefore used this name in the banner headings.
4. The appellant has submitted a deed of variation to a S106 agreement which accompanied 15/01295/FULM, dated 13 December 2017. The deed of variation dated 4 November 2019 deletes clause 14 of the original agreement and replaces it with new clauses 14.1 and 14.2. These clauses ensure that the original deed would continue to have effect in the event of new planning permissions being granted.
5. The application for appeal A states that it is to construct the new access wholly within highway land or that owned by the applicant to comply with revised drawing submitted HALL-BSP-ZZ-XX-DR-C-100-P6. Although not specified on the application form, this would result in non-compliance with condition 11. Although the application says that it is not retrospective, the development is under way. I have therefore considered the application as being under s73A of the Act. Although the access has been created, modifications to the footway are proposed as part of the application.
6. The description of development on appeal B application form is alteration of existing vehicular access on Halloughton Road, installation of new radii and

provision of visibility splay. The application relates to conditions 2,3,4, and 5. Works have been carried out but the appellant accepts that further modifications are necessary to the access which could be required by way of planning conditions. A revised plan 37049-BSP-ZZXX-DR-C-101 Rev P4 was submitted as part of the application which seeks to demonstrate that crossfall and gradient adjustments could be made within highway limits. I have taken this plan into account in my determination of the appeals.

7. Although application site addresses differ, they both relate to the same site which has access from Halloughton Road.
8. Both appeals relate to the adequacy of the design of the access. Although the dimensions of the visibility splays are shown on the plans as 2.3 x 43m to the east and 2.3m X 29m to the west, these distances are not shown on the application forms or within the description of development. They are shown as lines on submitted plans. The Highway Authority confirmed that 2.3m by 43m can be achieved in both directions, but the hedgerow needs to be maintained to ensure that growth on land in third party ownership does not impede these splays.
9. I have given consideration as to whether I should determine the proposal on the basis of the visibility shown on the plans or that which can be achieved. I have taken into account the representations made in response to this question from the Council and the appellant, who both consider that I should determine it on the basis of the visibility that can be achieved. I shall proceed on that basis.

Applications for costs

10. Applications for costs have been made by the appellant against the Council. These applications are the subject of a separate Decisions.

Main Issue

11. The main issue in both appeals is the effect of non-compliance with the conditions on highway safety.

Reasons

12. There has been a land ownership dispute at the frontage of the site with Halloughton Road in the vicinity of the access. This has meant that the minimum required by the conditions of 2.4m x 43m visibility splays are not available at the access on land that can be assured to be within highway land. According to the evidence the strip in dispute amounts to only some 20cm in depth, with 1.8m to the carriageway edge re-confirmed as highway.
13. A lesser standard of visibility of 2.3m by 43m can be achieved, so long as vegetation on adjoining land is kept cut back. That is within the legislative control of the highway authority if problems occur. This represents a reduction of the "x" distance of only 100mm.
14. Halloughton Road is lightly trafficked with according to the Highway Authority some 900 vehicles per day two-way traffic, even though it may be used as a rat-run. Even in peak hours there would only be a flow of some 110 vehicles. That would average about 1 vehicle every 33 seconds according to the Highway Authority. This would allow significant gaps in traffic to enable cars leaving the

side junction serving this relatively modest new development to access Halloughton Road. It has not been demonstrated that the traffic likely to be generated and using the access would be harmful to highway safety conditions. Furthermore, the nature of the road is of a relatively short lane with a pronounced right angled bend a short distance to the west within the town. These features do not promote high speeds within the maximum permitted 30mph limit.

15. Local highway standards relating to visibility splay specifications are guidance. The Nottinghamshire Design Guidance allows flexibility. Also, Manual for Streets identifies that an "x" distance as low as 2.0m set back can be used in some very lightly trafficked and slow speed situations. As a result the Highway Authority has, during the course of considering the applications determined that the conditions are not necessary in the form given. They have accepted that 2.3m by 43m in both directions can be achieved and that it may be greater than this but just not within highway land. Given that 2.3m by 43m can be achieved in both directions and that is a very marginal difference in visibility I consider this acceptable.
16. Furthermore, the Highway Authority has agreed the revised design of the footway, including its gradient and crossfall, the proximity of crossovers, the 5m access corner radii and kerbing and the varied width of the footway. These are all not so far from standard specifications as to be materially harmful to highway safety and accessibility for those with mobility impairments. Damage to kerbs by construction vehicles seem to be the result of lack of care by construction traffic which will cease on completion.
17. For these reasons, I conclude that the variations to the design of the access, including the modest reduction in visibility would not be harmful to highway safety. It would therefore comply with Newark and Sherwood Amended Core Strategy Spatial Policy 7 which requires that safe, convenient and attractive access should be provided for all.
18. It would also comply with Newark and Sherwood Local Development Framework Allocations and Development Management Development Plan Document Policy DM5 which requires safe and inclusive access to new development, and Southwell Neighbourhood Plan Policy TA3 which requires contributions from developers to mitigate the impact of negative impacts on the highway network.
19. As I have concluded that the conditions in their current form are not necessary to secure safe access, it follows that they would not comply with one of the six tests for planning conditions set out in the National Planning Policy Framework, and that subject to the imposition of replacement conditions to secure variations, that the appeals should be allowed.

Other matters

20. I acknowledge local concerns including about flooding and the buffer zone, but the focus of my attention is on the conditions relevant to this appeal, rather than the original grant of planning permission, the principle of which has been established. Surface water drainage on the footway would be controlled by Appeal A conditions 14 and 15 and Appeal B condition 3.

21. The involvement of the contracting arm of the Highway Authority in constructing the scheme, which is to be corrected, is noted. It is not for me to comment on the actions or any conflicts of interest of the Highway Authority. Those are matters of local accountability.

Conditions

22. As identified in the Council's committee reports, new planning permissions would be granted subject to varied conditions. The Council has suggested alterations to the conditions in dispute if I were minded to allow the appeals, which I am. These would secure revisions to the access and I consider that these are necessary in the interests of highway safety.
23. I have referred to the revised plan No 37049-BSP-ZZXX-DR-C-101 Rev P4 in appeal A conditions 11 and 23 and Appeal B conditions 1, 3, 4 and 5 as this is the most recent plan. I have used the distances of 2.3m by 43m in both directions in appeal A condition 11 and appeal B condition 4 as this can be achieved within the highway, in the interests of highway safety. I have made clear the visibility splays are revised in appeal A condition 11 and Appeal B condition 4 to ensure that the visibility splay is retained notwithstanding what is shown on the plan.
24. Although a request was made to specify that the Highway Authority use its powers under S154 of the Highways Act 1980 in the event of vegetation overgrowing the sight lines, the Highway Authority has this power and so the reference is unnecessary.
25. I have amended condition 23 and appeal B condition 5 to allow for a short period to apply for and obtain a temporary road closure as I understand that this could delay implementation of the alterations to the access.
26. I understand from correspondence that the alterations to the other conditions 2, 3, 4, 5, 12, 13, 14, 16, 18 and 20 of appeal A reflect the fact that these matters have been addressed, and they are agreed by the appellant. I have therefore changed the conditions subject to the appeal to reflect the variations sought. All of those conditions are justified for the reasons originally given.

Conclusions

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Julia Gregory

Inspector

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5. The development hereby approved shall be carried out in accordance with the Landscape Management Plan produced by Influence Environmental Ltd ref. INF N0559 R01-Rev A deposited on the 16th April 2019 and approved by the Local Planning Authority in correspondence dated 7th May 2019 under application ref. 19/00317/DISCON. No trees, shrubs or hedges within the site which are shown as being retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior consent in writing of 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.
6. The approved soft landscaping shall be completed during the first planting season following the first occupation/use 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. All tree, shrub and hedge planting shall be carried out in accordance with BS 3936 -1992 Part 1- Nursery Stock-Specifications for Trees and Shrubs and Part 4 1984- Specifications for Forestry Trees ; BS4043-1989 Transplanting Root-balled Trees; BS4428-1989 Code of Practice for General Landscape Operations. The approved hard landscaping scheme shall be completed prior to first occupation or use.

7. No part of the residential development hereby permitted shall be occupied until all associated drives and any parking or turning areas are surfaced in a hard bound material (not loose gravel) for a minimum of 2 metres behind the Highway boundary. The surfaced drives and any parking or turning areas shall then be maintained in such hard bound material for the life of the development.
8. Any garage doors shall be set back from the highway boundary a minimum distance of 5 metres for sliding or roller shutter doors, 5.5 metres for up and over doors or 6 metres for doors opening outwards.
9. The new shared private driveway serving Springfield Bungalow shall be laid out to a width of not less than 4.8 metres for at least 10 metres back from the nearside edge of carriageway and shall provide for vehicle parking and turning areas in accordance in accordance with the approved plan. The vehicle parking and turning areas shall not be used for any purpose other than the turning and parking of vehicles.
- 10.No part of the Supported Living Units hereby permitted shall be brought into use until the new dropped vehicular verge crossing serving Springfield Bungalow is available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.
- 11.Notwithstanding the visibility splays shown on plan No HALL-BSP-ZZ-XX-DR-C-100 Rev P6 and plan No 37049-BSP-ZZXX-DR-C-101 Rev P4, prior to the first occupation of any part of the development hereby approved visibility splays of 2.3m x 43m shall be provided at the junction with Halloughton Road and shall be retained thereafter.
- 12.No residential unit or 'supported living unit' hereby permitted shall be occupied until its associated private access/driveway/parking area is constructed with provision to prevent the unregulated discharge of surface water from the access/driveway/parking area to the public highway in accordance with details first submitted to and approved in writing by the LPA. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.
- 13.The development hereby approved shall be implemented in complete accordance and to the satisfaction of the Local Planning Authority with the details of the drainage and outfall proposals for the new residential access road as indicated on drg.no. Drawing HALL-BSP-ZZXX- DR-C-240-P2 approved by the Local Planning Authority in correspondence dated 7th May 2019 under application ref. 19/00317/DISCON.

14. The development hereby approved shall be implemented in complete accordance and to the satisfaction of the Local Planning Authority with the following drainage plans for the disposal of surface water and foul sewerage drainage and precise drainage design approved by the Local Planning Authority in correspondence dated 7th May 2019 under application ref. 19/00456/DISCON, Drainage Strategy produced by bsp Consulting dated 01/12/19, Storm Sewer Design produced by bsp Consulting dated 04.03.19, Additional correspondence dated 03/04/19 from bsp Consulting, and Private Drainage Layout plan (bsp consulting) drg. ref. HALL-BSP-22-XX-DR-C-240 rev P2.
15. The drainage system on site shall be designed so that the positive discharge will be restricted to a maximum of 3.5 l/s in accordance with confirmation stated in correspondence deposited on the 8th March 2019 and connected to the public combined sewer in accordance with paragraph 3.9 of the Flood Risk Assessment Addendum produced by ACS and dated 28/10/15 revised 18/12/15. There should be no surcharge of the pipes on a 1 year storm. No surcharge in a 30 year site boundary in a 100 year +30 climate change storm.
16. The Written Scheme of Investigation produced by Locus Consulting Ltd dated 31/01/2019 and by the Local Planning Authority in correspondence dated 7th May 2019 shall be implemented in full accordance with the approved details under application ref. 19/00317/DISCON.
17. Removal of vegetation (including any trees to be removed following confirmation and approval of precise details through a reserved matters application) should not take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority prior to removal of any such vegetation and once approved all works shall be in accordance with these details.
18. The tree and hedgerow protection measures including timetable for these measures to be retained shall be implemented in full accordance with the Arboriculture Method Statement produced by Influence Environmental (ref. RSE_2057-01-V2) and Tree Protection Plan (Drg, ref. RSE_2057-7PP Revision-V2 approved by the Local Planning Authority in correspondence dated 7th May 2019 under application ref. 19/00317/DISCON.
19. Before development is commenced the Poplar Tree identified as being within G3 in Appendix 1 of the Tree Survey prepared by Chris Barker and dated 11th November 2015 shall be checked for the presence of roosting bats in accordance with the recommendations of the Ecological Appraisal and letter prepared by CBE Consulting dated 9th November 2012 and 5th January 2015.
20. The details of ecological enhancement and mitigation measures contained within the Habitat and Ecological Management Plan produced by Influence

Environmental Ltd ref. RSE_2057-02-V1 dated January 2019 and approved by the Local Planning Authority in correspondence dated 7th May 2019 shall be fully implemented in accordance with the approved details under application ref. 19/00317/DISCON.

21. Management of hedgerows should be undertaken in an ecologically sensitive manner. Only one third of (the total length of) hedgerows onsite should be cut each year, on a three year rotation. These should be cut in January/February, outside of the bird breeding season, and to allow wildlife to utilise the winter berry crop. Cutting hedgerows into an "A" shape will prolong the life of the hedgerow and create denser cover for wildlife.
22. 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 dwelling house, 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.

23. Within 14 days of the date of this decision an application shall be submitted for a road closure under S14 of the Road Traffic Regulation Act 1984 to enable works at the access. Within 4 weeks of the date a temporary highway closure order being granted, the existing footway gradient shall be reconfigured to provide a maximum gradient of 1 in 12 as shown on drawing 37049-BSP-ZZXX-DR-C-101 Rev P4. Any damage to the existing kerb edging, footway surface and tactile paving shall be re-instated to the original specification as shown on approved drawing HALL-BSP-ZZ-XX-DR-C-100 Rev 6.

Annexe B

APP/P3030/W/19/3234471- Conditions Schedule

1. The access hereby permitted shall be constructed in accordance with the following approved plan: -HALL-BSP-ZZ-XX-DR-C-100 Rev P6 deposited 7th April 2019 (Notwithstanding gradients) and 37049-BSP-ZZXX-DR-C-101 Rev P4.
2. The development shall be retained in accordance with details of drainage and surface water disposal shown on the plan approved by condition 1 of this permission ref: HALL-BSP-ZZ-XXDR-C-100 Rev P6 deposited 7th April 2019.
3. The development shall be retained in accordance with drainage and outfall proposals and construction specification as shown on the approved plan approved by condition 1 of this permission ref: HALL-BSP-ZZ-XX-DR-C-100 Rev P6 deposited 7th April 2019 (Notwithstanding gradients) and ref. 37049-BSP-ZZXX-DR-C-101 Rev P4..
4. Notwithstanding the visibility splays shown on plan No HALL-BSP-ZZ-XX-DR-C-100 Rev P6 and plan No 37049-BSP-ZZXX-DR-C-101 Rev P4 no part of the development hereby permitted shall be brought into use until visibility splays of 2.3m x 43m are provided. The visibility splays shall be retained. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.25 metres in height unless otherwise agreed with the Highway Authority.
5. Within 14 days of the date of this decision an application shall be submitted for a road closure under S14 of the Road Traffic Regulation Act 1984 to enable works at the access. Within 4 weeks of the date of a temporary highway closure order being granted, the existing footway gradient shall be reconfigured to provide a maximum gradient of 1 in 12 as shown on drawing 37049-BSP-ZZXX-DR-C-101 Rev P4. Any damage to the existing kerb edging, footway surface and tactile paving shall be re-instated to the original specification as shown on approved drawing HALL-BSP-ZZ-XX-DR-C-100 Rev 6.



Appeal Decision

Site visit made on 29 October 2019

by **M Cryan BA(Hons) DipTP MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 November 2019

Appeal Ref: APP/B3030/W/19/3233879

Lowdham Cars, Lowdham Road, Gunthorpe NG14 7ES

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Ms Melanie Hibbitt (Lowdham Cars) against the decision of Newark & Sherwood District Council.
 - The application Ref 19/00814/FUL, dated 15 April 2019, was refused by notice dated 4 July 2019.
 - The application sought planning permission for the installation of engineering operations for site drainage, change of use of the land from Car Sales to Car Sales and Car Wash, and the erection of fencing without complying with conditions attached to planning permission Ref 18/01465/FUL, dated 3 October 2018.
 - The conditions in dispute are Nos 2 and 7 which state that:
"Condition 2 – The development hereby permitted shall not be carried out except in complete accordance with the following approved plans reference:
 - *Site Location and Block Plans – 372(02) S10*
 - *Revised Proposed Site Plan - 372(08)S10 REVISION D (03.09.2018)*
 - *Surface Water Layout Plan*
 - *Drainage Layout**unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission."*
"Condition 7 – There shall be no more than 50 vehicles for sale displayed on the premises at any time unless otherwise approved in writing by the Local Planning Authority."
 - The reasons given for the conditions are:
"Condition 2 – So as to define this permission."
"Condition 7 – To ensure that the site remains in a tidy condition and there is adequate customer and staff parking areas and to protect the openness of the Green Belt."
-

Decision

1. The appeal is allowed and planning permission is granted for the installation of engineering operations for site drainage, change of use of the land from Car Sales to Car Sales and Car Wash, and the erection of fencing at Lowdham Cars, Lowdham Road, Gunthorpe NG14 7ES in accordance with the application Ref 19/00814/FUL made on the 15 April 2019 without complying with condition Nos 2 and 7 set out in planning permission Ref 18/01465/FUL granted on 3 October 2018 by the Newark & Sherwood District Council, but otherwise subject to conditions in the attached schedule.

Procedural matters

2. This appeal relates to conditions forming part of planning permission 18/01465/FUL which was granted on 3 October 2018, but which in turn related to conditions attached to permission reference 18/00279/FUL, granted on 4 July 2018. I have therefore referred to the original substantive development in my decision to allow the appeal, so as to provide appropriate context for the new permission.
3. On the basis that more than 50 cars are already being displayed for sale on the site, the use of the site in breach of Condition 7 has already commenced and section 73A of the 1990 Town and Country Planning Act applies. I have therefore dealt with the appeal on this basis.

Background and Main Issue

4. The appeal site is a car sales garage and car wash located on the busy A6097 road, and which is situated within the Nottinghamshire—Derby Green Belt. In July 2018 planning permission (Ref 18/00279/FUL – ‘the July 2018 permission’) was granted for the change of use of the site from car sales to car sales and car wash and the erection of fencing, as well as retrospectively for the installation of engineering operations for site drainage related to the car wash. Condition 7 attached to this permission limited to 30 the number of cars which could be displayed for sale on the site.
5. The subsequent planning permission granted in October 2018 (Ref 18/01465/FUL – ‘the October 2018 permission’) varied Condition 7 so that up to 50 cars could be displayed for sale. Other conditions attached to the July 2018 permission which had already been discharged or were otherwise no longer relevant were amended or removed accordingly.
6. The current proposal is to remove altogether the restriction on the number of cars which can be displayed for sale on the site by removing Condition 7 of the October 2018 permission. A consequential amendment to Condition 2 would be required to update the specified approved plans only if Condition 7 were to be removed, as there would then no longer be a requirement for marked bays for car sales within the site.
7. The reason given for Condition 7 on both earlier permissions is ‘to ensure that the site remains in a tidy condition and there is adequate customer and staff parking areas and to protect the openness of the Green Belt’. The use of the site for car sales and a car wash, with up to 50 cars allowed to be displayed for sale, is of course already allowed by the existing planning permission and is therefore a fallback position to which I attribute significant weight.
8. Taking this into account, I consider that the main issue is therefore whether the restriction on the number of cars which can be offered for sale imposed by Condition 7 is reasonable and necessary, with regard to the effect of the development on the openness and character of the Green Belt.

Reasons

9. The appeal site is located to the east side of Lowdham Road outside the built-up area of Gunthorpe within a ribbon of mixed development washed over by the Green Belt. Spatial Policy 4B of the 2019 Newark & Sherwood Amended Core Strategy (the ACS) indicates that development proposals in the Green

Belt which are not specifically identified in that policy will be assessed against national Green Belt policy.

10. Paragraph 133 of the National Planning Policy Framework (the Framework) indicates that openness is an essential characteristic of the Green Belt, and can be considered as meaning an absence of built development. Paragraph 143 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 regards the construction of new buildings within the Green Belt as inappropriate, and by definition harmful to the Green Belt, with the exception of six listed circumstances, one of which is the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development.
11. The Council's appeal statement does not contend that the use of the site for car sales is in itself an inappropriate use within the Green Belt, given that it represents the partial redevelopment of a previously developed site. It is however argued that allowing an unrestricted number of vehicles to be displayed for sale would result in an over-intensive and poorly designed use of the site which would have a detrimental visual impact on the character of the area and the openness of the Green Belt, and therefore does not benefit from the exception set out in paragraph 145 of the Framework.
12. The existing buildings on the site, as well as its use for the display of cars for sale, mean that it does not at present have an open character. The permission being sought would not result in any additional buildings being erected, nor would any further hardstanding areas be required. The increased number of cars permitted to be displayed for sale would be contained within the confines of the existing site, and achieved by increasing the density at which they were parked. This would mean vehicles would be closer together, but the operational need for cars to be moved and for customers to circulate around the site would put a practical limit on the number of cars which could be accommodated.
13. The garage sits alongside the busy A6097, from which views of the garage forecourt are restricted by houses along the road to the north, and hedgerows to the south. Most of the site's rear boundaries away from the main road are screened by trees and hedges, and so the site's overall contribution to the openness of the Green Belt is limited. The one exception to this is at its south eastern boundary, where a low fence allows relatively open views from the A6097 across the corner of the appeal site and the adjacent field towards the village of Gunthorpe. However, this part of the site is occupied by the car wash which is itself open in character, and this would not be affected by removing Condition 7.
14. The garage already displays more than 50 cars for sale, and at the time of my visit to the site I saw that there were more than 80 for sale within the forecourt as a whole. From my observations, there is likely to be little practical change in terms of the impact on the openness of the Green Belt caused by removing the restriction on the number of cars which can be displayed for sale on the site. Although vehicles would be parked closer together, the increased density of cars within the site boundary would be barely noticeable to most observers and so the openness of the Green Belt would not be harmed. As such, there would be no greater impact on the openness of the Green Belt than that arising from

the existing development. In more general terms, and for the same reasons, the area around the appeal site contains a number of other businesses selling various types of vehicles and removing the restriction on the number of cars which can be offered for sale within the existing area does not introduce a form of development which is over-intensive or visually harmful to the wider area.

15. Accordingly, I conclude that the restriction on the number of cars which can be offered for sale imposed by Condition 7 is not reasonable or necessary to ensure that the development is not inappropriate in terms of the Framework's requirements or those of Spatial Policy 4B of the ACS, nor is it necessary to prevent harm to the openness of the Green Belt and the other purposes of including land within it. Removing the condition would also not conflict with Core Policy 9 of the ACS, nor with Policy DM5 of the 2013 Newark & Sherwood Allocations and Development Management Development Plan Document, which together seek to ensure that development is of an appropriate scale and form in its context.
16. Having found that removal of the restriction imposed by Condition 7 would not lead to development being inappropriate in the Green Belt, or harmful to the character of the Green Belt including openness, it is not necessary for me to assess whether or not there are very special circumstances which would otherwise weigh in favour of the proposal.

Other matters

17. Concerns were raised by interested parties that allowing an increased number of vehicles to be displayed for sale could lead to increased problems arising from noise and flooding, and would have an adverse impact on highway safety. The evidence before me includes comments from the Council's Environmental Health team, the Lead Local Flood Authority, and the County Council's Highways Development Control Officer which do not indicate specific concern on any of these points. Accordingly, I consider that the proposal would not lead to unacceptable impacts relating to any of these matters.

Conditions

18. I have deleted the disputed Condition 7 as indicated above. I have also deleted Condition 2 in the October 2018 permission, and replaced it with an amended one which specifies new approved plans for the development allowed.
19. The Planning Practice Guidance indicates that, 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, unless they have already been discharged. In this case, it is the conditions attached to the October 2018 permission which remain relevant.
20. With the exception of the standard time limit, which is no longer required as the development permitted has already been substantially implemented, I have no information before me to suggest that any of the other conditions are no longer necessary or relevant. I have therefore imposed all of the other conditions attached to the October 2018 permission, with only minor drafting modifications where this has been necessary.

Conclusion

21. For the reasons given above I conclude that the appeal should be allowed and planning permission granted, with Condition 2 varied and Condition 7 removed accordingly.

M Cryan

Inspector

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location and Block Plans - 372(02) S10, Revised Proposed Site Plan - 372(08)S10 REVISION E (29.04.2019), Surface Water Layout Plan, Drainage Layout.
- 2) The fence hereby permitted shall be constructed in the materials specified in planning application Ref 18/00279/FUL.
- 3) Any contamination that is found when carrying out the approved development that was not previously identified shall be reported immediately to the local planning authority. Use of the car wash, and any other development on the part of the site affected, shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 4) No infiltration of surface water drainage into the ground where contamination is present (as identified within condition 3) is permitted other than with the written consent of the Local Planning Authority.
- 5) The vehicle sales and car wash premises shall only be open to the public between the hours of 08.30 am and 6pm.
- 6) There shall be no outside storage or paraphernalia associated with the car wash facility erected on the site.

End of schedule

PLANNING COMMITTEE – 14 JANUARY 2020

QUARTERLY ENFORCEMENT ACTIVITY UPDATE REPORT

This report relates to the quarter from 1st October to the 31st December 2019 and provides an update on cases where formal action has been taken. It also includes cases 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: Summary of 2019 compared with previous years.
- 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

SCHEDULE A: ENFORCEMENT CASES	1st to 31st October 2019	1st to 30th November 2019	1st to 31st December 2019	Totals
Cases Received	46	29	28	103
Cases Closed*	46	39	26	111
Notices Issued	0	0	5	6
Notices Complied With	5	3	0	8
Appeals Lodged**	1	0	0	3
Prosecutions/Injunctions	1	2	0	3

*It should be noted that ‘cases closed’ can include a number of outcomes, which are generally breach resolved (through planning applications or removal of the breach), no breach identified (breach is either not development or permitted development), or that a breach exists but it is not expedient to pursue. Please note that ‘Notices’ for the purposes of these statistics does not include Planning Contravention Notices issued.

** Appeals lodged during Quarter 4, 2019 are:

- 19/00194/ENF (19/00054/ENFNOT) appeal received 19th October 2019 - 2 Willow Holt Lowdham Nottinghamshire NG14 7EJ. Enforcement notice issued against the erection of a fence measuring 2 metres in height adject to the highway. Notice (served 25th September 2019) requires the fence to be reduced to no more tha 1 metre in height.
- 19/00277/ENF – 134 Low Street, Collingham, Newark, NG23 7NL (invalid appeal) indication of landowners intention to appeal against an Enforcement Notice served on the 5th November 2019 was received on the 4th December 2019. The Notice requires the total demolition of a wooden veranda erected on the rear elevation of a positive historic

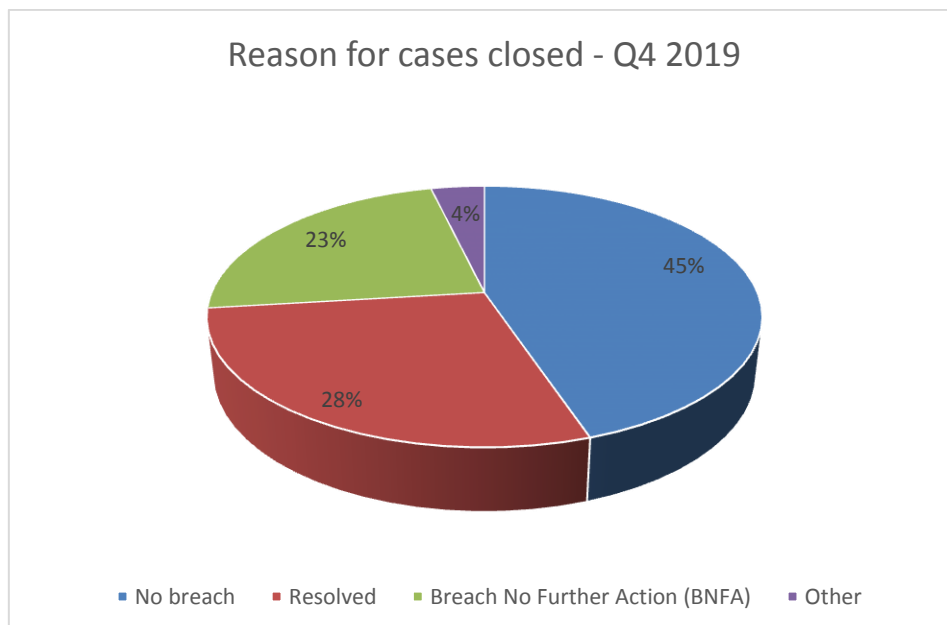
building within the Conservation Area. Awaiting further correspondence from the Planning Inspectorate.

- 18/00034/ENF – The Workshop, Cockett Lane, Farnsfield, NG22 8JQ. The landowners appealed against the revised enforcement notice served on 6th December 2019 on 18th December 2019. The enforcement notice alleges the material change of use of the land from agricultural use to the storage and distribution of aggregates. The Notice requires the unauthorised use to cease and for associated machinery and materials to be removed from the site.

Of the cases closed, the reasons for these closures are detailed below in Table 2:

Table 2 (Reasons for Closure)

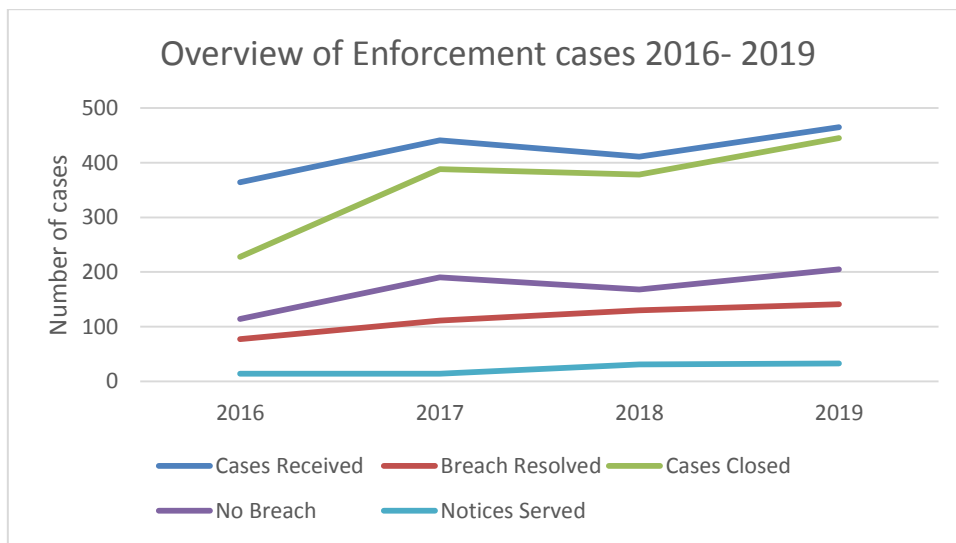
Month/Year	Total Number of Cases Closed	No Breach (No Further Action required)	Breach Resolved (through negotiation, permission granted etc)	Breach – No Further Action (as not expedient)	Other (such as Duplicate Case)
October 2019	46	20	16	9	1
November 2019	39	16	12	9	2
December 2019	26	13	5	7	1
Totals	111	49	33	25	4
Average	37	45%	28%	23%	4%



SCHEDULE B: SUMMARY OF 2019 COMPARED WITH PREVIOUS YEARS

Year	Cases Received	Cases Closed	Breach Resolved	No Breach	Notices Served
2016	364	228	77	114	14
2017	441 (21.1% increase*)	388	111	190	14
2018	411 (12.9% increase*)	378	130	168	31 (121% increase*)
2019	465 (27.7% increase*)	445	141	205	33 (135% increase*)

* compared to 2017



SCHEDULE C: FORMAL ACTION TAKEN (1st October – 31st December 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.

Enforcement Ref: 19/00249/ENF

Site Address: Land to the south of Stonewold, Gravelly Lane, Fiskerton.

Alleged Breach: Without planning permission or the relevant consents, the removal of historic hedgerows and the erection of fencing and gates over 2 metres in height.

Date Received: July 2019

ACTION TO DATE: Enforcement Notice and Hedgerow Replanting Notice issued on the 5th December 2019.

Background

Officers received notification that considerable changes were taking place to an agricultural field to the immediate rear of a new dwelling under construction on Gravelly Lane, Fiskerton. Officers attended and saw that a historic agricultural hedgerow had been removed without the necessary consents, and the top soil removed from the land in preparation for it being altered to facilitate residential usage without planning permission.

A part-retrospective planning application was received (reference 19/01702/FUL) and refused on the 5th December 2019. During the lifetime of the application, a 2.4 metre green mesh fencing of a design that is considered inappropriate within the Conservation Area was installed without the grant of planning permission.

Following the refusal of the planning application, a planning Enforcement Notice was issued on the same date requiring a reduction in height of the fencing to the 2 metre height allowed under conditions attached to permitted development rights. A hedgerow replanting notice was also issued on the landowner, requiring the historic hedgerow running through the site to be replanted.

The landowner has indicated to Officers a willingness to comply with some elements of the Notices, but an intention to also lodge appeals.

Enforcement Ref: 19/00277/ENF

Site Address: The Old Smithy, 134 Low Street, Collingham, Newark On Trent.

Alleged Breach: Without planning permission, the erection of a wooden verandah on the rear elevation

Date Received: July 2019

ACTION TO DATE: Enforcement Notice issued on the 5th November 2019.

Background

The Local Planning Authority received a report that a wooden lean-to extension had been constructed on the rear elevation of 134 Low Street, Collingham. The property is a positive historic building within the Conservation Area. Officers attended the property and observed that a large wooden verndah had been constructed on the rear elevation without planning permission having been granted.

A Planning Contravention Notice was issued to the occupant, in order to ascertain land ownership details. An enforcement Notice was issued on the 5th November 2019 requiring the structure to be dismantled no later than the 6th March 2020. An appeal may be lodged by the owner to the Planning Inspectorate.



Enforcement Ref: 18/00319/ENF

Site Address: Land adjoining 6 Barkstone Close, Balderton, Newark.

Alleged Breach: Without planning permission, the laying of a vehicular access track, concrete bases and fencing to facilitate a proposed pet-sitting service.

Date Received: October 2018

ACTION TO DATE: A part-retrospective application has been refused (18/02175/FUL) and a corresponding Enforcement Notice has been issued in December 2019.

Background

Officers received reports that ground works were taking place on a parcel of agricultural land located to the rear of 6 Barkstone Close, a residential bungalow. A site inspection found that minor ground works had taken place in order to facilitate a proposed dog-sitting service. Neither the operational development nor the material change of use had been granted planning permission.

Given this, Officers advised the landowner to cease all works and to prepare an application for

planning permission. There was some delay between the submission of the application and its validation due to the need for a flood risk assessment. Members will recall that the application for planning permission 18/02175/FUL was refused by Members in accordance with the officer recommendation on the 6th December 2019.

Officers gave the landowner the opportunity to reverse all ground works without having to resort to formal enforcement action. As the landowner indicated their intention to appeal the refusal to grant planning permission, a planning Enforcement Notice was served on the 11th December 2019. Compliance is required by April 2020, pending any appeal that may be lodged.

Enforcement Ref: 18/00051/ENF

Site Address: Land on the South East side of Fosse Road, Farndon, to the rear (north) of Hardy's Business Park, Hawton Lane, Newark

Alleged Breach: Without planning permission, the laying of hard surfacing, the creation of earth bunds and the material change of use of agricultural land to B8 open-air storage

Date Received: February 2018

ACTION TO DATE: Enforcement Notices have been issued in October 2018 (dismissed at appeal) and re-served in December 2019

Background

Members may recall that Officers were made aware of a considerable amount of unauthorised development that had taken place over a period of over 10 years at 'Hardy's Business Park' in Farndon. As part of this investigation, four retrospective planning applications have approved, some land cleared of a number of HGV trailers, and a Lawful Development Certificate issued for the unauthorised expansion of the industrial site into the agricultural fields to the rear.

Part of this – now lawful – expansion was only undertaken in 2015 and is therefore within the timelimits for enforcement action. A planning Enforcement Notice was first issued in late 2018, but was dismissed at appeal in June 2019 on account of wider site notification being required. Officers have issued two Planning Contravention Notices since this time, and a further Enforcement Notice has been issued in December 2019.



Aerial photograph showing the subject area in red

The Notice requires the removal of all hard standing, earth bunds and non-agricultural items, storage containers and vehicles from the land, within a 6 month compliance period. Officers understand that it is the landowners intention to appeal the Notice, though this has not yet been lodged.

Enforcement Ref: 18/00034/ENF

Site Address: The Workshop, Cockett Lane, Farnsfield, NG22 8JQ

Alleged Breach: Change of use of agricultural land to waste transfer site/storage of materials

Date Received: 25th January 2018

ACTION TO DATE: Enforcement Notice issued

Background

The case revolves around an alleged material change of use of the site. The case has been investigated concurrently with Nottinghamshire County Council (NCC) as there has been an allegation that the land has been used for waste activities.

Investigations initially led to the service of an Enforcement Notice (August 2018), and latterly a Stop Notice (July 2019), by NCC against the alleged material change of use of the land for use for waste activities. The service of the Enforcement Notice was the subject of an appeal. In September 2019 the Council were notified by colleagues at NCC that the appeal against the issue of an planning enforcement notice by NCC had been withdrawn. Although the planning Enforcement Notice issued by NCC therefore remains extant, the Council were also notified by colleagues at NCC that the alleged unauthorised material change of use of the land (in terms of ceasing waste import, ceasing waste processing, removed waste and processed waste and removed plant etc. solely associated with the waste use), has now ceased. The requirements that no waste activity takes place remains.

Following the withdrawal of the appeal, officers were therefore of the opinion that the activity taking place on the land at the present time is that associated with aggregate storage and distribution and hence constitutes a new material change of use of the land from agriculture. Officers consider this use of the land to be incompatible with the Development Plan and therefore on 27th September 2019 issued a planning Enforcement Notice (EN). This requires the use of the land for aggregate storage and distribution to cease and the use of the land be returned to agriculture. The period for compliance with Enforcement is 120 days following the date that the notice comes into effect, the 28th October 2019. Whilst issuing the notice it was noted that the land may also be being used for the storage of heavy goods vehicles and machinery. The owner of the land has therefore been reminded that a previous planning enforcement notice, issued on 17th August 2007, prohibits the use of the land for the storage of heavy goods vehicles, plant machinery and skips. This enforcement notice remains extant and therefore any breach of this notice is an offence. Officers will be undertaking regular inspections to check compliance with the notice.

Further, a a Breach of Condition Notice was issued on 15th May 2019. The BCN requires the use of the agricultural building for purposes other than agriculture to cease. The date for compliance was 13th August 2019 – 90 days after the notice was served. Officers will be undertaking regular inspections to check compliance with the notice.



Enforcement Ref: 16/00323/ENF

Site Address: Home Farm, 29 Main Street, Upton, Newark On Trent, NG23 5ST

Alleged Breach: Poor condition of Listed Building adversely affecting amenity of area

Status: Ongoing direct action to resolve

Background

Concerns have been raised about the condition of this property for a considerable time, not just about the overall condition of the land and its considerable impact on the amenity of the area, but also the overall state of the building as it is Grade II listed.

Following unsuccessful attempts to persuade the property owner to improve the condition of the building and land, a notice was issued by the Council under Section 215 (Power to require proper maintenance of land) of the Town and Country Planning Act 1990.

The Section 215 Notice was issued on 16th May 2017 and came into effect on 14th June 2017 and required all measures to be undertaken by the 14th August 2017.

Following failure to comply with the notice the Council sought court proceedings against the defendant under Section 216 (penalty for non-compliance with s215 notice) of the Town and Country Planning Act. On the 30th November 2017 the defendant was found guilty of an offence under this Section-

Further attempts were subsequently undertaken to persuade the owner to rectify the condition of the site. However, these were again unsuccessful.

A site inspection was undertaken on the 7th February 2019 and it was noted that there has been a failure to comply with the Section 215 Notice.

Following the latest failure to comply with the notice, the Council sought further court proceedings against the owner. On the 5th August 2019 the owner was again found guilty of an offence and as a second offence was fined £3750 plus £833 costs.

Following the latest legal proceedings it was concluded that there was little chance of further legal proceedings resolving the matter in the near future. Accordingly the Council commenced direct action to undertake the works that were required to be undertaken within the scope of the S215 Notice. These works included:

- Removing all vegetation growth from the exterior of the building;
- Cutting down to ground level all vegetation;
- Replacement or repair/ maintenance of all timber windows, including any broken glazing;
- Re-fix any loose pantiles.

The works to repair the windows etc. are ongoing but below are photographs showing the ongoing clearance works.



Before



Before



After



After



Before



After

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: 19/00090/ENF

Site Address: 106 Hawton Lane, Balderton, Newark On Trent

Alleged Breach: The formation of a means of access without planning permission; and non-compliance with approved boundary treatments.

Status: Breach resolved

Background

The property in question has been undergoing considerable renovation for a number of years, with applications dating back to 2014. As the project neared completion, the existing boundary fencing and hedgerow was removed from the side elevation, and replaced with 2 metre high fencing along the side and front elevation. A formation was created on the side elevation to provide access to the rear garden from Russell Avenue.

After much correspondence including the serving of a Planning Contravention Notice, the owner reduced the height of the boundary fencing on the front and side elevation, stained the fencing an agreed colour and obtained retrospective planning permission for the access point on Russell Avenue.



Before



After

Enforcement Ref: 19/00244/ENF

Site Address: 13 Main Street, Sutton on Trent, Newark.

Alleged Breach: Without planning permission and the relevant consent, removal of trees and a historic boundary wall within the Sutton on Trent Conservation Area.

Status: Breach resolved

Background

The Local Planning Authority received notification that as part of renovation works, a historic boundary wall measuring approximately 1.2-1.5 in height had been demolished, and two mature trees removed. Both acts within the Conservation Area required consent and constitute a criminal offence without satisfactory defence for having done so.

Officers made the owner aware of the seriousness of the breach, and undertook an investigation to obtain evidence and reasonings why the works had been undertaken. Written letters of support from a number of professionals, including East Midlands Building Control, stated that the historic wall was in a poor condition and unstable, providing a health and safety hazard to the public. A similar defence was given for the loss of the trees, which were said to have been uprooted during the demolition of the wall. The evidence available indicated that in any event, the wall would have required demolition and rebuild.

Consent was approved for its rebuild with considerable input from Conservation Officers (reference 19/01364/FUL). A site inspection in December 2019 found that the wall has been completed to a satisfactory finish, and the breach thereby resolved without having to issue an Enforcement Notice.



Photograph of the rebuild wall and planted trees

Enforcement Ref: 19/00206/ENF

Site Address: 39 Kirk Gate, Newark.

Alleged Breach: Without Listed Building Consent, the fixing of brackets, advertisements and other accretions to an important grade II listed building

Status: Breach resolved

Background

In summer 2019, Officers were made aware that the occupier of 39 Kirk Gate, a retail premises, had affixed low-quality, inappropriate signage and other minor fixtures to the principal elevation of the architecturally significant 39 Kirk Gate.

Letters were issued by Officers to the occupant, tenant and landlords of the building notifying them that a criminal offence had occurred, and Officers intentions to take legal action if the offence persisted. Notices were drafted, including a request for information; however through repeat correspondence with the landlord, the signs and fixtures were removed short of formal enforcement or court action.



Before



After

Enforcement Ref: 19/00417/ENF

Site Address: Brookside Station Road Clipstone Nottinghamshire NG21 9AQ

Alleged Breach: Alleged breach of condition of planning permission 18/01253/RMA – protection of existing hedgerow

Status: Breach resolved

Background

Planning permission was granted in September 2018 for development including the demolition of an existing bungalow and outbuildings, formation of a new site access and erection of 6 detached bungalows with associated landscaping and vehicular access. In agreeing the permission a condition (3) was imposed that sought to protect and retain an existing hedgerow that bounds the application site and the adjacent nature reserve at Vicar Water by requiring that no machines shall be used and only hand digging shall be undertaken when excavating beneath the crown spread of any trees or retained hedgerows on site. Further, any roots exposed over 25mm diameter should be retained, undamaged and protected.

The enforcement cases resulted from a report that works on the site had commenced and this included deep excavations in the vicinity of the existing hedgerow by a mechanical digger.

It was noted that there was a large pile of vegetation in the centre of the site and no protection of the hedgerow along the southern boundary (adjacent to Vicar Water) where there was evidence of a large excavation at some recent point.

Whilst it would have been possible to issue a Temporary Stop Notice (TSN) and Breach of Condition Notice (BCN) to require the works to cease and the required protection to be installed, it was mutually agreed that no further development would take place in the vicinity of the hedgerow until the prescribed protective fence had been erected.

The fencing was subsequently erected on the same day and I have subsequently monitored the site to check on the condition of the hedge and have noted that its health remains good and provides a suitable screen to the site.



Excavations taking place at time of initial investigation



Fencing having been erected following enforcement negotiations



Hedge at close to completion of the development

SCHEDULE E – NOTICES COMPLIED WITH DURING QUARTER (1st October – 31st December 2019)

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: 18/00400/ENF & 18/00401/ENF

Site Address: 1 and 8 Home Farm Close, Kelham, Newark.

Alleged Breach: Without planning permission, the change of use of two residential dwellings to commercial leisure accommodation.

Action to Date: Enforcement Notices served in January 2019.

Background

Members will recall that planning Enforcement Notices were issued against both 1 and 8 Home Farm Close, as residential properties being rented by Kelham Hall Limited to provide event accommodation to groups including wedding parties. Enforcement Notices were issued in January 2019 after an extended period of investigation alongside local resident assistance.

Planning appeals lodged by Kelham Hall Limited were both dismissed, and the properties required to be used only for residential purposes. In October 2019, the Local Planning Authority was made aware that the properties had been returned to their respective owners and the Kelham Hall Ltd occupation ended.

Enforcement Ref: 19/00210/ENF

Site Address: Land adjacent to the Old Rectory, Southwell.

Alleged Breach: Without planning permission or listed building consent, the demolition of a curtilage listed building.

Action to Date: Temporary Stop Notice issued in May 2019.

Background

Officers received reports that during the implementation of schemes approved in 2016 for conversion of a curtilage listed outbuilding to a single dwelling (references 16/02036/FUL and 16/02037/LBC), the structure had been almost entirely dismantled. This amounts to a serious breach of planning control and a criminal offence without a satisfactory defence.

Enforcement Officers and Conservation Officers attended the site immediately and a Temporary Stop Notice was issued on the land, requiring all works to cease.

The owner and builder was interviewed under caution by Officers, to establish the series of events which led to the collapse of the building. Evidence provided suggested that the building was unstable beyond retention, and suddenly collapsed without being able to be secured.

Retrospective planning permission and listed building consent has been authorised for the collapse of the building and its rebuilding (references 19/01305/FUL & 19/01306/LBC) which the LPA is now monitoring to ensure compliance and restoration of the building as best as possible given the circumstances.



2016 Photograph of the collapsed building

Enforcement Ref: 17/00144/ENF

Site Address: Willow Tree Farm, Eagle Road, Spalford, Newark On Trent, NG23 7HA

Alleged Breach: Unauthorised storage of large number of cars in breach of a planning condition (09/00920/FUL)

Action to Date: Breach of Condition Notice (BCN) issued – prosecution proceedings taken.

Background

The case was originally investigated under application reference 15/00302/ENF. This related to the alleged unauthorised use of land for the storage of 300+ cars on a paddock adj to Willow Tree Farm (WTF) but being leased by the owners of WTF.

Upon resolving 15/00302/ENF it was noted that there was a significant number of cars being stored on WTF itself. The land benefits from planning permission granted on 18th February 2010 (reference 09/00920/FUL) for "Change from agricultural to valeting and storage (Retrospective)". A permission that was granted retrospectively as the use had already commenced without planning permission. The permission is subject to 1 condition that specifies the following;

"Unless otherwise agreed in writing by the Local Planning Authority, this permission shall be read in accordance with the following plans:-

Site location plan received 23rd November 2009

Block Plan received 7th September 2009

The 'Block Plan' referred to in the condition clearly shows parking for 25 vehicles only to the east of the existing building. I initially inspected the land in question in February 2017 and counted over 200 cars on the land.

On the 5th May 2017 I inspected the site again and recorded that there was significantly more cars parked on the land than permitted by planning permission 09/00920/FUL.

An application was received on 4th May 2017, reference 17/00852/FUL. The application description is "Application for the removal/variation of condition 1 attached to application 09/00920/FUL; Change from agricultural to valeting and storage (Retrospective)". The information submitted within the application details that the changes will account for an extra 75 cars stored at the site (40 for the applicants 'personal' use).

Application ref. 17/00852/FUL was refused by the local planning authority on 25th September 2017. The reasons given for refusing the application were contained within the decision notice.

On the 25th September 2017 the Council issued a BCN that alleges a breach of condition:1 of planning permission 09/00920/FUL. The BCN requires the following actions to comply with the condition;

As the person responsible for the breach of condition specified in paragraph 4 of this notice, you are required to comply with the stated condition by taking the following steps:

- (1) Reduce the number of cars being stored on the land to no more than 25 vehicles and do not exceed this number. Ensure that any vehicles being stored on the 'land' are so arranged as to comply with the 'Block Plan received 7th September 2009' (included along with this Notice for reference) as part of planning permission 09/00920/FUL."

The time for compliance with the BCN is 120 days after the notice takes effect (25th October 2017). The date for final compliance was therefore 21st February 2018.

An appeal against the refusal of planning application 17/00852/FUL was dismissed on 4th June 2018. Following the dismissal of the appeal it would be necessary to comply with condition 01 of permission 09/00920/FUL and the BCN that was issued on 25th September 2017, by reducing the number of cars stored on the site to no more than 25.

As the land owner failed to comply with the requirements of the BCN the case was reported to Nottingham Magistrates Court in August 2019 and Mr Hodson was found guilty and fined.

In response to the court proceedings the land owner confirmed acceptance of the necessity to comply with the requirements of the BCN.

A site visit was arranged for 17.10.2019 where it was noted that the number of cars being stored had been reduced to less than the number permitted by the consent.

The breach of planning control has therefore been resolved and the enforcement case has now been closed.



September 2018



September 2018



October 2019

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 Richard Marshall on extension 5801, Chris Briggs on extension 5391, or planning@nsdc.info

Lisa Hughes
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