



**NEWARK &
SHERWOOD**
DISTRICT COUNCIL

*Castle House
Great North Road
Newark
NG24 1BY*

Tel: 01636 650000

www.newark-sherwooddc.gov.uk

Monday, 23 November 2020

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

Members of the Committee:

Councillor L Brazier
Councillor M Brock
Councillor R Crowe
Councillor Mrs L Dales
Councillor Mrs M Dobson
Councillor L Goff
Councillor Mrs R Holloway

Councillor Mrs P Rainbow
Councillor Mrs S Saddington
Councillor M Skinner
Councillor T Smith
Councillor K Walker
Councillor Mrs Y Woodhead

MEETING: Planning Committee

DATE: Tuesday, 1 December 2020 at 2.00 pm

**VENUE: Broadcast from the 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. Attendance at this meeting and public access will be by remote means due to the Covid-19 Pandemic. Further details to enable remote access will be forwarded to all parties prior to commencement of the meeting.

**If you have any queries please contact Catharine Saxton on
catharine.saxton@newarksherwooddc.gov.uk.**

AGENDA

Page Nos.

1. Apologies for Absence

Remote Meeting Details

This meeting will be held in a remote manner in accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020.

The meeting will be live streamed on the Council's social media platforms to enable access for the Press and Public.

2. Declarations of Interest by Members and Officers
3. Declaration of any Intentions to Record the Meeting
4. Minutes of the meeting held on 3 November 2020 4 - 16

Part 1 - Items for Decision

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6. Site Adjacent Goldcrest Lane and Skylark Way, Clipstone 20/00772/FUL 20 - 40
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Part 2 - Items for Information

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10. Appeals Lodged 78 - 80
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Part 4 - Exempt and Confidential Items

12. Exclusion of the Press and Public

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

NEWARK AND SHERWOOD DISTRICT COUNCIL

Minutes of the Meeting of the **Planning Committee** Broadcast from the Civic Suite, Castle House, Great North Road, Newark NG24 1BY on Tuesday, 3 November 2020 at 2.00 pm.

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

Councillor M Brock, Councillor R Crowe, Councillor Mrs L Dales, Councillor L Goff, Councillor Mrs R Holloway, Councillor Mrs P Rainbow, Councillor Mrs S Saddington, Councillor M Skinner, Councillor K Walker and Councillor Mrs Y Woodhead

ALSO IN ATTENDANCE: Councillor T Wendels

APOLOGIES FOR ABSENCE: Councillor L Brazier (Committee Member), Councillor Mrs M Dobson (Committee Member) and Councillor T Smith (Committee Member)

262 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

Councillor R Crowe declared a personal interest in Agenda Item No. 6 – Grove Bungalows, Barnby Road, Newark (20/01720/OUTM), as the application was considered by Newark Town Council's Planning Committee, which he was present when considered. He stated that he would not take part in the debate or vote regarding this item.

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

Councillor Mrs P Rainbow declared a personal interest in Agenda Item No. 9 – Land Rear of 49 & 49A The Ropewalk, Southwell (20/01422/FUL), as her husband had previously tried to purchase that land.

Councillor Mrs R Holloway declared a personal interest in Agenda Item No. 7 – Field Reference Number 7108 Eakring Road, Bilsthorpe (20/00873/FULM), as this was considered by Bilsthorpe Parish Council, Councillor Mrs Holloway however took no part in the vote at Parish Council level.

263 DECLARATION OF ANY INTENTIONS TO RECORD THE MEETING

The Chairman informed the Committee that the Council was undertaking an audio recording of the meeting which was to be webcast.

264 MINUTES OF THE MEETING HELD ON 6 OCTOBER 2020

AGREED that the minutes of the meeting held on 6 October 2020 were approved as a correct record of the meeting and signed by the Chairman.

The Chairman informed the Planning Committee of an additional urgent report entitled – Land at New Lane, Blidworth (20/00475/FUL), which would be taken after

Agenda Item 14 – Temporary Structures.

265 FIELD AT GREAT NORTH ROAD, FERNWOOD- 20/01177/FULM

The Committee considered the report of the Business Manager – Planning Development, which sought full planning permission for a proposed single petrol filling station forecourt building with associated drive thru, drive thru kiosk, 6no car pump islands, canopy, HGV fueling, dedicated parking and landscaping.

Members considered the presentation from the Business Manager - Planning Development, which included photographs and plans of the proposed development.

A schedule of communication was tabled at the meeting which detailed correspondence received after the Agenda was published from the following: Nottinghamshire County Council Highways and the Planning Case Officer.

The Business Manager – Planning Development informed Members of a suggested amendment to Condition 2 as follows:

Condition 2 - Report on Electric Vehicle Charging Provision dated June 2020.

Clarification was sought regarding the height of the fence around the site. The Business Manager – Planning Development confirmed that to her knowledge there wasn't a specific height, however the height of a fence was usually 1.8 metres, which could be included within the conditions if required if Members were minded to approve the application.

Members considered the application and found no valid reasons for refusal.

AGREED (with 10 votes For and 2 votes Against) that full planning permission be approved subject to the following:

- (a) conditions and reasons contained within the report, with the amendment as in the above minute to Condition 2 and the additional condition regarding the specified height of the fence being 1.8 metres if required; and
- (b) a Section 106 agreement securing off-site highways works and the road safety audit required by Highways England.

266 GROVE BUNGALOW BARNBY ROAD NEWARK ON TRENT - 20/01720/OUTM

The Committee considered the report of the Business Manager – Planning Development, which sought outline planning permission for a residential development of up to 17 no. new dwellings following the removal of Grove Bungalow and existing outbuildings. This was a resubmission of Application No. 19/02158/OUTM.

Members considered the presentation from the Senior Planning Officer, which included photographs and plans of the proposed development.

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

The Senior Planning Officer informed Members of the suggested amendment to Recommendation B and an informative to the applicant regarding tandem parking as contained within the Schedule of Communication.

Members considered the application and felt that the reduction of two units from 19 dwellings to 17 was not significant and felt that the road network was not sufficient.

(Having declared a Personal Interest Councillor R Crowe took no part in the debate or vote).

A vote was taken and lost to approve outline planning permission with 5 votes For and 6 Votes Against.

AGREED (with 10 votes For and 1 Abstention) that contrary to Officer recommendation outline planning permission be refused on the following grounds:

- (i) It has not been demonstrated that the maximum quantum of development proposed would be in keeping with the character or density of development in the surrounding area. As such, the proposal was considered to represent over intensive development of the site and would lead to a cramped development compared with surrounding plot sizes with a consequential detrimental impact on the visual amenity and character of the area. Furthermore it was considered that the cramped nature of development does not minimise the loss of trees/hedgerows; and
- (ii) Failure to secure an appropriate drainage solution for the proposed development and lack of contributions as set out below.

Affordable Housing	30% on site (5 units in total; 3 x 2 bed affordable rent and 2 x 3 bed shared ownership)
Bus Stop Infrastructure	£13,000 for 2 new bus stops on Barnby Road
Community Facilities	£1,384.07 per dwelling (£23,529.19)
Children’s Play Space	£927.26 per dwelling (£15,763.42)
SUDS/drainage features	To be maintained for the lifetime of the development and

	that drainage strategy be implemented on third party land (with relevant land owners joining in) prior to any other development being carried out on the site
Monitoring contributions for all contributions will also be sought along with appropriate standard triggers for all	As per SPD

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

Councillor	Vote
R. Blaney	For
L. Brazier	Apology for absence
M. Brock	For
R. Crowe	Took no part in the vote
Mrs L. Dales	For
Mrs M. Dobson	Apology for absence
L. Goff	For
Mrs R. Holloway	Abstention
Mrs P. Rainbow	For
Mrs S. Saddington	For
M. Skinner	For
T. Smith	Apology for absence
I. Walker	For
K. Walker	For
Mrs Y. Woodhead	For

267 FIELD REFERENCE NUMBER 7108 EAKRING ROAD BILSTHORPE - 20/00873/FULM

The Committee considered the report of the Business Manager – Planning Development, which sought planning permission for a residential development of 103 dwellings and associated access and infrastructure.

Members considered the presentation from the Business Manager - Planning Development, which included photographs and plans of the proposed development.

A schedule of communication was tabled at the meeting which detailed correspondence received after the Agenda was published from the Dlp Planning on behalf of the applicant.

Members considered the application and the number of large developments which were being considered within Bilsthorpe were commented upon. Three large applications were being submitted, this one in the North, one in the south and one in the west, which had a combined increase in housing of 28% within the village. Two of the developments would be constructed at the same time which would cause problems for residents with increase traffic levels and the loss of open green space. Bilsthorpe had currently a significant amount of traffic travelling through the village to

access the recycling centre. The village was also used as a rat run at busy times. Bilsthorpe Parish Council had also requested a level crossing be included within the plans, however that had not been addressed. On the positive side a significant amount of money had been secured through the Section 106 legal agreement, which was reported to have a significant impact for the village hall improvements project and the play parks. It was further commented that although the land had been included as allocated land, the indication was for seventy-five dwellings, consent had been for eighty-five, however the developer had come back with a proposal for one hundred and three dwellings. It was suggested that planning permission could be refused on the grounds that the proposal does not manage the transition in the built up area of Bilsthorpe as required within the Council's Allocation document.

A vote was taken and lost to approve planning permission, with 4 votes For and 8 votes Against.

AGREED (with 9 votes For and 3 votes Against) that contrary to Officer recommendation, full planning permission be refused on the grounds that the number of units as proposed does not manage the transition in the built up area of Bilsthorpe as required in the Council's Allocation document and the issues of tandem parking, number of units, housing mix/design forms the reasons for refusal.

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

Councillor	Vote
R. Blaney	For
L. Brazier	Apology for absence
M. Brock	For
R. Crowe	Against
Mrs L. Dales	For
Mrs M. Dobson	Apology for absence
L. Goff	For
Mrs R. Holloway	For
Mrs P. Rainbow	Against
Mrs S. Saddington	For
M. Skinner	For
T. Smith	Apology for absence
I. Walker	For
K. Walker	Against
Mrs Y. Woodhead	For

268 LAND OFF MAIN STREET BALDERTON - 20/01405/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought material change of use of land for stationing of caravans for residential occupation with associated development (new access, hard standing, utility block). The application was part retrospective.

Members considered the presentation from the Senior Planning Officer, which

included photographs and plans of the proposed development.

A schedule of communication was tabled at the meeting which detailed correspondence received after the Agenda was published from the following: the Agent; Nottinghamshire County Council Highways Authority; and Planning Case Officer.

The Senior Planning Officer informed the Committee of the suggested additional amendments to the recommendation, should Members be minded to approve the application which included an amendment to Condition 6, as contained with the schedule of communications and as follows:

1. With regard to recommendation b), given the limited timescale set out in the recommendation, it is considered that a period of 6 months to complete the S106 is too long and this should be reduced to 3 months and a requirement for all the works to be completed within 3 months of the date of the permission has been added. To provide additional flexibility, the agreement with the Chair, Vice-Chair and Business Manager has also been added to recommendation b), so that it now reads as follows:-

“the completion of a section 106 legal agreement within **3** months of the date of this Planning Committee (failure to do so would result in a refusal on the grounds that the scheme fails to secure a safe vehicular and pedestrian access to/from the site **unless otherwise agreed with the Chair, Vice Chair and Business Manager - Planning Development**) to secure two footways either side of Hollowdyke Lane, to secure details of the width, position, radii and construction of the access and to secure a bound material for the access for a distance of 5m into the site **and for all agreed works to be completed within 3 months of the date of the permission, unless otherwise agreed in writing with the Chair, Vice-Chair and Business Manager - Planning Development.**”

2. Following the completion of the S106 requiring highway details to be secured, an additional condition be imposed to limit the existing informal access in the south-west corner of the site for pedestrian use only, the precise wording of which shall be agreed between the Chair, Vice-Chair and Business Manager – Planning Development.
3. To accord with the above timescales, amend condition 11 on the agenda to read “Within **three** months of the date of this permission”.

The imposition of an additional condition as follows:

“Notwithstanding the hedgerow details submitted and within one month of the date of this permission, a revised soft landscaping scheme shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved in accordance with Condition 6. These details shall include: full details of every tree and hedge to be planted (including its proposed 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.

Reason: In the interests of visual amenity and biodiversity.”

Councillor Mrs L Hurst on behalf of Balderton Parish Council spoke against the application, in accordance with the views of Balderton Parish Council, as contained within the report.

Councillor J Lee, Local Ward Member (Balderton North & Coddington) spoke against the application on the grounds of health and wellbeing for the four children which live on site as the land and noise levels were inappropriate for a young family. He suggested that given the current pandemic a one year temporary permission should be granted to allow them time to relocate.

Members considered the application and it was commented that the application should be approved given that there was not enough Gypsy Travellers sites in the Newark and Sherwood District. Other Members commented that the site was not suitable on health grounds for this family to settle upon. It was further stated that this site had been approved on appeal for flats, the independent planning inspectorate had considered this site acceptable for habitation. The family were already living on the site with the noise issue.

AGREED (with 8 votes For, 3 votes Against and 1 Abstention) that planning permission is approved for a temporary period of 3 years subject to

- (a) the conditions and reasons contained within the report and additional amendment as contained within the above minute and schedule of communication;
- (b) the completion of a section 106 legal agreement within 3 months of the date of this Planning Committee (failure to do so would result in a refusal on the grounds that the scheme fails to secure a safe vehicular and pedestrian access to/from the site unless otherwise agreed with the Planning Committee Chairman, Vice-Chairman and Business Manager - Planning Development) to secure two footways either side of Hollowdyke Lane, to secure details of the width, position, radii and construction of the access and to secure a bound material for the access for a distance of 5m into the site and for all agreed works to be completed within 3 months of the date of the permission, unless otherwise agreed in writing with the Planning Committee Chairman, Vice-Chairman and Business Manager - Planning Development;
- (c) an additional condition to those agreed under (a) to limit the existing informal access in the south-west corner of the site for pedestrian use only, the precise wording of which shall be agreed between the Planning Committee Chairman, Vice-Chair and Business Manager – Planning Development; and
- (d) to accord with the above timescales, amend condition 11 on the agenda to read “Within three months of the date of this permission”.

269 LAND AT REAR OF 49 & 49A THE ROPEWALK, SOUTHWELL - 20/01422/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought planning permission for the erection of two, two storey dwellings (Scheme C).

Members considered the presentation from the Business Manager - Planning Development, which included photographs and plans of the proposed development.

A schedule of communication was tabled at the meeting which detailed correspondence received after the Agenda was published from the following: Neighbouring parties; Case Officer; the Agent.

The Planning Case Officer had provided an amendment to Conditions 2 and 3 as contained within the Schedule of Communications as follows:

Condition 2

The development hereby permitted shall not be carried out except in complete accordance with approved proposed plans reference;

- Scheme C Site Plan – C 02B;
- Scheme C Plots 1 Elevations – C 05B;
- Scheme C Plots 1 and 2 Garages – C 03;
- Scheme C Plot 1 Plans – C 06B;
- ~~Scheme C Plot 2 Elevations – C 07B;~~
- Scheme C Plot 2 Plans – C 08B;
- Scheme C Cross Section – C 04B;

Reason: So as to define this permission.

Condition 3

Notwithstanding the **detail shown on plan reference Scheme C Plot 2 Elevations – C 07B**, ~~approved plans referred to the previous condition the first floor full height window and Juliette balcony on the south eastern side elevation of Plot 2 as shown on Scheme C Plot 2 Elevations – C 07B, is not approved.~~ **prior** to the occupation of this plot, revised window details shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to occupation and thereafter retained for the lifetime of the development. For the avoidance of doubt, any first floor windows on the south eastern side elevation of Plot 2 shall be modest in size and obscurely glazed to level 3 or higher on the Pilkington scale of privacy or equivalent.

Reason: To protect neighbouring amenity.

Members considered the application and commented that the two dwellings were very large having a footprint of 186 sq metres and were contemporary and different in design. They felt that the dwellings would dominate and be detrimental to the street scene. Flooding was also of concern as large amounts of flood water had travelled down the Ropewalk which was adjacent to this site.

(Having declared a Personal Interest Councillor Mrs P Rainbow took no part in the debate or vote. Councillor M Skinner was absent when this item was considered).

AGREED (with 9 votes For and 1 Abstention) that full planning permission be approved subject to the conditions contained within the report with the amendments to Conditions 2 and 3 as in the above minute.

270 LAND REAR OF THE VINERIES, LOWER KIRKLINGTON ROAD, SOUTHWELL - 20/01190/OUTM

The Committee considered the report of the Business Manager – Planning Development, which sought outline planning permission for forty-five dwellings.

Members considered the presentation from the Senior Planning Officer, which included photographs and plans of the proposed development.

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

Members considered the application and it was commented that as this was an allocated site Members could only make objection regarding the detail. Concerns were raised regarding the site having the ability to urbanise the gateway into Southwell. The three arm roundabout was questioned whether it would be safe when another site in close proximity to this one would be developed with one-hundred further houses. It was suggested that the access for this site would have been better achieved from Kirklington Road, in order to alleviate the need for the roundabout. Drainage was reported as an issue within this area and the surface water runoff into Springfield Dyke, which was not maintained. The surface water also ran through the garden of a private property on Springfield Road which also raised concern. A pumping station was suggested as a solution for the drainage issues raised which was not included on the plan. It was suggested that the application be deferred in order for the balancing pond to be located in a different place and access to be reconsidered.

(Councillor M Skinner did not take part in the vote as he was not present for the duration of the presentation).

AGREED (with 8 votes For, 1 vote Against and 2 Abstentions) that:

- (a) outline planning permission be approved subject to the conditions contained within the report; and
- (b) the execution of a legal agreement to secure the contributions set out in the table within the report.

271 COSY COT, CLIFTON LANE, THORNEY - 20/01280/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought full planning permission for the demolition of the existing dwelling and the erection of a replacement dwelling with associated works.

Members considered the presentation from the Business Manager - Planning Development, which included photographs and plans of the proposed development.

Members considered the application acceptable subject to the removal of Permitted Development Rights, Class A – extensions to dwellings.

AGREED (unanimously) that full planning permission be approved subject to the the conditions contained within the report and the removal of Permitted Development Rights, Class A – extensions to dwellings.

In accordance with Rule No. 30.1, the Chairman indicated that the time limit of three hours had expired and a motion was proposed and seconded to continue the meeting.

AGREED (unanimously) that the meeting continue.

272 17 GUNTHORPE ROAD, LOWDHAM - 20/00889/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought planning permission for the demolition of a dwelling and erection of a replacement dwelling and detached garage/workshop.

Members considered the presentation from the Business Manager - Planning Development, which included photographs and plans of the proposed development.

Councillor Emma Wilson on behalf of Lowdham Parish Council spoke against the application, in accordance with the views of Lowdham Parish Council, as contained within the report.

Councillor T Wendels – Local Ward Member (Lowdham) spoke against the application on the grounds of flooding, including the most recent flooding in February 2020 were ninety properties flooded. The Environment Agency’s objection was read out to the Committee, as contained within the report which made it clear that the proposed application was not acceptable. The two storey proposed dwelling had a footprint which was double that of the current property.

Members considered the application and it was commented that no further development should be undertaken given the impact in surface water drainage that this may cause to surrounding properties in a flood area such as this. Lowdham Parish Council had indicated that a flood defence scheme was being undertaken and until that had been concluded no further developments should be approved.

The Business Manager – Planning Development confirmed that if this was an application for a new dwelling, this application would be refused based on the advice of the Environment Agency (EA). The risk to people’s lives as commented by the EA was considered to be not relevant as the householder could take refuge on the first floor. The applicant could extend the ground floor footprint through permitted development rights and the floor levels would not be in the Local Planning Authority’s control. Whilst the hard surface area of the proposed dwelling would increase, in terms of flooding itself it would have little impact. It was suggested that if the Committee were minded to approve the application permitted development rights - Class A could be removed for extensions.

(As Councillor Mrs P Rainbow was not present for the entire presentation due to connection failure, she took no part in the debate or vote).

A vote was taken and lost to approve planning permission with the removal of

permitted development rights Class A, with 1 vote For and 10 votes Against.

AGREED (with 10 votes For and 1 votes Against) that contrary to Officer recommendation full planning permission be refused on the grounds of the advice of the Environment Agency response.

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

Councillor	Vote
R. Blaney	For
L. Brazier	Apology for absence
M. Brock	For
R. Crowe	For
Mrs L. Dales	For
Mrs M. Dobson	Apology for absence
L. Goff	For
Mrs R. Holloway	For
Mrs P. Rainbow	Did not vote
Mrs S. Saddington	For
M. Skinner	For
T. Smith	Apology for absence
I. Walker	For
K. Walker	Against
Mrs Y. Woodhead	For

273 LAND AT NORWELL ROAD CAUNTON - 20/01436/RMA

The Committee considered the report of the Business Manager – Planning Development, which sought reserved matters approval for the erection of one, four bed house with attached garage and one, four bed house with detached garage.

Members considered the presentation from the Senior Planning Officer, which included photographs and plans of the proposed development.

Members considered the application acceptable.

AGREED (unanimously) that reserved matters be approved subject to the conditions and reasons contained within the report.

274 TEMPORARY STRUCTURES

The Committee considered the report of the Director – Growth & Regeneration which sought Committee approval for the adoption of a policy for under enforcement of temporary structures requested as a result of the Covid – 19 pandemic.

The Planning Committee Chairman requested that this information be sent out to all Members of the Council as they would be aware of any temporary structures within their Wards and they could notify the Planning Development Business Unit.

AGREED (unanimously) that:

- (a) the approach to under enforcing breaches of the planning regulations for temporary structures for businesses for a temporary period up until the 31 March 2021 be approved;
- (b) after 31 March 2021, Officers will review the requests received or any temporary structure erected without a request to determine whether it is appropriate to allow the structure to remain for a longer period of time; and
- (c) this information be sent out to all Members of the Council as they would be aware of any temporary structures within their Wards and they could notify the Planning Development Business Unit

275 URGENT REPORT - LAND AT NEW LANE, BLIDWORTH - 20/00475/FUL

The Committee considered the report of the Business Manager – Planning Development, regarding Land at New Lane, Blidworth, which sought Committee approval to amend Condition 17 of the previously agreed conditions. The reason for the urgency of the report was in order for the decision to be issued without delay.

This application was presented at the 6 October 2020 Planning Committee. Members resolved to approve the application subject to conditions and an associated legal agreement. The decision was yet to be issued awaiting completion of the aforementioned legal agreement. Since the October meeting, colleagues at Nottinghamshire County Council as the Highways Authority had contacted Officers requesting a very slight change to the suggested condition 17. The change proposed was shown with strikethrough below:

Condition 17

Prior to the commencement of development, the Highway works as shown for indicative purposes only on drawing 190024/P/001/G shall be completed. For the avoidance of doubt, these works require a Traffic Regulation Order ~~to enable the priority workings~~, which will need to be agreed and fully implemented to the satisfaction of the Local Planning Authority in discussion with the Highways Authority. Reason: To provide adequate & safe access to the site.

It was reported that for absolute clarity, the overall off site highways works would not change. NCC Highways had simply pointed out that the condition was technically worded incorrectly as the ‘give way to oncoming vehicles’ was a red roundel sign giving an order, it was one of the few of this sort that does not require the making of a Traffic Regulation Order. The off-site highways works would still need to be implemented on site but they would be undertaken through the associated Section 278 Highways agreement. A traffic regulation order would still be required for the other off site highways works including the waiting restrictions (e.g. double yellow lines). The position on the ground would be identical to what Members considered at the October meeting.

AGREED (unanimously) that the revision to condition 17 be accepted and the

application be approved in line with the original Officer recommendation / late items schedule / associated legal agreement.

276 APPEALS LODGED

AGREED that the report be noted.

277 APPEALS DETERMINED

AGREED that the report be noted.

278 ENFORCEMENT REPORT- QUARTER TWO

The Committee considered the report of the Business Manager – Planning Development, which updated Members regarding the second quarter from 1 July 2020 to 30 September 2020. The report provided an update on cases where formal action had been taken and also included case studies which showed how the breaches of planning control had been resolved through negotiation.

The report presented a snap shot on the general volumes of cases received and dealt with and showed an overview of the enforcement activity compared to previous quarters.

AGREED (unanimously) that the report be noted.

279 PERFORMANCE REPORT- QUARTER TWO

The Committee considered the report of the Business Manager – Planning Development, which updated Members regarding the performance of the Planning Development Business Unit over the three months period July to September 2020. In order for the latest quarter's performance to be understood in context, in some areas data going back to January 2019 was provided. Members had been made aware of the performance of the Planning Enforcement team but had not been provided details on the performance of the rest of the department in terms of numbers and types of applications received, nor performance in relation to planning appeals.

The data contained within the report demonstrated that the performance had continued to be met and exceeded, notwithstanding the need to work remotely due to Covid-19. The recent recruitment into the team had and would enable further positive changes to be made to the service for the benefit of the District's communities and businesses.

AGREED (unanimously) that the content of the report be noted.

Meeting closed at 5.37 pm.

PLANNING COMMITTEE – 1 DECEMBER 2020

Application No:	19/02279/OUTM
Proposal:	Outline application for the change of use of an existing building from office use (Class B1(a)) to 17 Apartments (Class C3) (Phase 1) and erection of an apartment block for up to a maximum of 26 Apartments (Phase 2) (with all matters reserved)
Location:	Land At Latimer Way, Ollerton, Nottinghamshire
Applicant:	Mr Lawrence & McLaughlin
Agent:	Jackson Design Associates - Mr Jason Wright
Registered:	20.01.2020 Target Date: 20.04.2020
	Extension of Time sought until 31.12.2020
Link to Planning Application File:	https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=Q2Z62HLBMW400

Members will recall that the above application was presented at the committee meeting of 4th August 2020. Members resolved to approve the application subject to conditions and an associated legal agreement. The decision is yet to be issued awaiting completion of the aforementioned legal agreement.

Since the August meeting, it has been identified that the red line on the submitted Site Location Plan does not accord with the official Title Plan for the site resulting in a requirement to amend the Site Location Plan as indicated below with the blue line:



This amendment results in a slight change to the suggested condition 04. The change proposed is as follows (deleted text shown with a strikethrough and new text shown in bold):

04

The development hereby permitted authorises the conversion of Prospect House as identified on the ~~Proposed Site Plan (19 / 2242 / (00)A/003 Rev. B)~~ **Proposed Site Plan (19 / 2242 / (00)A/003 Rev. C** to accommodate no more than 17 residential units and the erection of no more than 26 residential units within Phase 2 of the site as demarcated on the ~~Amended Proposed Phasing Plan (19 / 2242 / (00)A/004 Rev. A)~~ **Amended Proposed Phasing Plan (19 / 2242 / (00)A/004 Rev. B**.

Reason: To define the planning permission.

For absolute clarity, the assessment of the application overall would not change. As can be seen from the annotated plan above, the slight increase in the boundary at one side is off set by the decrease at the other which overall does not materially affect the assessment of the proposal. Other than this slight alteration, the proposal would be identical to what Members considered and resolved to approve at the August meeting.

RECOMMENDATION

That Members accept the revision to Condition 04 and the application be approved otherwise in line with the original Officer recommendation / late items schedule / associated legal agreement.

BACKGROUND PAPERS

Application case file and August Committee Report as per the link at top of this report.

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

Lisa Hughes
Business Manager – Planning Development

Committee Plan - 19/02279/OUTM



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PLANNING COMMITTEE – 1 DECEMBER 2020

Application No:	20/00772/FUL	
Proposal:	Proposed residential development of 9 no. bungalows.	
Location:	Site Adjacent, Goldcrest Lane And Skylark Way, Clipstone NG21 9GH	
Applicant:	Beaver Homes (Mansfield) Ltd	
Agent:	Peter Dimberline Ltd	
Registered:	21 May 2020	Target Date: 20.08.2020 EOT: 02.12.2020
Website Link:	https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QABTUBLBHAD00	

The Business Manager, Planning Development, as an authorised Officer has referred the application to Planning Committee for determination as the specifics of the application warrant determination by the Planning Committee. Cllr Brown has also requested that the application be called in for determination by Planning Committee ‘due to over development and the loss of land for early years project and being against the master plan and the loss of 106 funding for early start program which is desperately needed in this area’.

The Site

The 0.3ha site (excluding the highway) is situated to the north of the settlement of Clipstone within part of a larger area allocated as a ‘Mixed Use Allocation Including Housing (Mu PP)’ with planning permission in the Allocations and Development Plan Document (DPD). It forms part of a larger site which originally achieved outline planning permission for development of up to 420 dwellings, B1/employment land and associated community landscaping, open space and access roads (08/01905/OUTM) on the overall Mixed Use Allocation comprising 18.2 hectares of land granted in November 2009. The site has been subsequently parceled into smaller development areas, which have been subject of separate reserved matters applications and consents.

It comprises a roughly rectangular shaped field accessed off Goldcrest Lane which leads north of the roundabout serving Cavendish Way. The site appears to slope very gradually upwards in a south to north direction and is currently surrounded by close-boarded fencing.

A housing development by Taylor Wimpey comprising 188 houses is now complete on land to the east of the site (planning application number 13/01271/FULM). Further housing development by Persimmon comprising 92 dwellings is also under construction/recently completed to the north and west of the site (14/01308/FULM).

A planning application for a proposed local centre including retail units, car parking, service yard and new site entrance was approved under planning application number 19/00490/FUL in May 2019 on land immediately to the south of the site. A Co Op store occupies the largest unit and is now open to the public and one of the two smaller unit's looks like it is ready to be opened as a hairdressers.

Relevant Planning History

Relating to site:

12/00965/RMAM Reserved matters application on 5.8 hectares of the 18.2 hectare consented site for the erection of 201 dwellings and community facilities for the original landowner - Approved 8 February 2013.

08/01905/OUTM Outline planning application for the erection of up to 420 residential units. 1 ha of B1 office/employment uses and associated community facilities, landscaping, open space and access roads (overall site area of 18.2 hectares) - Approved 05 November 2009 subject to a legal agreement for developer contributions relating to 30% affordable housing, on-site open space, community facilities, integrated transport contribution, education contribution, off-site sports provision and buffer zone planting. A Section 106 Agreement accompanied the application (which was subsequently amended in Feb 2013) securing a number of contributions including the provision of on-site community facilities (children's nursery/retail) required to be provided 5 years from occupation of 100th dwelling or upon occupation of the 301st dwelling.

02/02296/RMAM Proposed new B1, B2 and B8 commercial development – allowed at Appeal 22.10.2003

02/02293/OUTM Variation of condition 1 from permission 98/50350/OUT relating to the time limit for submission of a reserved matters application – permission 07.03.2003

01/01403/RMA Proposed infrastructure and structural landscaping for B1, B2 and B8 development – permission 15.06.2006

98/50350/OUT Residential development (340 dwellings) industrial development and access – permission 29.12.1999

93/50350/OUT Residential development (340 dwellings) industrial development and access – permission 19.01.1995

The Proposal

Full planning permission is sought for the erection of nine bungalows. Six of the bungalows would be 2-bed and three would be 3-bed.

The new buildings would be located around a cul-de-sac layout with off street parking provided to the side or adjacent to each dwelling. The majority of the dwellings would front onto Goldcrest Lane or Skylark Way with the remainder fronting the new cul-de-sac. A refuse bin area for these plots would be provided adjacent to the cul-de-sac entrance. The existing substation located in the north corner of the site would be retained.

The plans have been amended during the lifetime of the application to reduce the number of bungalows proposed from 10 to 9. This is so that more convenient off street parking immediately adjacent to each bungalow would be provided (as opposed to detached and to the rear) and to reposition dwellings close to the Co-Op to overcome the Environmental Health comments relating to potential adverse noise levels within the gardens.

Proposed materials would comprise a mix of facing brickwork/render/stone/cladding/timber boarding and grey concrete roof tiles.

Documents considered by this application comprise:

- Design and Access Statement and Appendices
- Location Plan (amended plan received 12.08.2020)
- 2020 01 01 Rev C Proposed Site Layout (amended plan received 29.10.2020)
- 2020 01 02 Existing Topographical Site Layout
- 2020 01 03 Dwelling Type A and AH
- 2020 01 04 Dwelling Type B and BH
- 2020 01 05 Dwelling Type C and CH
- 2020 01 06 Dwelling Type D and DH
- Noise Impact Assessment R20.1417-2-AG (revised document received 03.09.2020)
- Letter from Boyer Planning (received 02.10.2020)

Departure/Public Advertisement Procedure

Occupiers of 40 properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.

Planning Policy Framework

The Development Plan

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

- Spatial Policy 1 - Settlement Hierarchy
- Spatial Policy 2 - Spatial Distribution of Growth
- Spatial Policy 6 - Infrastructure for Growth
- Spatial Policy 7 - Sustainable Transport
- Spatial Policy 8 – Protecting and Promoting Leisure and Community Facilities
- Spatial Policy 9 - Site Allocations
- Core Policy 1 - Affordable Housing Provision
- Core Policy 3 - Housing Mix, Type and Density
- Core Policy 9 - Sustainable Design
- Core Policy 10 – Climate Change
- Core Policy 12 – Biodiversity and Green Infrastructure
- Core Policy 13 – Landscape Character
- MFAP 1 Mansfield Fringe Area

Allocations & Development Management DPD (adopted July 2013)

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

- Policy DM2 - Development on Allocated Sites
- Policy DM3 - Developer Contributions
- Policy DM5 – Design
- Policy DM7 - Biodiversity and Green Infrastructure
- Policy DM12 - Presumption in Favour of Sustainable Development

Other Material Planning Considerations

National Planning Policy Framework 2019

National Planning Practice Guidance

Newark and Sherwood Developer Contributions and Planning Obligations SPD (December 2013)

Consultations

Clipstone Parish Council – The council is taking a neutral stance: Clipstone Parish Council acknowledges that the amended plans address the Council's previous concerns about parking. The Council, however, asks for it to be noted that the site was originally earmarked for a childcare setting. Whilst Nottinghamshire County Council's education department estimates that another formal Early Years provision is no longer required in Clipstone, the Council feels that other Early Years and child activity provision is still needed. Such provision could be provided in Multi-use community facilities like a community hub. S106 provision should be put in place to aid the development of a community hub.

Natural England – no comments.

NCC Highways Authority – There are no highway objections to the proposed scheme subject to conditions relating to the provision of dropped kerbs, provision of an adequate visibility splay at the junction with Skylark Way, driveways being surfaced in a hard-bound material and constructed to prevent the discharge of surface water onto the public highway.

NCC Planning Policy – Make a number of general comments and point out the Waste Local Plan which needs to be taken into account. They raise no objections from a mineral's perspective and suggest that the application needs to be accompanied by a waste audit, which can be secured by condition. They confirm there are no definitive rights of way recorded over the proposed development site. They note that the site is within the non-designated heritage asset that is Clipstone deer park. No strategic transport observations are made and no transport and travel services contributions are requested. As there is sufficient capacity to accommodate the additional primary aged pupils projected to arise from the proposed development no planning obligations for primary education is being sought and secondary education would be covered by the CIL mechanism.

NCC Early Years Officer – Population Estimates – There are 8.6% fewer children in the 0-1 age group in the last year. This indicates that the numbers of children in each age group is declining year on year. Population projections show that the birth rate is declining in Nottinghamshire. For example, there are currently 18,610 children aged 3 and 4 years and eligible for a funded nursery place. By 2022 there will be 17,207 (assuming migration in and out on County remains static).

Child Population Under Five – In April 2019, it was estimated that Nottinghamshire had a population under the age of 5 of approximately 45,000. Detailed population estimates are available from the Office of National Statistics.

Locality	0	1-year olds	2-year olds	3-year olds	4-year olds
Nottinghamshire	8,216	8,991	9,071	9,247	9,363
Newark and Sherwood	1,169	1,261	1,294	1,343	1,321

Nottinghamshire Childcare Supply – There are 1,138 Ofsted Registered Private, Voluntary and Independent (PVI) providers, including schools (June 19) delivering Childcare and Early Education across Nottinghamshire. All Childcare and Early Education providers are registered with Ofsted, and work towards the Early Years Foundation Stage (EYFS). The data below shows the number of providers registered to deliver Early Years Provision by District.

Early Years Registered Providers by district	Ashfield	Bassetlaw	Broxtowe	Gedling	Mansfield	Newark Sherwood	Rushcliffe	Total
Childminder	88	65	79	142	84	63	83	604
Day Nursery	23	18	26	21	25	27	37	177
Pre-school	8	12	12	18	3	12	24	89
School (EY)	35	49	30	35	33	42	34	258
Ind. School	0	2	1	2	1	2	2	10
TOTAL	154	146	148	218	146	146	180	1138

Data from Families Information Service also tells us that there are also 494 providers delivering some form of out of school provision – the greatest increase in provision in the last year (rising from 298 settings).

Childcare Sufficiency Assessment 2019

- According to our Assessment this summer, there are over 2,500 x 15 hour places for 2, 3 and 4 year old's vacant across the county. Only 5 areas reporting a deficit of places and the numbers are negligible.
- Providers are reporting some difficulty in seeking out children who are eligible for funded entitlements and our Hot Spot areas this year are based on community areas where there are children not accessing places but there are vacancies.

Newark and Sherwood District

- Newark and Sherwood district has one area (Bridge) which appears on the worst five ranking for take up of the extended entitlement three terms consecutively.
- Trent Villages area ranks third worst for take up of 2 year old places at 47%, but there were only 15 children eligible in the summer term, 8 of whom did not take up a place.
- In 2018 – 2019 there was a 95% take up of the universal entitlement for 3 and 4 year old's across the district and 73% take up for eligible 2 year old's, which is higher than the Nottinghamshire average.
- Four areas (Sherwood East and West, Balderton and Ollerton/Boughton) appear in the top ten localities for take up of 2 year old funded places.
- Newark and Sherwood ranks fourth for take up of supplementary funding;
- According to our Assessment this summer, there are 652 x 15-hour places for 2, 3 and 4 year old's vacant across the district. Taking into consideration this high level of vacancies across the district it is considered that there are sufficient places for all children to access their 2, 3 and 4 year entitlement in the Newark and Sherwood District.

Summary - Population projections indicate that the birth rate is dropping and by 2022, there will be about 1,400 less children needing and Early Education place in Nottinghamshire. In addition to this there are currently over 2,500 surplus 15 hour places (for 2, 3 and 4 year olds) reported across the Nottinghamshire County.

Early Childhood services are working with schools to increase awareness of the current Early Education in PVI settings and to prevent the over supply of places. Based upon the information presented in this document, there is no need for further provision in the Edwinstowe and Clipstone ward. As a local authority we would not want to see another provision opening which could potentially displace the existing provision within the area.

NCC Lead Local Flood Authority – As a general guide the following points are recommended for all developments:

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

NSDC Community Facilities Officer – No comments received albeit advised verbally that there is currently a current need within Clipstone to refurbish the Clipstone Welfare building.

NSDC Environmental Health Officer (Contamination) – No observations

NSDC Environmental Health Officer (Reactive) – Verbally confirmed no objection subject to conditions relating to the construction of a 2.5 metre high wall adjacent to Plot 5 to mitigate noise impacts from ventilation and extraction units located to the rear of the Co Op store, compliance with the window specifications set out in the submitted noise survey and the submission and approval of a construction management plan (confirmed at a site meeting which took place on 18.11.2020)

NSDC Parks and Amenities Officer - As a development of 9 dwellings this scheme would not ordinarily need to make provision for public open space in the form of provision for children and young people. I note that the development is a mix of 2 and 3 bedroom bungalows and accept that these may not be considered to be family dwellings. There are no supporting details around the type of market the bungalows are aimed at and I will thus leave it to the Planning Case Officer to decide whether a contribution is appropriate.

One letter of representation has been received from local residents/interested parties which highlights Condition 12 of 19/00490/FUL that has established the principle of additional extraction/plant. This isn't an objection, instead just neutral comment/observation.

Comments of the Business Manager

Principle of Development

Housing Development:

The National Planning Policy Framework promotes the principle of a presumption in favour of sustainable development and recognises that it is a duty under the Planning Acts for planning applications to be determined in accordance with the development plan.

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

The proposal site is located in Clipstone, a Service Centre central to delivering development in the Core Strategy (adopted 2019) under Spatial Policies 1 & 2. The site is also 'Mixed Use Allocation Including Housing (Mu PP)' in the Allocations and Development Plan Document (DPD). As such, the site is located in a sustainable location for new development which is acceptable in principle subject to an assessment of all site-specific considerations set out in detail below.

Legal Background:

The provision of community facilities (retail and children's nursery) on this land is the requirement of a S106 Agreement relating to the original outline planning permission on the wider Cavendish Park site (08/01905/OUTM). The two relevant legal agreements are AG833 and AG833a. It is noted that the application site relates to only part (just over half) of the site safeguarded by the S106 for the provision of community facilities. A Deed of Modification (DoM) in respect of the proposed Co Op and retail units on land immediately to the south of the site was agreed in association with application number 19/00490/FUL. This DoM effectively released the retail site from the existing obligations, and imposed new obligations to provide the Retail Units on the Retail Site (the land to the south of the application site).

However, the application site is still subject to the requirements of the original legal agreements and the requirement for the provision of a children's nursery on site is still relevant and expected given the obligations set out in legal agreement AG833a. The definition of the 'The Day Nursery Facility' is '*a traditionally constructed building with a floor space of not less than 150 square meters (or such lesser area as approved in writing by the Council)*' and '*a nursery run on a commercial basis providing all day nursery provision and if appropriate other day care for school age children if the operator of the facility chooses at his absolute discretion to make such provision*'.

AG833a states that 'Prior to the expiry of five years from the date of the first occupation of 100 Dwellings on the Site the Owner shall provide the Community Facilities on the Community Facilities Land'. The children's nursery would need to be provided in accordance with the S.106 within 5 years from occupation of 100th dwelling on the adjacent Taylor Wimpey development site to the east of the Persimmon homes site (application number 13/01271/FULM) for 188 dwellings. The first occupation of 100 Dwellings (on the Taylor Wimpey site) was 1st March 2016 as this is when the Council's Legal Team asked for an invoice to be raised for triggers hit at 100 Dwellings. Therefore, the 5 years expires on 28 February 2021 and the LPA would currently expect to see the remaining community facilities provision by then. A planning application would also to be submitted and approved before the community facilities on the remaining land could be delivered.

Loss/lack of delivery of community facilities:

The application proposes no community facilities on this land. This would be a clear breach of the existing S106 requirements for the wider Cavendish Park development and the merits of delivering the site for housing instead of delivering the community facilities therefore needs to be fully justified. A further variation to the legal agreement would also be required to effectively release the site from the legal requirement to provide a children's nursery.

As a private commercial nursery, the facility would only be of benefit to families with small children in the local area albeit it is likely that such a facility would operate with government funding to provide the possibility of free places to 2 and 3 year olds. A children's nursery does not fall within the definition of a community facility under the provisions of Spatial Policy 8. In addition, this policy relates to existing community facilities as opposed to community facilities secured by a S106 Agreement. However, the requirements of Spatial Policy 8 are still considered a useful tool to assist in determining the acceptability of the proposed variation. This states that the loss of existing community and leisure facilities will not be permitted unless it can be clearly demonstrated that:

- Its continued use as a community facility or service is no longer feasible, having had regard to appropriate marketing (over an appropriate period of time and at a price which reflects its use, condition and local market values), the demand for the use of the site or premises, its usability and the identification of a potential future occupier; or
- There is sufficient provision of such facilities in the area; or
- That sufficient alternative provision has been, or will be, made elsewhere which is equally accessible and of the same quality or better as the facility being lost.

The submitted Design and Access Statement states that 'a nursery in the locality would be an unfeasible proposition due to the costs of running the business rendering the profit margin unviable. The small nursery which would be created in accordance with S106 has been actively marketed with no interest being expressed. As such, this shows that is impracticable to deliver a small nursery on the site as the market interest has consistently been unforthcoming'.

I have not been provided with any precise details of the marketing undertaken. However, evidence has also been requested and submitted by the County Council's Early Years department (set out in full in the 'Consultations' section. This concludes that there is no need for further nursery provision in the Edwinstowe and Clipstone ward. Indeed, they state that they would not want to see another provision opening which could potentially displace the existing provision within the area.

As such, given there is already sufficient provision of children's nursery provision in the area, it is not considered necessary to retain the site for community purposes under the provisions of the existing S106 Agreement.

Variation of the existing S106 Agreement AG833 and AG833a:

Given the conclusion above, it is necessary for a variation to the original S.106 Agreement, as the proposal would not comply with its requirements. This also requires consideration as to whether it is appropriate to seek developer contributions on the development of 9 units.

Spatial Policy 6 'Infrastructure for Growth' and Policy DM3 'Developer Contributions and Planning Obligations' set out the approach for delivering the infrastructure necessary to support growth. The Developer Contributions and Planning Obligations Supplementary Planning Document (SPD) provides additional detail on the Council's policy for securing planning obligations from new developments. Contributions were originally secured in relation to affordable housing, open space including children's play areas, transport, education and community facilities (to account for the previous removal of village hall requirement on this land).

Whether it is necessary to secure additional contributions for these purposes has to be based on current need requirements as circumstances are likely to have changed since 2008. In this regard, there is currently no need identified for education or transport purposes (given the Consultation responses set out above). As the development is for 2 and 3 bed bungalows, whilst children may still live in these properties, I am aware that there have now been 3 children's play areas constructed on the wider Cavendish Park site in recent years and a specific need for any additional contributions towards these areas has not been identified nor justified. However, it is considered that a legitimate need for an affordable housing and community facilities contribution still exist.

As a standalone development of 9 dwellings, there would ordinarily be no need for the development to provide any contributions. During the lifetime of the application, the applicant has disputed the need to pay any added contributions for this reason. They have also submitted extracts of Counsel advice which appears to conclude that 'A court would very likely conclude that this would not give rise to a liability to pay affordable housing contributions under the original s.106'. However, I have not been provided with a full copy of this Counsel advice to ensure it relates to this proposal and all of the relevant facts of the case and I therefore give little weight to its conclusions on this basis.

Having sought advice from NDSC's legal advisor, they have advised the following:

- There is the absence of an affordable housing policy, which provides for the aggregation of areas of land for development when applying the threshold for the provision of affordable housing.
- However, when considering the three criteria drawn from the decision in R (Westminster City Council) v First Secretary of State and Brandlford Limited [2003] J.P.L 1066 (relating to ownership, whether the areas of land could be considered to be a single site for planning purposes, and whether the development should be treated as a single development), there is an arguable case to seek affordable housing on this site unless and until the site is in separate ownership.

The site could potentially be sold into separate ownership at any time. In addition, whilst a viability argument has not been presented in this case, this has been done on other development sites within the Cavendish Park area (in the same land ownership at the time) and the level of affordable housing contributions has been reduced as a consequence.

Having considered all of the above and given the proposal would result in the loss of community facilities land (albeit for a purpose that is not defined as a community facility under the provisions of Spatial Policy 8 nor for a purpose no longer needed), it would seem logical that an alternative greater contribution towards an off-site community facility is a matter that could potentially be weighed in the overall planning balance against the lack of affordable housing contributions in this case.

I am aware of a current need within Clipstone to improve the Clipstone Welfare building. Funding for Phase 1 of these works has been secured (as per a report agreed at Policy and Finance Committee on 24 September 2020), however I am aware that funding for subsequent phases is still required. Based on a development of 9 dwellings, the Applicant has agreed to pay a commuted sum of £13,841 plus indexation towards the refurbishment of Clipstone Welfare building. This is the amount calculated based on the community facilities contribution based on 9 dwellings as set out in the SPD.

In addition, given that the existing Section 106 agreement is binding on any successors in title, a variation to the agreement would be required before planning permission can be granted. Given that the proposal may mean that there are no further community facilities on this land, then the variation could also ensure that the existing community facilities contribution (approx. £36,000 already secured by the existing S106 in lieu of a village hall on site etc.) would also be put towards the Welfare building.

Overall, whilst I note that the community facilities sum secured would be less than a potential affordable housing contribution that could be secured, this would be subject to the Planning Inspectorate or even Courts agreeing this approach within which time, the land could be sold which could impact upon the legal advice set out above. The lack of affordable housing contributions is a negative factor to be weighed in the overall planning balance against the benefits of securing an additional community facilities contribution and any other benefits to the proposal as set out in the Conclusion.

Housing Mix, Type and Density

Core Policy 3 provides that development densities should normally be no lower than 30 dwellings per hectare net. Core Policy 3 also states that the LPA will seek to secure new housing which adequately addresses the housing need of the district, namely family housing of 3 bedrooms or more, smaller houses of 2 bedrooms or less and housing for the elderly and disabled population. It goes on to say that the LPA will secure an appropriate mix of housing types to reflect the local housing need.

The proposed development comprises a mix of 2 and 3-bed bungalows. The majority of the wider Cavendish Park development has delivered two storey family properties so this development is likely to meet a need for smaller dwellings and housing for the elderly and disabled population.

Overall, I have no concerns with regards to the density or mix of development as the proposal would contribute to the need for smaller units that is required in this district as acknowledged by Core Policy 3.

Impact on Character and Appearance of the Area

Core Policy 9 requires new development proposals to demonstrate a high standard of sustainable design that both protects and enhances the natural environment. Policy DM5 requires the local distinctiveness of the District's landscape and character of built form to be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development. The NPPF supports development that makes efficient use of land, taking into account a number of factors including the identified need for different types of housing and the importance of securing well-designed, attractive and healthy places.

The vacant site is currently enclosed by a 2-metre high close-boarded fence and contains grass and overgrown shrubs. It appears from aerial photos that this land may have been used previously as a construction compound in association with the wider development. The site is not particularly attractive arising mainly from its blank edges created by the fence. The removal of this fence and replacement with the active frontages of the proposed bungalows would result in a visual improvement to the appearance of the site.

The surrounding residential development is predominantly characterised by 2 storey terraced properties, with a mixture of 2/2.5 storey detached, semi-detached and terraced dwellings. The proposed bungalows due to their single storey nature would therefore be a contrast to the more typical house types in the area. However, it is not considered that this contrast would necessarily be detrimental to the character of the area given their smaller scale would make them less prominent in the street scene. Plot 1 (on entry into the cul-de-sac) would project forward of No 1 Nightingale Close, however given that its lower scale and partial screening by the proposed plots along the north edge of the side, it is not considered that this set forward would be overly incongruous in the street scene.

Levels details have also been submitted with the application. This shows that land would be levelled so that levels to the north and west of the site would be similar to adjacent land levels (with slight increases in parts) but the land containing bungalows accessed directly off Goldcrest Lane to the east of the site would raise upwards away from the road. The driveways would therefore be ramped and the bungalows would be raised. Given the slightly raised level of the Co Op store located immediately adjacent to the site, it is not considered this would result in any visual harm.

Overall, I am satisfied that the proposal would not result in a development which would be detrimental to the visual amenity or character of the area in accordance with Core Policy 9 of the Core Strategy and Policy DM5 of the DPD.

Impact on Ecology

Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM5 of the DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced. Paragraph 175 of the NPPF includes that opportunities to incorporate biodiversity in and around developments should be encouraged.

No ecology survey has been submitted with the application. However, I an Ecological Appraisal incorporating an Extended Phase I survey was carried out in January 2019 on the Co-op land immediately to the south of the site (application no. 19/00490/FUL). The findings of the appraisal identified that there are no designated ecological sites or protected species on site that would prevent development. Given the there is no tree or building removal proposed and the site appears to have been used in recent years as a construction compound, I do not consider it necessary to request an ecology survey relating specifically to this site albeit it is considered to appropriate to recommend that site clearance takes place outside of bird breeding season (in relation to shrub removal) which can be controlled by planning condition.

The site is within the 5km buffer zone of the Potential Special Protection Area (pSPA) relating specifically to the presence of woodlark and nightjar. It is a requirement for a Habitat Regulations Assessment (HRA) under Regulation 61 & 62 of the Conservation of Habitats and Species

Regulations 2017 to be undertaken. HRA is the process that competent authorities must undertake to consider whether a proposed development is likely to have significant effects on a European site designated for its nature conservation interest. HRA is often referred to as 'Appropriate Assessment' (AA) although the requirement for AA is first determined by an initial 'Screening' stage undertaken as part of the full HRA.

In relation to this issue, I consider the findings of the survey carried out on adjacent land to be relevant and this stated that *'the proposed site does not provide potential habitat for breeding woodlark Lullula arborea or nightjar Caprimulgus europaeus, which typically breed on heathland or within clear fell habitats within pine forests and clearings within mixed or deciduous woodlands. The development is not located within or directly adjacent to any identified core/important breeding area for these birds being located 1.4 km from the closest such areas at its closest point, is surrounded by broadly unsuitable habitat such as housing and arable land and is unlikely to be used as a foraging or other habitat. Furthermore, given the separation of the proposed site from these core/important areas of the pSPA, it is considered extremely unlikely that proposals would lead indirect impacts including an increase in bird predation as a result of domestic pets or pollution. As a result, there are no expected effects on either species as a result of the development'*.

The nature of the proposal differs from the nature of the development subject of this survey as this proposal could increase the population living in the area that could potentially travel to the more sensitive breeding areas. However, I consider that given the minor nature of the development and the fact that there are alternative parks within which the population are encouraged to visit in the vicinity e.g. Sherwood Pines, that the impact would be negligible. It is therefore determined that there are no likely significant effects to any European sites which would arise from the development. It is therefore not necessary to continue to undertake an AA.

Overall, I consider it unlikely that the proposed development would result in any adverse impact upon protected species in accordance with Policy DM7 of the DPD and Core Policy 12 of the Amended Core Strategy.

Impact on residential amenity

Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in amenity including overbearing impacts and loss of privacy upon neighbouring development. The NPPF promotes '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'.

Neighbouring dwellings

The site is immediately adjoined by residential properties to the west. The side of three two storey dwellings are located approx. 1 metre away from the application site. No 1 Nightingale Close would be located side on to Plot 1. Indeed the side elevation of No 1 would be located just over 1 metre away and run along almost the whole entirety of its rear garden area. The rear gardens of Plots 1-4 would measure 8 – 10 metres in length albeit the rear of the proposed gardens would straddle both open and built parts of these plots. These separation distances are considered to be at the cusp of acceptability in terms of creating an overbearing impact upon the rear of proposed Plots 1-4. However, given that none of the proposed rear garden areas would be fully enclosed by

two-storey high built form within 1 metre of the boundary, it is not considered that any adverse overbearing or overshadowing impact would result.

The first floor side windows in the side elevations of the existing dwellings facing the application site are small and do not serve main habitable room windows. There is a potential for views of the application site from some front and rear windows of the adjacent dwellings. However, these views are predominantly at right angles and oblique and therefore restricted to parts of the application site only. As such, it is not considered that any adverse overlooking or loss of privacy impacts would result.

It is not considered that the single story nature of the proposed bungalows would result in an adverse impact upon the existing dwellings located adjacent or close to the site.

Noise impacts from retail units

A Noise Impact Assessment has been submitted with the application to assess the impact of the noise from the ventilation and odour extraction equipment located to the rear of the retail units to the south. This assessment and the proposed plans were amended during the lifetime of the application to address issues raised by the Environmental Health Officer (to move the proposed dwellings further away). Even so, the assessment still shows an adverse impact of +5dB Excess over background noise when the ventilation and odour extraction of the other units is in operation with the Co-Op Plant during the Daytime, and +4dB below adverse impact for night time. The Environmental Health Officer was particularly concerned about the impact upon the dwelling closest to the equipment - Plot 5. The external noise levels at this property would be 51dB. BS8233 2014 guidance states that it is desirable for external amenity space such as gardens and patios to not exceed 50dB LAeq, with an upper guidance value of 55dB, acceptable in noisier environments.

Plot 5 contains no main habitable room windows in its south facing elevation and a 2.5 metre high acoustic fence has been erected along the boundary of the site with the retail units (a requirement of the retail units planning permission). The submitted assessment proposes additional mitigation in the form of trickle vents and an increased glazing specification to achieve the WHO noise guidelines for internal spaces for this plot. The Applicant has also agreed to erect a 2.5 metre high brick wall adjacent to the part of existing acoustic fence (closest to the equipment) which would further reduce noise levels. The Environmental Health Officer raises no objection to the application on the basis of the level of mitigation now proposed provided this is secured by planning condition.

Having carefully assessed the scheme it is considered that subject to conditions, the proposal would have no unacceptable impacts upon the amenity of future occupiers of the proposed dwellings or dwellings adjacent to the application site in accordance with the Policy DM5 of the Allocations and Development Management DPD.

Impact on Drainage

Policy DM5 and Core Policy 9 require that proposals pro-actively manage surface water and Core Policy 10 seeks to mitigate the impacts of climate change through ensuring that new development proposals taking into account the need to reduce the causes and impacts of climate change and flood risk. The site lies in Flood Zone 1 which is at lowest risk of fluvial flooding.

In relation to surface water flooding, the development would result in an increase in the amount of hardstanding on the site when compared to the existing situation albeit the area is not known to be at risk of surface water flooding. The application form states that both surface water and foul sewage would be disposed of by mains drains/sewer. The proposal would accord with Core Policy 9, Core Policy 10 of the Core Strategy and DM5 of the Allocations and Development Management DPD in this regard.

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.

The Highway Authority has been consulted on the proposals and have carefully assessed the number of on-site car parking spaces proposed together with the new junction that would be created on Skylark Way. The Highway Authority have concluded that, subject to conditions, all these matters are acceptable and would not result in any detrimental impact on highway safety.

It is therefore considered that the proposed development would not result in any significant parking issues or lead to a significant impact on highway safety subject to the approval of details reserved by condition in accordance with the requirements of Spatial Policy 7 of the Core Strategy and DM5 of the Allocations and Development Management DPD.

Other Issues

I note Nottinghamshire County Councils request for condition requiring a waste audit. However, given that waste material resulting from this site is likely to be relatively low, such a condition is not considered necessary in this instance.

Planning Balance and Conclusion

The site is located within in Clipstone and on a mixed-use allocation including Housing (Mu PP) with planning permission in the Allocations and Development Plan Document (DPD). The principle of residential development on this site is considered to be acceptable albeit subject to the consideration of the impact of the loss of land secured for children's nursery provision by an existing S106 attached to the wider development site. Following advice from Nottinghamshire County Council, it is agreed that there is no current need for an additional nursery given the existing provision in the area.

Whilst the application proposes no pro rata uplift in contributions towards affordable housing provision, it may not be possible to sustain the need for such a request based on the legal advice given. The Applicant has agreed to pay a contribution of £13,841 plus indexation through a variation of the existing S106 Agreement which would also include amended wording so that an existing community facilities contribution of £36,000 can also be spent towards the refurbishment of the Clipstone Welfare building. On balance, I therefore consider that the benefits to local community facilities provision would outweigh the lack of uplift in affordable housing contributions in this instance.

Impacts on visual and residential amenity and highway safety have also been weighed in the balance and overall the proposal is recommended for approval, subject to conditions and the

variation to the existing S106 legal agreement.

RECOMMENDATION

That planning permission is approved subject to:-

- (a) the conditions and reasons shown below; and**
- (b) a variation to the existing S106 legal agreement to remove the requirement to provide a children's nursery and to secure a commuted sum of £13,841 plus indexation and ensure the existing community facilities contributions are used towards the refurbishment of the Clipstone Welfare building.**

Conditions

01

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

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

02

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

- Location Plan (amended plan received 12.08.2020)
- 2020 01 01 Rev C Proposed Site Layout (amended plan received 29.10.2020)
- 2020 01 02 Existing Topographical Site Layout
- 2020 01 03 Dwelling Type A and AH
- 2020 01 04 Dwelling Type B and BH
- 2020 01 06 Dwelling Type DH

Reason: To define this permission and for the avoidance of doubt.

03

No development above damp proof course shall take place until details of the materials identified below have been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details.

All external facing materials
Bricks
Render/stone cladding/timber boarding
Roofing materials

Reason: In the interests of visual amenity.

04

Notwithstanding the submitted details, no part of the development shall be brought into use until details of all the boundary treatments proposed for the site including types, height, design and materials, have been submitted to and approved in writing by the local planning authority. The approved boundary treatment shall be implemented prior to the occupation of the dwellings and shall then be retained in full for a minimum period of 5 years.

Reason: In the interests of residential and visual amenity.

05

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:

- a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species.
- details of tree planting pits including associated irrigation measures, tree staking and guards, and structural cells.
- An implementation and phasing plan.
- All hard surfacing materials including parking areas and other vehicle and pedestrian circulation areas.
- Minor artefacts and structures, for example, furniture, refuse or other storage units, signs, lighting etc.
- proposed finished ground levels or contours.

Reason: In the interests of visual amenity and biodiversity.

06

All hard and soft landscape works shall be carried out in accordance with the approved implementation and phasing plan. The works shall be carried out before any part of the development is occupied or in accordance with the programme agreed with the Local Planning Authority. Any trees/shrubs which within a period of seven years from being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

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

07

Construction works shall not take place outside the following hours:

8am to 6pm Monday to Friday
8am to 1pm Saturday

And not at all on Sundays or bank or public holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

08

No development shall be commenced, including any site clearance, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved statement shall be adhered to throughout the construction period unless otherwise agreed in writing by the local planning authority. The Statement shall provide for:

- a. the parking of vehicles of site operatives and visitors;
- b. loading and unloading of plant and materials;
- c. storage of plant and materials used in constructing the development;
- d. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- e. wheel washing facilities;
- f. measures to control the emission of dust and dirt during construction;
- g. a scheme for recycling/disposing of waste resulting from demolition and construction works;
- h. hours of delivery;
- i. limits to the hours of operation of machinery.

Reason: In the interests of residential amenity.

09

No part of the development shall be commenced until plans showing the siting and design (including elevations and materials) of a 2.5 metre high brick wall to be erected along the south boundary of Plot 5, running parallel with the extent of the built footprint of the dwelling and linking up to its rear elevation has been submitted and approved in writing by the Local Planning Authority. The approved wall shall be implemented in full on site prior to the occupation of Plot 5 and shall thereafter be retained for the life time of the development.

Reason: in the interests of residential amenity and to reduce noise levels from the retail units to the south of the site to an acceptable level.

10

Plot 5 shall not be brought into use until its glazing has been installed in accordance with the specification requirements set out in paragraphs 5.8 and 6.9 of the Noise Impact Assessment (Dated 25.08.20 by Spire Environmental). For the avoidance of doubt, the glazing installed shall have a minimum Rw of 20 and the trickle ventilation shall have a minimum Dn,e,w of 25. Any subsequent replacements shall be of the same or better specification.

Reason: in the interests of residential amenity and to reduce noise levels from the retail units to the south of the site to an acceptable level.

11

No part of the development hereby permitted shall be brought into use until all dropped vehicular footway crossings are available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority in location as shown on the submitted plan ref. Drawing no. 2020/01/01 rev. C, titled: Proposed site layout.

Reason: In the interest of highway safety.

12

No part of the development hereby permitted shall be brought into use until all the access driveways are constructed with provision to prevent the discharge of surface water from the driveway to the public highway. The provision to prevent the discharge of surface water to the public highway shall then be retained for the life of the development.

Reason: To ensure surface water from the site is not deposited on the public highway causing dangers to road users.

13

No part of the development hereby permitted shall be brought into use until the driveways and any parking or turning areas are surfaced in a hard-bound material (not loose gravel) for a minimum of 5.0 metres behind the Highway boundary. The surfaced driveways and any parking or turning areas shall then be maintained in such hard-bound material for the life of the development.

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

14

No part of the development hereby permitted shall be brought into use until pedestrian visibility splays of 2.0 meters x 2.0 meters are provided on each side of the vehicle accesses as shown on the submitted plan ref. 2020 01 01 Rev C Proposed Site Layout (amended plan received 29.10.2020). These measurements are taken from and along the highway boundary. The area of land within these splays shall be maintained free from all obstruction over 0.6 meters above the carriageway level at all times.

Reason: In the interest of pedestrian safety.

15

No part of the development hereby permitted shall be brought into use until the parking/turning areas are provided in accordance with the submitted plan ref. 2020 01 01 Rev C Proposed Site Layout (amended plan received 29.10.2020). The parking/turning areas shall be maintained in the bound material for the life of the development and shall not be used for any purpose other than the parking/turning/loading and unloading of vehicles.

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

16

No shrub that is to be removed as part of the development hereby permitted shall be removed during the bird nesting period (beginning of March to end of August inclusive).

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

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

03

The development makes it necessary to construct a vehicular crossing 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>

04

As a private street, the Advance Payments Code under the Highways Act 1980 will apply unless exemption is made. To be exempt the following conditions should be met:

- The deposit of a map with the Highway Authority under Section 31 (6) of the Highways Act 1980 identifying the roads which are to remain private.
- The erection and maintenance of a road sign(s) indicating that the road is private.
- The provision of evidence that potential purchasers of the dwellings have been/will be made aware of the unadopted status of the road and what this will mean to them in practice;

- The provision of evidence that future maintenance of the road has been secured. For example, a unilateral undertaking under Section 106 of the Town and Country Planning Act to set up a maintenance company; The boundary between the private road and the publicly-maintained highway should be clearly marked by a concrete edging, boundary posts or similar.

05

Please note that the District Council no longer provides wheeled bins for residential developments free of charge. Wheeled bins can be purchased from the District Council or any other source provided they conform to appropriate standards and requirements of the Council. If you wish to purchase wheeled bins or discuss this matter further please contact the Waste Management Officer on 01636 655677 or email: waste.management@nsdc.info.

BACKGROUND PAPERS

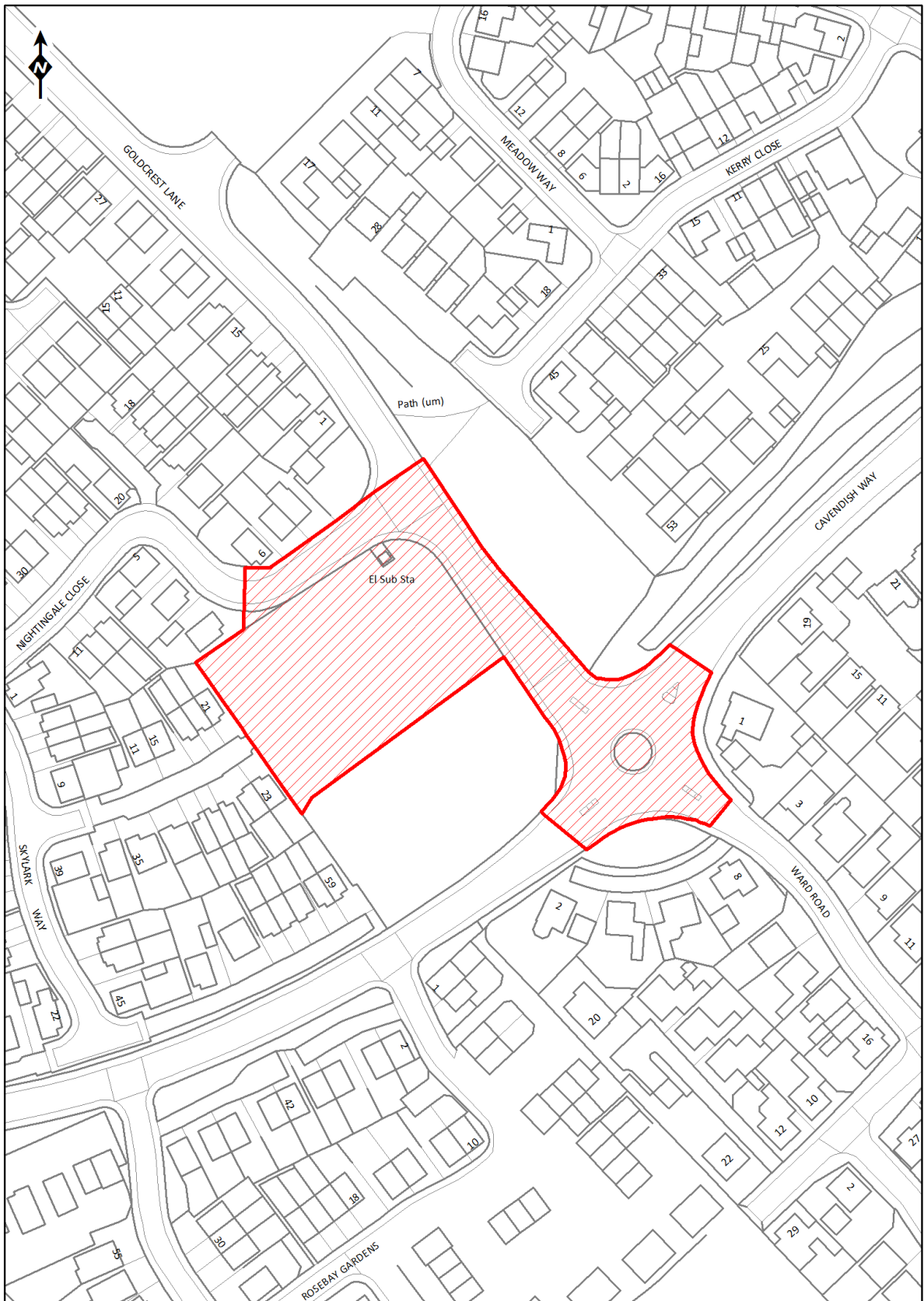
Application case file.

For further information, please contact Helen Marriott on extension 5793.

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

Committee Plan - 20/00772/FUL



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PLANNING COMMITTEE – 1 DECEMBER 2020

Application No:	20/00054/FULM	
Proposal:	Retrospective planning application for the retention of mobile poultry units and access drive	
Location:	Bridgefield Farm, Wigsley Road, Thorney Moor, NG23 7DF	
Applicant:	Mr MI. Jonson Ltd.	
Agent:	Mr Nick Grace – Grace Machin Planning and Property	
Registered:	10.03.2020	Target Date: 09.06.2020
	Extension of Time Agreed Until 04.12.2020	
Website Link:	https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=Q43UHOLB04M00	

This application is being presented to the Planning Committee in line with the Council’s Scheme of Delegation as Thorney Parish Council has objected to the application which differs to the professional officer recommendation. The application has also been referred to committee by Cllr Dales if Officers are minded to approve in line with the Parish Council concerns.

The Site

The application site relates to an approximately 4.4 hectare plot of land broadly rectangular in shape to the east of Wigsley Road between the settlements of Thorney to the north and Wigsley to the south. The site is mostly laid to grassland albeit there is a pond in the south east corner of the site of around 50m by 20m and around 1.5m deep. The pond is fenced off and surrounded by an area of rough grassland. There is also a large mature oak within the grassland to the south east of the pond. The boundaries of the site are largely comprised of hedgerows with a mix of young tree specimens. There is a vehicular access track which runs to the south of the site (accessed from Wigsley Road) but is outside of the red line boundary. Further southwards is a long length of dismantled railway line which is recognized as a site of local importance in nature conservation for its rich diversity of characteristic and notable herbs. The railway line is also stated as being an off road cycle route for the Dukeries Trail (albeit not formally recognized as a right of way).

Other neighbouring land uses include residential properties on the opposite side of Wigsley Road and immediately north of the site.

The site is within Flood Zone 3 according to Environment Agency maps.

Relevant Planning History

17/02261/FULM – Proposed erection of stables.

This application was approved under delegated powers in March 2018 but has not be

implemented.

The development falls outside of Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 but does represent more than 500m² of floor space for an intensive livestock installation and therefore has been assessed under Schedule 2 of the Regulations under separate reference 20/SCR/00002. The decision was that an EIA is not required to consider the application.

The Proposal

The proposal seeks retrospective planning permission for the retention of 9 mobile poultry units within the site. Each of the units measure approximately 9m by 15m with a curved ark design of a maximum height of approximately 3.6m and eaves height of 1.2m. The arks are mounted on skids and moved around the field after each crop (approximately 7 movements per year).

Each ark houses 1,500 birds making a total of free-range flock of 13,500 birds. The latest Odour Management Plan (OMP) submitted has however confirmed that the number of birds stocked during the months of December, January and February would be reduced to 9,000.

The use relies on an established field access.

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

- Covering Letter from Grace Machin Planning & Property dated 10th January 2020;
- Justification Report by Antony Oliphant Savills dated December 2019;
- Flood Risk Assessment by Grace Machin Planning & Property Revision A received by email dated 12th March 2020;
- Preliminary Ecological Appraisal by esl ecological services dated February 2020;
- Access Photographs dated 10/01/2020;
- Mobile Ark Photographs dated 10/01/2020;
- Site Location Plan – WR – 01 dated Jan 2020;
- HM Land Registry Site Ownership Plan NT 336364;
- Site Block Plan – 1510J/001 dated January 2020;
- Site Block Plans – Unit Orientation Sample Plans – 1510J/002 dated January 2020;
- Mobile Ark Eaves and Ridge Heights;
- Email dated 16th April 2020;
- Flood Risk Assessment by Roy Lobley Consulting – RLC/0561/FRA01 dated 28/04/20;
- Letter by esl ecological services – DH/JP/ES51 dated 29th April 2020;
- Odour Management Plan dated 18th November 2020;
- Additional letter by Roy Lobley Consulting dated 15th July 2020 – RLC/0561/LE01;
- Report to Grace Machin Odour Assessment around Bridge Field Farm 21 and 30 July 2020 by Silsoe Odours version 2 dated 24th August 2020;
- A Dispersion Modelling Study of the Impact of Odour from the Existing Free Range Broiler Chicken Unit at Thorney Moor, Thorney in Nottinghamshire prepared by Sally Howse AS Modelling & Dara Ltd dated 25th August 2020 (received 10th September 2020);
- A Report on the Modelling of the Dispersion and Deposition of Ammonia from the Existing Free Range Broiler Chicken Unit at Thorney Moor, Thorney in Nottinghamshire prepared by Sally Howse AS Modelling & Dara Ltd dated 13th July 2020 (received 14th August 2020);
- Replies to comments about Silsoe Odours Sniff Survey Report (received by email dated 17th

- September 2020);
- Email dated 20th October responding to latest Consultant comments;
- Nitrate Vulnerable Zone Statement dated 5th November 2020.

Departure/Public Advertisement Procedure

Occupiers of 8 properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.

Planning Policy Framework

The Development Plan

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

Spatial Policy 3 – Rural Areas
 Spatial Policy 7 - Sustainable Transport
 Core Policy 6 – Shaping our Employment Profile
 Core Policy 9 -Sustainable Design
 Core Policy 10 – Climate Change
 Core Policy 12 – Biodiversity and Green Infrastructure
 Core Policy 13 – Landscape Character

Allocations & Development Management DPD

DM5 – Design
 DM7 – Biodiversity and Green Infrastructure
 DM8 – Development in the Open Countryside
 DM10 – Pollution and Hazardous Substances

Other Material Planning Considerations

- National Planning Policy Framework 2019
- Planning Practice Guidance (online resource)
- Guidance for development requiring planning permission and environmental permits dated October 2012
- “Protecting our Eater, Soil and Air” by DEFRA 2009
- “Code of Good Agricultural Practice for reducing ammonia emissions” by DEFRA 2018

Consultations

Thorney Parish Council – Holding objection due to the following summarised issues:

- Concerns regarding smell;
- Modelling data for airborne pollution appears to reflect a skewed area of receptors;
- The distance should be consistent from individual properties;
- The PC receive calls regarding the smell.

NSDC Environment Health – Detailed comments throughout the life of the application as discussed in the appraisal. The latest comments The Environmental Health team support this

proposal. The amendments to utilise an objective observer of odour at the site boundary as part of the monitoring regime will assist the operator to assess the extent of odours at the site boundary. The odour monitoring and controls proposed in this plan are appropriate to the type of operation. The continued maintenance of good housekeeping will ensure that odours are minimised during operation.

NCC Flood – No response specific to this application.

Environment Agency – Original comments requiring submission of further information which has been provided during the life of the application. Latest comments confirm no objection subject to condition.

NSDC Emergency Planner – Discussion incorporated into appraisal below but no objection.

Trent Valley Internal Drainage Board –The Board maintained Carr Wood Drain, an open watercourse, exists in close proximity of the site and to which BYELAWS and the LAND DRAINAGE ACT 1991 applies.

Natural England – No objection subject to condition.

NCC Highways – No objection subject to conditions.

Public Health England – Original comments raising concerns relating to the odour management plan in terms of dust and bioaerosols emissions. No comments have been received on the latest odour management plan.

23 letters of representation have been received, 15 of which offer support for the contribution to local food producers and the rural economy and two specifically offering no complaints to the existing use, the others raise the following concerns which can be summarized as follows:

- To avoid issues of smell and noise there should be a 40m gap between the poultry units and the field boundary adjacent to Wiglsey Road;
- There should also be the same gap between poultry units and proposed boundary adjacent to Lodge Farm;
- There is clear medical evidence in Public Health documentation stating ‘Ammonia and chicken dander has a detrimental impact on the health of persons living within close proximity’;
- Medical studies show that constant exposure will have long and short term health effects;
- The existing development has already affected the health of neighbouring resident’s visitors leading to an exacerbation of symptoms;
- Ammonia and chicken dander particles travel on damp air;
- Neighbouring resident concern that windows cannot be open due to the odour;
- Concern for long term health impacts;
- Neighbouring residents have experienced health problems since the sheds were in place such as reoccurring sore throats, sore noses, burning itchy eyes, shortness in breath, headaches and nausea;
- The invisible mist of ammonia sweeps across neighbouring gardens;
- There is a strong odour making clothes and hair smell;
- A neighbouring resident has approval for an annexe for an elderly relative but is now concerned about using the annexe for elderly occupation;

- Medical studies show that ammonia in the air is associated with declining lung function in vulnerable adults, children and asthma sufferers;
- NSDC have a duty of care in promoting and protecting their public;
- The FRA states that the applicant has been seeking land for 2 to 3 years but in 2018 the applicant applied for stables, if this land was essential for the poultry business then why was the land not used immediately for the poultry sheds?
- Diary sheets have been provided to environmental health of the odour issues at the site but these have not been acknowledged;
- There was 4 months of old bedding left in place when the sheds were moved over the winter and no tractors could get on to the site due to flooding;
- Residents complain of feeling nauseous, sores in noses, sore burning throats and other symptoms;
- The applicant is still bringing chickens onto the site without the benefit of planning permission;
- Poultry dust is defined as a substance hazardous to health;
- 60m is not sufficient to protect neighbouring residents;
- DEFRA Code of practice says consideration should be given to providing the maximum possible distance between the proposed site and existing sites to improve bio security – there are at least 2 poultry farms within a 3km radius.
- The planning process has not mentioned the route to the south of the site which is a very popular route for walkers; cyclists and horse riders;
- There are dead chickens in neighbouring gardens;
- The Council's Landscape document gives an extensive list of sites of interest in nature conservation which should be taken into consideration;
- The document also mentions the disused railway line and drains which are vital features to the area;
- Run off water would cause pollution;
- The LCA confirms that a threat to the area is poultry farms;

Comments of Business Manager

Principle of Development

The site lies between, but outside of, the settlements of Thorney and Wigsley. Although there are residential properties nearby these are dispersed and do not form part of either settlements. The site is therefore within the open countryside.

The Settlement Hierarchy within the Core Strategy outlines the intended delivery for sustainable development within the District. Spatial Policy 3 confirms that, development away from the main built-up areas of villages, in the open countryside, will be strictly controlled and restricted to certain uses as outlined by Policy DM8.

Policy DM8 outlines a number of criteria whereby it may be appropriate to allow development in the open countryside including agricultural development requiring planning permission and employment uses amongst others. In respect of agricultural development it is stated that proposals will need to explain the need for the development, and its siting and scale in relation to the use it is intended to serve.

The application has been accompanied by a Justification Report which explains the process of the operation including in respect to the need to move the ark buildings to prevent disease which can be an issue within fixed buildings. This in itself is justification for why the development would be better suited to a countryside location noting the significant land take requirement for the buildings to be moved.

It is understood from the Report that the applicant has recently expanded operations to a degree that they now support several farm workers throughout Nottinghamshire and Lincolnshire across 5 free range sites. The site itself is stated as being well located to supply the market which though a local operation supplies national supermarket chains.

On the basis of the above, neither the need for a rural location or the contribution to the local rural economy is disputed. The development is therefore supported in principle subject to an assessment against the remainder of the Development Plan which in this case will relate primarily to the impact of the development on the environment and the landscape.

Impact on Flood Risk

The site is within Flood Zone 3 and thereby at a high probability of river flooding. The NPPG, at Table 2, categories flood risk vulnerability and explicitly identifies that land and buildings used for agriculture are considered to be less vulnerable in flood risk terms. Table 3 in turn confirms that less vulnerable uses are appropriate in Flood Zone 3.

However, Table 3 does not prevent the need to apply the Sequential Test in an attempt to direct development to areas at lower risk of flooding. The NPPG is clear that the Sequential Test should be applied first to guide development to Flood Zone 1 and then Flood Zone 2 (if no appropriate sites are available in Flood Zone 1).

The originally submitted Flood Risk Assessment (FRA) was silent on the application of the Sequential Test (and incorrectly identified agriculture development as being water compatible). This was raised as an issue with the agent during the life of the application and a revised FRA has been submitted.

The document confirms that the site has been selected for operational purposes being an expansion of a long established agricultural business. The site is referred to as a natural extension from the operations at Aubourn Farm (the applicant's residence in North Scarle circa 2 miles away from the site) particularly given the potential need for atypical working hours (e.g. shutting the birds in the arcs in summer months is likely to be later in the evening). The statement claims that no land at a lesser risk of flooding has been identified closer to the existing operations. In this instance, the limitation of the Sequential Test to land in close proximity to the existing operations / the applicant's place of residence is considered reasonable. In the absence of any evidence to dispute the claim that there is no land closer at a lesser risk of flooding, the sequential test has been passed.

The Environment Agency originally objected in the absence of an acceptable flood risk assessment (FRA). The comments detailed that the applicant had failed to appropriately assess the potential flood risks that could affect the site and advised that further detail should be sought from the Environment Agency.

The applicant has responded to these comments through the submission of a revised FRA during the life of the application. The revised comments of the EA accept this document and suggest that the mitigation measures outlined (i.e. the arks being fixed to the ground using anchors in a flood event) are secured by condition.

It is not the role of the EA to comment on the adequacy of flood emergency response procedures. The NPPG states that, in determining whether a development is safe, the ability of residents and users to safely access and exit a building needs to be considered. Clearly there should be an avoidance of allowing development where it may put additional pressure on emergency services during a flood event.

The FRA outlines mitigation comprising of the applicant / owner of the site signing up the EA flood warning service and the compilation of a flood emergency plan which would outline actions including removing the birds from the site and the tethering down of the arks as referred to above by 'ground anchors'.

The concern with these procedures would be that, at a time where a flood is likely (i.e. the EA have directed such through their warning system) the applicant / owner would be required to attend the site putting themselves at risk (and in turn potentially adding additional strain to the emergency services). The alternative would be to leave the birds on the site and the arks untethered which would clearly have other consequences in terms of economic damage to the livestock but also the potential for the movable arcs to be dislodged increasing the risk of damaging structures / creating blockages within watercourses.

Paragraph 159 of the NPPF details that the need to apply the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in the guidance. The exception test is not required for less vulnerable uses in Flood Zone 3a.

Notwithstanding that the end use is less vulnerable, the mitigation measures suggested by the FRA create their own level of vulnerability and risk to human life. The measures have been discussed with the Council's Emergency Planner and specifically additional details were requested to the actual procedures that would occur in a flood event. The applicant's consultant has confirmed by letter 15th July 2020 that, on receipt of a flood warning, the mitigation would be put in place which would be well in advance of the onset of any flooding. The two key elements; removing the birds from the site and tethering down the arcs, are estimated to take 4 hours and 90 minutes respectively. These details have been subject to review from the Council's Emergency Planner and no objection has been raised in principle. It is therefore not considered reasonable to resist the application on flood risk ground subject to the already referenced imposition of conditions if permission were to be forthcoming.

Impact on Landscape

Core Policy 9 requires a high standard of sustainable design that protects and enhances the natural environment and contributes to the distinctiveness of the locality and requires development that is appropriate in form and scale to the context. Core Policy 13 expects development proposals to positively address the implications of the Landscape Policy Zones in which the site lies and demonstrate that the development would contribute towards meeting Landscape Conservation and Enhancement Aims for the area. Policy DM5 requires the local

distinctiveness of the District's landscape and character of built form to be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development.

The Newark and Sherwood Landscape Character Assessment identifies the site as being within the East Nottinghamshire Sandlands Policy Zone 02: Wigsley Village Farmlands with Plantations. The area is defined by a flat landscape with occasional undulating landform around the villages. The site is characteristic of the mixture of intensive arable fields with strongly trimmed hedges and some low intensity farming. The landscape condition is defined as moderate with a very low sensitivity. It is notable that one of the specific threats to the policy zone is the further intensification of commercial agriculture including chicken sheds.

In terms of the landscape actions for built features there is a requirement to conserve what remains of the rural landscape by concentrating new development around existing settlements. Whilst the site is separate from both Thorney and Wigsley it is still well related to them being immediately adjacent to the main vehicular route between the villages. I am also conscious of the dispersed residential built form in the area to a degree that the low level development proposed is not considered to significantly interrupt the rural landscape.

The development is retrospective and therefore the landscape impacts of the proposal can already be fully appreciated. Having visited the site, the ark buildings, whilst having a significant combined footprint of approximately 1,215m², do appear as relatively discrete in the landscape owing to their modest height and their material finish which blends well with the agricultural landscape. It is appreciated that the mobile nature of the buildings would mean there would be some movement within the site but even in the context of the buildings being closer to the road I do not consider that they would be overly imposing on the character of the area to a degree that would be harmful. The example block plans show a zoned siting area which avoids the positioning of the buildings close to the site boundaries. To secure the level of development proposed and the landscape impacts assessed I consider it would be reasonable to condition that there are no more than 9 of the arc buildings on the site at any one time.

Impact on Environment

The development relates to the use of the buildings for the housing of chickens which clearly has the potential to introduce environmental impacts such as unpleasant odours. It is notable that the environmental impacts of the development have been raised as a significant cause of concern during the consultation process as detailed by the summary of the comments above. This is particularly notable given that the development is retrospective and therefore the concerns raised are based on existing operations. The Environmental Health Officer has confirmed that there are ongoing odour complaints from the operations.

Each ark building (of which there are 9) houses 1,500 birds making a total of 13,500 birds on the site at any one time (with the exception of between the months of December to February when the number of birds would be reduced to 9,000). This falls significantly below the threshold for an environmental permit from the Environment Agency (40,000 poultry).

As is detailed by Planning Practise Guidance (NPPG), the 2008 Ambient Air Quality Directive sets legally binding limits for concentrations in outdoor air of major air pollutants that affect public health. The UK also has national emission reduction commitments for overall UK emissions of 5 damaging air pollutants which includes ammonia. It is important that the potential impact of new development on air quality is taken into account. The NPPG is clear that air quality can be relevant

to the development management process and that consideration will need to be had as to whether the proposed development could significantly change air quality and consider the consequences of this for public health and biodiversity.

Policy DM10 (Pollution and Hazardous Materials) of the Allocations and Development Management DPD is clear that development proposals involving the potential for pollution should take account of an address their potential impacts in terms of health, the natural environment and general amenity.

Ammonia in the air may exert direct effects on the vegetation, or indirectly affect the ecosystem through deposition which causes both hyper-eutrophication (excess nitrogen enrichment) and acidification of soils. Impacts of odour are relatively straight forward to appreciate with the livestock rearing generally being grouped into a moderate offensive category. The occupational health risks of livestock farming seem well reported, but there is very little research on the potential impact of poultry farms on the health of nearby residents.

The original application submission was supported by modelling reports for odour and ammonia. The odour report confirmed that the benchmarks are based on 2011 Environment Agency Odour Management guidance. Based on a moderately offensive odour the benchmark figure is 3.0 ouE/m³. Any modelled results that project exposures above these benchmark levels, after taking uncertainty into account, indicates the likelihood of unacceptable odour pollution.

The modelling was based on two scenarios, the first which modelled the arks at the furthest points they would be positioned to the north and south. The second which represented an alternative positioning of the arks used during wet weather with four arks to the north and five arks to the west.

The results showed that in all scenarios, the odour would fall below the benchmark figure. However, there were examples where the levels would only just be shy of the 3.0 ouE/m³ at up to 2.867 at maximum. Unsurprisingly these figures affect the closest residential receptors to the north and west of the units. This would corroborate the concerns already raised to Environmental Health that the poultry units do have a perceivable odour impact to neighbouring residents.

The comments of the Environmental Health Officer (EHO) (and indeed the comments of the Parish Council) queried why the ark positioning is restricted to 60m from the northern boundary of the field but no such restriction is made from the western boundary. It has been clarified that this takes account of the prevailing south westerly winds but also the presence of the highway; grass verges; and mature hedging between the properties to the west. This allows the distance to the west to be shorter at 40m. This has subsequently been accepted by Environment Health colleagues. However, as is detailed by the latest Odour Management Plan (discussed below) the position of the arks could be kept under review potentially increasing the distances from the boundaries if required to stay below the odour limits.

The comments of the EHO also made reference to the control of odours from pests such as flies if the development would not be controlled by EA permit (which as above it would not). The agent has responded to these concerns through their consultant by commenting that the arks are naturally well ventilated and the submitted modelling is based on odours escaping through such ventilation. It is further stated that flies are not anticipated to be an issue as they would be eaten by the chickens.

The results of the ammonia models conclude that the process contribution to ammonia concentrations at all sites considered are well below the Environment Agency lower thresholds of the Critical Level of $1.0 \mu\text{g-NH}_3/\text{m}^3$.

This is however based on the positioning of the arks in the aforementioned zoning area and therefore further compounds the need to carefully control the positioning of the buildings if permission is forthcoming.

The original ammonia report did not address potential impacts on human receptors which as detailed above is a significant cause of concern to local residents. The DEFRA document referred to above (“Code of Good Agricultural Practice for reducing ammonia emissions”) states that, whilst ammonia in low concentrations is not harmful to human health, when emissions combine with pollution from industry they form very fine particulate matter which can lead to cardiovascular and respiratory problems.

The comments received from neighbouring parties include extracts from studies on the matter showing that poultry farmers have a greater risk of respiratory problems than those not in an agricultural profession. A document from the British Medical Journal has also been referenced which details the risks associated with ammonia.

The concerns have been raised with the agent during the life of the application. A response has been received from the author of the ammonia report on this point stating the following:

Although a concern for ecological receptors, ammonia exposures from animal rearing does not get anywhere near levels that would be a concern to human health. Human Health Environmental Assessment Levels (EALs) are $180 \mu\text{g}/\text{m}^3$ for long term averaging periods and $2500 \mu\text{g}/\text{m}^3$ for short term averages and absolutely negligible in relation to occupational exposure limits of $18,000 \mu\text{g}/\text{m}^3$. Inspection of the contour plots in the ammonia report suggests gives a maximum annual mean concentration at the closest receptors of around $5 \mu\text{g}/\text{m}^3$ i.e. 3% of the long term EAL.

This is clearly a highly technical matter and, one which for the neighbouring residents is also highly emotive given the retrospective nature of the application. Although the detailed comments of Environmental Health colleagues are welcomed and appreciated, Officers have taken the view that in this case it is reasonable and necessary to seek an independent assessment to allow a robust decision to be made. This approach is validated by the original comments of Public Health England which stated that there “*is insufficient information contained within the planning application to be able to fully assess the impact of the installation on public health.*”

RSK ADAS Ltd. were commissioned to review the application in the context of all submitted documents and also the neighbouring concerns which have been received. Their original response, a letter dated 18th June 2020, concludes with a number of recommendations for the LPA in their assessment but essentially required further work should be undertaken. The recommendations included a request for clearer evidence of the predicted ammonia concentrations but also an explanation as to the level of inconsistency between odour modelling outputs, specifically given that the retrospective nature of the application allows for modelling to be augmented and validated with the local experience of odours.

A S Modelling & Data Ltd.; in their capacity as the applicant’s consultant, responded to the initial RSK ADAS Ltd. letter by a letter dated 19th June 2020. Their response formed a rebuttal to the comments rather than any additional data or research as suggested. Further exchanges have

occurred including Officers sharing the dates of the odour complaints received (without personal data) in an attempt to facilitate investigating whether or not there are correlations with the arcs being moved (albeit the varied spread of dates and lack of reference to movement on site in the diary detail suggests there to be no correlation).

In respect to ammonia impacts on human health, the LPA's consultant has offered the following comments:

The modelled levels reported by ASM&D were no more than 2.58% of the long term EAL of 180 µg/m³ at any residential receptor, and less than 10% of the 2500 µg/m³ EAL for short term averages. The EALs are already relatively precautionary, and therefore on the basis of the submitted information I can confirm that I see no reason or justification for any concern about the potential health effects of ammonia.

Despite the level of concern received during the life of the application (and indeed supplementary documentation in terms of reported studies), Officers consider that the evidence submitted to support the application is sufficient to conclude that the proposal would not (/ is not) imposing adverse impacts due to ammonia.

Moving then to odour impacts, the application has been supported by various iterations of an Odour Management Plan which have been subject to discussions ultimately in an attempt to ensure the document represents a robust basis on which to form a decision.

The latest document received is dated 18th November 2020. Unlike the previous versions of the document, this later version references dust emissions raised as a cause of concern from the initial response of Public Health England. The report covers a number of odour related issues outlining potential risks and problems and the required actions to prevent and minimize such risks. This includes provision for reducing flies which has been previously raised by Environmental Health Officers. The report then goes on to detail procedures for site monitoring, complaints and backstops.

Officers have liaised with colleagues in Environmental Health and it has been confirmed that the odour complaint investigations are ongoing and that it is not possible at this stage to conclude whether the concerns will amount to a nuisance or not. That being said, the complaints are being received, and for the relevant neighbouring parties are clearly causing distress which has now been ongoing in some form for almost 2 years (the application form confirms the development started on 30th December 2018 and was completed on 30th September 2019).

The LPA's appointed consultant has reviewed various earlier versions of the odour management plan suggesting revisions where appropriate. The latest document is based on the suggested revisions with the overall aim of ensuring that the document is robust enough for the LPA to be able to actively enforce in the event that odour complaints continue to be received.

The odour management plan states that it is to form a working document, intended to be used as a reference for operational staff on a day to day basis. It is stated that the document would be reviewed at least annually to improve its effectiveness.

Specific requirements include, but are not limited to, the following:

- The installation of a weather station towards the centre of the site;

- Maintaining a 60m distance from the northern boundary and 40m from the western boundary for the positioning of the arks;
- Reducing bird stock in winter months;
- Documentation of feed samples;
- Manual operation of sheet vents for ventilation;
- Ark / weather inspections two or three times a day as part of routine husbandry management;
- Daily collection of carcuses and removed off site;
- Daily check of water consumption;
- Rapid clean out and coverage of manure to minimize odour escape from the haulage process;
- Daily logging of bird numbers, age and position of arks.

It is also suggested that,

“The applicant will engage the services of a Parish Councillor or local professional person as an Observer to walk the boundaries at least once a week to assess any odours. The Observer will be independent and not connected to the business. The Observer will receive training as to the Silsoe Odours method of scoring of odours as in the appended Odour Assessment Report.”

The intentions of the odour management plan are commended and welcomed compared to the previous versions of the document which were not considered to form a robust basis for assessment. Some of the above requirements would be relatively straightforward to enforce through the planning regime (e.g. distance of arks to boundaries). However, other mitigation measures would be more difficult to control. In this context, Officers have worked with the applicant to secure the various versions of the submitted odour management plan in the interests of making sure the document is as robust as possible.

The latest version is much clearer in terms of how the complaint process would be navigated. Section 7 of the document explicitly outlines a community involvement procedure informing how local residents and others will be made aware of the site monitoring and complaints procedure. Following a complaint, backstop measures will be deployed if thresholds limits are found to be breached at sensitive receptors. Importantly, the latest odour management plan is clear that backstop measures will in any case be deployed in response to any accounts of validated complaint odours witnessed and reported by an Officer or Officers of the Council.

“The backstops in order of increasing mitigation will be assessed through further sniff testing and odour modelling as follows;

- a. Move arks to different patterns and positions in the field for future crops to provide greater separation and distance between arks, and/or larger minimum distance between the arks’ closest point to receptors and/or a shorter fetch over the arks.*
- b. Reduce bird numbers to 9,000 in 6 arks with a further 25% reduction to 6,750 in the winter months December, January and February.*
- c. Reduce bird numbers to 6,750 and a further 25% reduction to 5,000F in the winter months December, January and February.”*

The odour management plan has been shared with colleagues in Environmental Health and planning enforcement colleagues with the specific intention of gaining clarity as to whether this document could form a robust basis to conditioning the development.

It is agreed that the updated plan is more robust and reflects what would be expected from an effective document of this nature. The EHO has specifically commented (on an earlier iteration of the document albeit still relevant):

Monitoring for odour and making associated observations / keeping associated records is a common approach in regulated pollution prevention and control. The OMP seems clear enough in that sense, though it will of course rely greatly on checks and records being completed accurately by appropriately trained individuals, and effective monitoring and supervision of those tasks. Enforcement therefore relies mainly on auditing of documentation to verify the OMP has been / is being implemented effectively when an issue / alleged issue has been identified.

Operating the site in accordance with a suitable and sufficient OMP will not of course guarantee the site will never generate any odours or complaints about odours - it will not be possible to prevent odours at all times. Therefore, occasional and localised odour events from the site might still reach existing residential property. That might result in complaints to the Local Authority, and that may or may not prompt detailed investigation under statutory nuisance. However, no action will be available under statutory nuisance where odour events are not considered to be of sufficient frequency, intensity, duration and offensiveness to constitute statutory nuisance.

There becomes a point where the enforcement of the odour management plan would go beyond the scope of planning legislation and fall to the environmental health regime as a potential statutory nuisance issue. However, as is agreed by the comments of the LPAs independent consultant, the latest submitted odour management plan is a robust document on which Officers can form a decision. Whilst it has been a slow process (and no doubt frustrating for the local residents), Officers are now content that the applicant has submitted appropriate supporting documentation to allow the application to be supported. The content of the document is proportionate to the scale of the development and in line with the robust measures outlined, will allow the Council to act if odour complaints from the development persist (albeit it is strongly hoped that once the measures within the odour management plan are employed in full, the odour emissions will in any case reduce to an acceptable level).

The latest supporting documents received also include a brief Nitrate Vulnerable Zone (NVZ) Statement (dated 5th November 2020) which has been requested through discussions with the LPA's appointed consultant. According to the document, under the regulations, farmers in a NVZ must produce and keep an up to date farm waste management plan. The statement includes calculations for nitrogen deposits concluding that the level would be below the thresholds permitted under the regulations. This document has been accepted as appropriate by the LPA's consultant.

Impact on Neighbouring Amenity

Notwithstanding the above assessment relating to the emission of odour, the development also poses other potential harmful amenity impacts such as an increase in noise and overall disturbance. Policy DM5 requires development to consider appropriate mitigation for any detrimental amenity impacts.

The application submission has not been accompanied by a specific noise survey and it has been carefully considered whether or not this should be insisted upon to assess the application. In reaching the judgement not to request one it is acknowledged that the operations of the use have

been well described such that the potential for noise disturbance can be anticipated (and indeed the application is retrospective so any noise impacts would already be being experienced).

The LPA have assessed many applications for large scale broiler units in the past. Ordinarily the developments include cooling and ventilation on the units and therefore fans which may lead to increased noise. It has been clarified with the agent during the life of the application that the modular ark buildings to which this application relate do not house such ventilation and therefore the most likely noise impacts would be from the chickens roaming outside the buildings.

Noting that the land is in agricultural use in the open countryside I do not consider that the outdoor rearing of the birds would be particularly discernible. It is understood that the birds are allowed to roam freely in and out of the buildings during the day and therefore it is unlikely that they will all be outside at the same time. Noting the distances between the buildings and the nearest residential receptors it is not considered that the noise of the use would amount to a detrimental impact on neighbouring amenity.

Vehicular movements are anticipated to be approximately 12 movements during the 6 week crop plus an additional 6 tractor and trailer movements in the three day period at the end of the crop. There would also be tractors required to move the arcs. Nevertheless, these levels of transport movements are not considered to lead to disturbance above what would be accepted through the established agricultural use. The buildings associated with the use are low level in height and therefore would not introduce overbearing impacts.

Impact on Highways Network

The original application submission was unclear in that it refers to the use of an existing gated access but also includes the access drive in the description of development. It has been confirmed that the works to the access include the hard surfacing of the access. The use of this access has been accepted by the previous planning application for the stables detailed above which remains extant (albeit the track has been extended beyond that 'conditioned' by NCC Highways on the previous application).

NCC Highways have assessed the application both in respect to the proposed access but also the associated vehicular movements (referenced in the above section) with the end use. These comments acknowledge that so long as the number of units is capped at 9, the associated vehicular movements would be low. They do however require improvements to the access which could be secured by suitably worded conditions.

Impact on Ecology

Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM5 of the DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced.

The site is within the 'risk zone' for the Doddington Clay Woods SSSI (3km to the east). This is an ancient semi-natural woodlands which have developed on heavy clay soils. Natural England have commented on the proposal originally concluding that without appropriate mitigation the development would damage or destroy the interest features for which the SSSI has been notified.

Whilst the comments agree with the applicant that it would not be necessary to undertake a cumulative assessment, they do go on to identify that the SSSI is over its critical loads for ammonia, nitrogen and acid and the development will compound the existing stress that the site is under. The crux of the comments are that the application does not set out how waste generated by the houses will be dealt with. The comments set out a number of potential mitigation strategies which have been passed to the agent for review. The email response confirms that the farm is naturally ventilated and free-range so direct ammonia capture is not an option. It does however confirm that the applicant would be willing to undertake some tree planting which he would be amenable to agreeing through condition. The response has been passed to Natural England for review and the latest comments are agreeable to mitigation being secured through a suitably worded landscaping condition. Some indicative planting has been shown within the submitted odour management plan but these details would be insufficient to secure delivery and therefore a condition for further details would be reasonable and necessary.

Notwithstanding that the site is within the risk zone for the SSSI, the site itself is not subject to any national or local ecological designations. There is however, approximately 30m to the south of the site, a long length of dismantled railway line which is recognized as a site of local importance in nature conservation for its rich diversity of characteristic and notable herbs. Moreover, the site contains potential ecological habitats notably a pond in the south east corner of the site.

The application has been accompanied by a Preliminary Ecological Appraisal based on a habitat survey taken in January 2020. Whilst the survey confirms that no habitats of conservation are likely to be affected by the rearing of poultry, it does identify that the pond is suitable for use by great crested newts. On this basis it is recommended that an e-DNA sample is taken from the pond between 15th April and 30th June.

The results of the pond sample were received by an additional letter dated 29th April 2020. The letter (and associated report) confirms that the pond sample was negative for great crested newt DNA and therefore there is no evidence that they are present. No further mitigation is therefore required. The letter does make reference to the presence of pigmyweed (an invasive species) within the pond and suggests that it would be beneficial to eradicate this plant. However, given the pond is some distance from the proposed positioning of the arks it is considered reasonable to attach this advice as an information rather than impose it as a condition.

Other Matters

The comments of the EHO request a condition for the hours of delivery to the site. Given the largely sedentary nature of the site (i.e. minimal anticipated vehicular trips) I consider that this would be more reasonably attached as an informative if permission were to be otherwise forthcoming.

Neighbouring comments have made reference for the potential cumulative impact of the development noting that there are already a number of similar forms of development in the area. Reference has also been made to DEFRA guidance which refers to a 3km distance between new sites in relation to improving biosecurity and in any case would not prevent each planning application being considered on its own merits.

As is detailed by the relevant planning history section above, the application has been subject to screening to determine whether an environmental impact assessment (EIA) would be required. In undertaking the screening exercise, cumulative impacts were considered. It was concluded that

there would be a sufficient distance between this site and other poultry farms such that cumulative impacts would not occur. Officers are satisfied that this application can be considered on its own merits and that the presence of other poultry farms in the area (the nearest being approximately 1km away to the NE and intervened by dense areas of woodland) would not affect the judgement taken.

Overall Balance and Conclusion

The proposal relates to a retrospective poultry farm in the open countryside. Whilst the principal of development is not disputed, there are material considerations which must be considered in an application of this nature.

It is fully appreciated that the retrospective nature of the proposal has warranted concerns from some neighbouring residents in respect to the impacts of the proposal including in terms of unpleasant odours.

Owing to the level of concern received, but also the technical nature of the issues, the LPA has instructed an independent review of the application by a Principal Air Quality Consultant. This has led to numerous iterations to supporting documentation including the Odour Management Plan which has been submitted to accompany the application. The latest Plan, dated 18th November 2020 is now considered to represent a robust document that, in the event of continued neighbouring concerns, allows for the Council to take the necessary measures to ensure that the impacts of the development are appropriately mitigated.

The applicant has worked with Officers during the life of the application to also overcome other concerns, namely in respect to flooding and ecology.

On the basis of the evidence and supporting documents now submitted on which to assess the application, Officers have not identified any demonstrable harm which would prevent the grant of planning permission.

RECOMMENDATION

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

Conditions

01

The development hereby permitted relates solely to the arks shown on the following details:

- Mobile Ark Photographs dated 10/01/2020;
- Mobile Ark Eaves and Ridge Heights.

Any alternative ark structures are not approved by this permission and must be considered through a separate planning application.

Reason: So as to define the permission.

02

The development hereby permitted shall be restricted to a maximum of 9 ark structures on site at any one time.

Reason: In the interests of neighbouring amenity and to ensure the development is carried out in accordance with the submitted details and accompanying reports.

03

No ark hereby approved shall be positioned within 60m of the northern boundary of the site or within 40m of the western boundary of the site at any time.

Reason: In the interests of neighbouring amenity and to ensure the development is carried out in accordance with the submitted details and accompanying reports.

04

Between the months of December to February inclusive, the maximum number of arks in use shall be no more than six and no ark within 110m of the northern boundary shall be in use.

Reason: In the interests of neighbouring amenity and to ensure the development is carried out in accordance with the submitted details and accompanying reports.

05

The development hereby approved shall be carried out in full accordance with the Odour Management Plan (OMP) dated 18th November 2020 (or any subsequent revision agreed in writing by the Local Planning Authority). This includes (but is not limited to) the following mitigation measures:

- The installation and operation of a weather station towards the centre of the site;
- Maintaining a 60m distance from the northern boundary and 40m from the western boundary for the positioning of the arks;
- Reducing bird stock in winter months;
- Documentation of feed samples;
- Manual operation of sheet vents for ventilation;
- Ark / weather inspections two or three times a day as part of routine husbandry management;
- Daily collection of carcuses and removal off site;
- Daily check of water consumption;
- Rapid clean out and coverage of manure to minimize odour escape from the haulage process;
- Daily logging of bird numbers, age and position of arks.

Where the OMP refers to measures not already present on site (e.g. the weather station and the display of contact details discussed within Section 7), then these shall be installed within one month of the date of the development hereby approved.

Where the OMP refers to specific parties / consultants, then the requirements of such parties can be carried out by any equivalent professional in the event that the specific party / consultant ceases to trade.

The OMP shall be updated annually and shall be provided to the Local Planning Authority/Council within one month of any request submitted in writing by the Local Planning Authority.

Reason: In the interests of neighbouring amenity and to ensure the development is carried out in accordance with the submitted details and accompanying reports.

06

In the event that the Operator, or any member of operational staff receives an odour complaint, or is notified by an Officer of the Council or the Independent Observer of receipt of an odour complaint in relation to with the development hereby approved, then the procedures outlined at 4.2 (Monitoring in Response to Complaints); 4.3 (Modelling in Response to Complaints) and 5 (Odour Complaints Procedure) of the Odour Management Plan dated 18th November 2020 shall be followed in full.

If following an investigation, thresholds limits are found to be breached at sensitive receptors, then the backstop measures at Section 6 of the document shall be implemented until the levels fall below the relevant thresholds (a maximum annual 98th percentile hourly mean concentration of 3.0 ouE/m³).

Reason: In the interests of neighbouring amenity and to ensure the development is carried out in accordance with the submitted details and accompanying reports.

07

Within three months of the date of the decision hereby approved, a flood warning and action plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall follow the principles of the submitted flood risk assessment (ref; Flood Risk Assessment, Agricultural Development, Bridgefield Farm, Wigsley Road, Thorney, April 2020, Roy Lobley Consulting, RLC/0561/FRA01, 0.1) including following mitigation measures it details at paragraph 5.9:

- The owner shall sign up to the Environment Agency's Flood Warning Service for early warning of potential flood events;
- The "Arks" are securely fixed to the ground using "ground anchors" during a flood event;
- The birds shall be removed from the site to other safe areas;
- Emergency contact information shall be provided.

The development shall thereafter be carried out in accordance with the approved plan with any permanent measures being retained for the lifetime of the development.

Reasons: Due to the mobility of the proposed development and being within the 1% Annual Exceedance Probability (AEP) River Trent Breach Flood Event plus 30% Climate Change, the "Arks" will need to be securely fixed to the ground. This will reduce the hazard of the "Arks" being dislodged which would increase the risk of damaging structures, blockages within watercourses and increasing the amount of debris within the flood water (Increasing the risk to life to any

member of the public who may be within the floodwater).

08

Within three months of the date of the development hereby approved, full details of 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.

Reason: In the interests of visual amenity and biodiversity.

09

The approved soft landscaping shall be completed during the first planting season following the agreement of the approved landscaping details, 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.

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

10

Within three months of the date of the development hereby approved, the access shall be surfaced in a bound material for a minimum distance of at least 5m from the highway boundary in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

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

11

Within three months of the date of the development hereby approved, a dropped vehicular crossing shall be made 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.

12

Within three months of the date of the development hereby approved, the access driveway shall be constructed with provision to prevent the unregulated discharge of surface water from the driveway to the public highway in accordance with details first submitted to and approved in writing by the local planning authority. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development. The scheme shall be implemented in accordance with the approved details within 2 months of the date of its written approval.

Reason: - To ensure surface water from the site is not deposited on the public highway causing dangers to road users.

13

The gates at the access point shall open inwards only.

Reason: - To enable a vehicle to stand clear of the highway whilst the gates are opened/closed and to protect the free and safe passage of traffic, including pedestrians, in the public highway.

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

The erection or alteration of any mill dam, weir or other like obstruction to the flow, or erection or alteration of any culvert, whether temporary or permanent, within the channel of a riparian watercourse will require the Board's prior written consent. The Board's Planning and Byelaw Policy, Advice Notes and Application form is available on the website – www.wmc-idbs.org.uk/TVIDB

The Board's consent is required for any works that increase the flow or volume of water to any watercourse or culvert within the Board's district (other than directly to a main river for which the consent of the Environment Agency will be required).

Surface water run-off rates to receiving watercourses must not be increased as a result of the development.

The design, operation and future maintenance of site drainage systems must be agreed with the Lead Local Flood Authority and Local Planning Authority.

- The development makes it necessary to /improve a vehicular crossing over a verge of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. Works will be subject to a design check and site inspection for which a fee will apply. The application process can be found at [:http://www.nottinghamshire.gov.uk/transport/licences-permits/temporary-activities](http://www.nottinghamshire.gov.uk/transport/licences-permits/temporary-activities)
Email: licences@viaem.co.uk Tel. 0300 500 8080

04

Manure storage and spreading

Given that the site and surrounding area are located within a Nitrate Vulnerable Zone, the storage and spreading of litter/manure and wash water at the site or at a nearby farm, if exported, would need to be undertaken in accordance with the Nitrate Pollution Prevention Regulations 2008 (as amended) and appropriate records kept. It is recommended that the applicant has a contingency plan for alternative storage of manure/litter in case the third party is unable to import it for any reason.

05

No deliveries shall be received or dispatched from the site outside the hours of Monday to Friday 07:30 – 18:00, Saturday 08:00 – 13:00 nor at any time on Sundays, bank or public holidays.

06

The submitted ecological report identifies the presence of pigmyweed (an invasive species) within the pond and suggests that it would be beneficial to eradicate this plant.

07

The approval of the development does not prevent the Council from enforcing the Statutory Nuisance legislation in the event of nuisance odours being witnessed. Furthermore, failure to comply with the approved odour management plan could be seen as evidence the best practicable means were not being adopted to control off-site odours.

BACKGROUND PAPERS

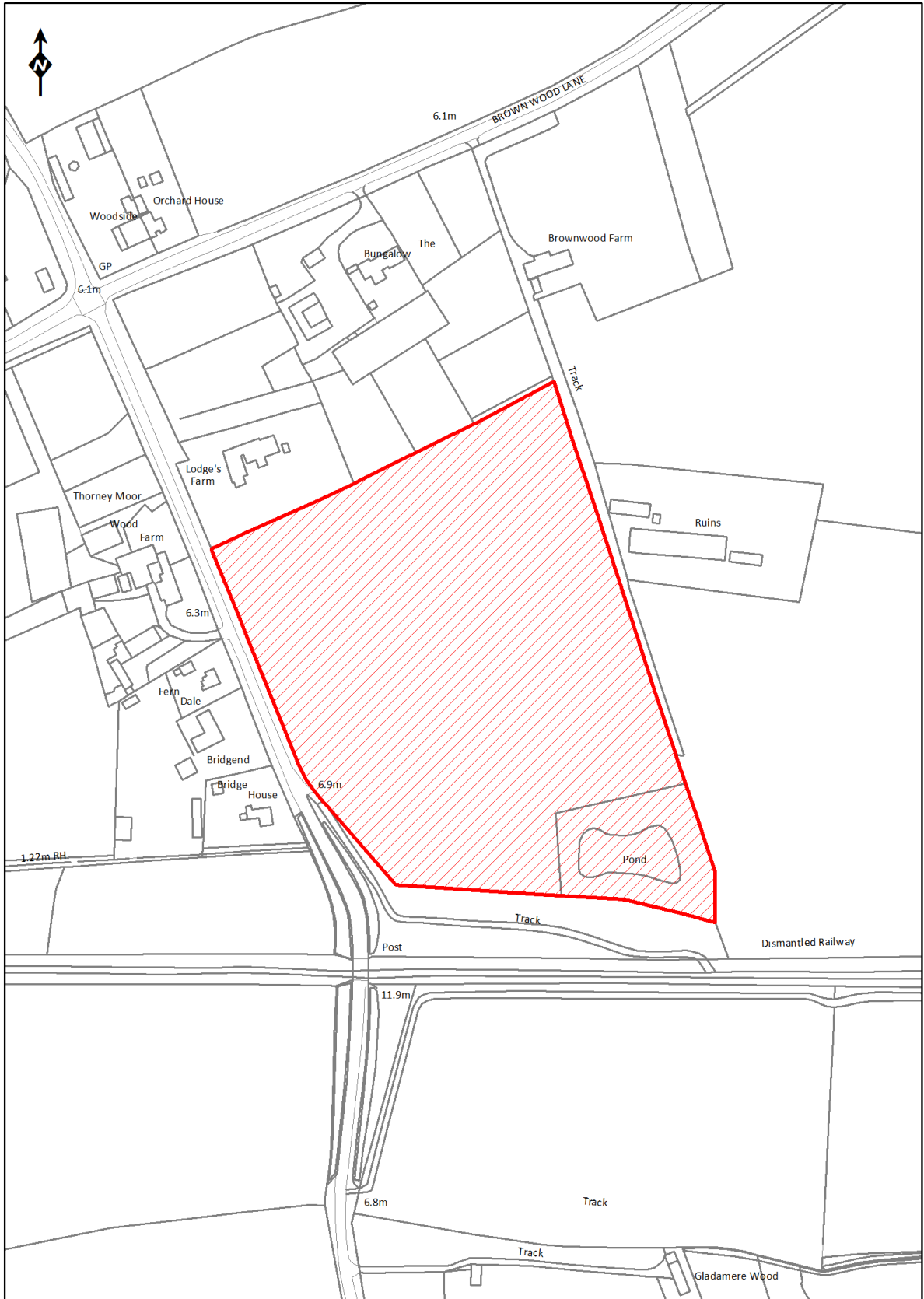
Application case file.

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

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

Lisa Hughes
Business Manager – Planning Development

Committee Plan - 20/00054/FULM



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PLANNING COMMITTEE – 1 DECEMBER 2020

Application No:	20/01481/FUL	
Proposal:	1 No. 1-bed unit and associated landscaping and parking	
Location:	Land at Healey Close, Collingham	
Applicant:	Newark and Sherwood District Council	
Registered:	15.09.2020	Target Date: 09.11.2020
	Agreed extension of time: 03.12.2020	

This application is one of several schemes currently being considered by the Council for the residential development on land owned by the Council. The need for affordable housing remains high on the Council's agenda, as indeed it does nationally. The developments are being put forward as part of a five year building programme by Newark and Sherwood Homes (NASH) to deliver approximately 360 new affordable dwellings across the District to directly meet affordable housing need. Under the Council's constitution, schemes submitted specifically as part of this 5 year affordable housing programme only need to be determined by the Planning Committee where the officer recommendation differs from that of the host Parish or Town Council. This application is being presented to the Planning Committee as Collingham Parish Council has objected to the application, which differs to the professional officer recommendation.

The Site

The application site is within the defined built up area of Collingham, which in Spatial Strategy 1 of the Amended Core Strategy as a Principle village.

The application site comprises with a parcel of green space fronting onto Regents Close. The proposed site is situated within an established residential area, forming an almost rectangle piece of land, measuring approximately 395 square metres.

A semi-detached bungalow fronting onto Regents Close is adjacent to the northern boundary of the site; currently, there is no boundary treatment between the proposed site and no. 23 Regents Close. No.2 Healey Close is also a bungalow, with its principle elevation located west to the proposed site. Timber fences at c1.2m and c1.8 m form the boundary treatment.

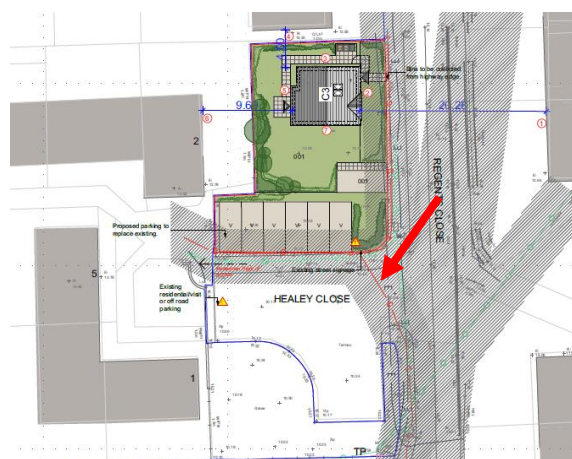
There is an existing pedestrian access linking Regents Close onto Healey Close south of the application site and beyond that is an area of communal car parking with green space surrounding it. Two storey dwellings are located south of the proposed development area on Regents Close. There are bungalows and two storey dwellings on the other side of the Regents Close.

The area of the proposed development is relative flat and there are no trees within the proposed

development area. The site does not lie within a conservation area, nor does it lie within the flood zone.



View to the communal car parking with green space



communal car parking with green space on proposed site layout – direction as the red arrow

Relevant Planning History

Pre-application advice was sorted back in 2019.

The Proposal

The application seeks planning permission for a detached one and a half storey dwelling with one bedroom for two people. The new property would be positioned on the north part of the proposed site, fronting onto Regents Close, with one allocated parking space accessible from Regents Close. An additional 6 visitor parking spaces will be located south of the proposed dwelling and north of the existing pedestrian access between Regents Close onto Healey Close.

The proposed dwelling would measure 6.3m in width and 7.4m in depth; standing at eaves and ridge height at 2.85m and 5.73m approximately. The ground floor consists of a bathroom, kitchen and living room with a bedroom above. Two small rooflights are located to the roof slope on the front elevation.

The proposed facing materials are Cadeby red multi bricks and Russell Grampain (Slate Grey) roof tiles.

The dwelling would be owned by Newark & Sherwood Homes and would be rented to applicants on the Council's housing register as an Affordable Rented product as part of the Council's 5 year Build Programme.

The application is accompanied by the following drawings and documents:

- Site Location Plan 100 416 ID217 001D, received on 07 August 2020
- Proposed Site Layout Opt3 – 100 416 ID217 005F, received on 07 August 2020
- Proposed Boundary Treatment - 100 416 ID217 007C, received on 07 August 2020
- Proposed Plans & Elevations 100 416 ID217 010, received on 07 August 2020
- Proposed Levels and Kerbing Layout G042 (ID217) C 0110, received on 19 November 2020
- Phase 1 Desk Top Study Report by CollinsHallGreen Ltd dated December 2019, received on 07 August 2020
- Phase 2 Desk Top Study Report, Revision A by CollinsHallGreen Ltd dated April 2020,

received on 07 August 2020.

- Revised Phase 2 Desk Top Study Report, Revision B by CollinsHallGreen Ltd dated September 2020, received on 14 September 2020.
- Policy statement received on 14 September 2020

Departure/Public Advertisement Procedure

Occupiers of 15 properties have been individually notified by letter.

Planning Policy Framework

Newark and Sherwood District Council 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 3 – Housing Mix, Type and Density
- Core Policy 9 – Sustainable Design
- Core Policy 10 – Climate Change
- Core Policy 12 - Biodiversity and Green Infrastructure
- Policy Co/MOA: Collingham – Main Open Areas

Allocations and Development Plan Development Plan Document

- Policy DM1 - Development within Settlements Central to Delivering the Spatial Strategy
- Policy DM5 – Design
- Policy DM7 – Biodiversity and Green Infrastructure
- Policy DM12 – Presumption in Favour of Sustainable Development

Other Material Considerations

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

Consultations

Collingham Parish Council unanimously objects to the proposal on the following grounds:

- Design and visual impact – the proposed unit (2 storey) is not in keeping with its surroundings (bungalows)
- Privacy/daylight/sunlight – the new unit will be built to the south of an existing bungalow within close proximity, the existing dwelling will lose all of its sunlight from the property and garden area.

Nottinghamshire County Council Highways: No objection subject to conditions; considered that this proposal will have little impact on the public highway; the additional parking space will be beneficial to the safety and free flow of traffic. The dropped kerb crossings will be required in accordance with NCC standards.

East Midland Building Consultancy supports this proposal, stating that this is good use of Council land.

NSDC Environmental Health do not objection to the proposal; consider the submitted Phase 1

desktop study and Phase 2 ground investigation reports are agreeable. However, certified clean topsoil confirmation will need to be provided and agreed prior to topsoil to be used on site. A condition has been added to the recommendation.

Trent Valley Internal Drainage Board provide standard advice, state that the site is outside of the TVIDB district but within the catchment.

No other Representations have been received.

Comments of the Business Manager

The Council has an up to date Development Plan for decision making purposes and can demonstrate in excess of the 5 year housing land supply.

Principle of Development

The site is located within the main built up area of Collingham village, which is defined in Spatial Policy 1 of the Amended Core Strategy as a Principal Village. Residential development is acceptable in principle within principal villages subject to site specific impacts. The proposal is therefore in accordance with the settlement hierarchy and Spatial Policies 1 and 2 as a matter of principle.

Loss of Green Space

The site is not a formally designated green open space in the Development Plan but is an area of amenity green space comprising approximately 395 square metres in area. This is not used as functional space (as noted by the sign which forbids ball games) but it does offer a pleasant green area for residents to visually enjoy which would be lost to the development. The proposal is not a leisure or community facility in a true sense. However as a worst case scenario, the proposal has been assessed against SP8 which seeks to ensure that leisure and community facilities are not lost without sufficient alternative provision being made elsewhere which is equally accessible and of the same or better quality than the facility being lost.

A statement of justification for the loss/reduction of the green space has been submitted which states that the proposed site is in the immediate vicinity of six alternative areas of incidental amenity space. These are primarily located off Braemer Road, which is a short 150-meter walk. The nearest area of amenity space is located directly opposite the site off Healey Close. Collingham Community Park is also easily accessible from the site and is only a short 500-meter walking distance away; this offers play/skate equipment and a large area of open space. An area of green space to the south to the parking space for Healey Close will remain as existing.

Overall given that the land to be lost to development is not functional space and that a sense of openness will still prevail from the space to the south, this need not be a barrier to development. Given the above, it is satisfied that there is sufficient provision of alternative areas of amenity space for existing and new residents. Therefore, the proposed development is considered complied with Policy SP8 in this regard.

Housing Mix

Core Policy 3 sets out the mix of housing required in the District and says that particular emphasis

will be placed on securing smaller houses of 2 bedrooms or less and those for the elderly and disabled population.

The Council undertook a district wide housing market and needs assessment in 2014. The results showed a demand for over 842 affordable properties, with smaller dwellings (1 and 2) bedroom making up the majority of demand. The dwelling would be built and retained by Newark & Sherwood Homes and it would be offered as an affordable rented dwelling. Taking this into consideration, there is a need for affordable rental properties within the area which this proposal would contribute positively towards.

It should be noted that a scheme for 1 no. dwelling would not require any affordable dwellings in policy terms albeit this is welcomed. However given that the scheme is acceptable in any event, it is not considered that it is necessary to secure the housing as an affordable unit.

Impact on Visual Amenity

Core Policy 9 seeks to achieve a high standard of sustainable design which is appropriate in its form and scale to its context, complementing the existing built and landscape environment. Policy DM5 of the DPD sets out the criteria by which all new development should be assessed. It includes (but not limited to): safe and inclusive access; parking provision; impact on amenity; local distinctiveness and character; and flood risk. In relation to the character of the area it states, 'the rich local distinctiveness of the District's landscape and character of built form should be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development.'

The site comprises a parcel of land measuring 395m² approximately on relatively flat land, within an established residential area, with various types of properties in the area. For example bungalows are sited to the adjoining boundaries to the north and west and there are two storey properties located to south and on the opposite side of Regents Close.

The area for the proposed new dwelling and garden area would be approximately 225m², sited to the northern part of the proposed site. The one and a half storey new dwelling would be slightly taller than the adjacent properties by c1.5m. It is also acknowledged that the proposed dwelling would sit forward in the building line when compared to the adjacent bungalows to the north. However the new dwelling would still be set back from the pavement by 3.0m, which in my view is sufficient when viewed from the public highway. It is considered there would be minimal impact on the character and appearance of the area from this stepping forward.

The area has mix of properties in terms of their style, scale and appearance. The proposed site lies between semi-detached bungalows and two storey dwellings with a turning area in between and this proposal would add a further variation on house types to the area. Whilst the proposal does not fully replicate to the character of the adjacent properties, it is not considered that the proposal would be so out of character to result in an alien build or be so incongruous that it would be unduly harmful.



View from the proposed site to Regents Close and Healey Close



View from the proposed site to the adjacent properties



View from the proposed site to properties on the other side of Regents Close

The design of the one and a half storey dwelling is fairly simple, similar to the bungalows within the vicinity, the new dwelling would be completed with the use of Cadeby red multi bricks with Russell Grampian (Slate Grey) roof tiles which are considered acceptable as they would be similar to the materials used on Regents Close.

Having considered the character of the existing street scene, the scale of the existing and proposed properties, bearing in mind that the proposal is within an established residential area, also acknowledging the differences in the area, it is considered the proposal is an acceptable design and siting.

The proposed boundary treatment to the north and west of proposed development site would be 1.8m high close boarded fencing including 300mm trellis top. It was initially proposed that 1.8m high close boarded fencing/gates would be extended to the east and south. However, it is considered a softer edge with railings and planting on the southern and eastern boundaries would be more appropriate as both boundaries are adjacent to public domain. This has been agreed with the applicant and would be secured via condition.

Taking into account all of the above, the proposal would accord with Core Policy 9 of the ACS and Policy DM5 of the ADMDPD subject to a condition relating to the southern and eastern boundary treatment.

Impact on Residential Amenity

In relation to residential amenity, Policy DM5 states: 'The layout of development within sites and separation distances from neighboring development should be sufficient to ensure that neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy. Proposals resulting in the loss of amenity space will require justification.'

The proposed new dwelling would front onto Regents Close, sited 4 metres away from the adjacent bungalow no.23 Regents Close. I am satisfied that with this distance, the step in the building line would not have a harmful impact on the adjacent dwelling in terms of loss of light, overshadowing or through being overbearing. The side elevation of the proposed dwelling will not have any openings facing this adjacent dwelling to the north thus avoiding overlooking.

The dwelling would be set further forward than the neighbouring property so as to create sufficient space with the dwelling to the rear where a distance of almost 10 metres would be achieved from its western elevation to no.2 Healey Close. The new dwelling would have two openings at the ground floor level only, neither will have a direct view of this neighbouring property to the rear given its slightly off-set positioning. I am satisfied that this distance is

acceptable to meet the needs of privacy and that this is sufficient to avoid adverse impacts such as overshadowing and overbearing impacts.



Proposed site layout



View of no.2 Healey Close (facing the proposed structure)

The level of amenity space provided to the dwelling is considered generous for the scale of the proposed bungalow for 2 people.

No adverse impacts upon residential amenity associated with the proposed parking spaces located to the south and east are anticipated.

The scheme is judged to accord with Policy DM5 of the Allocations and Development Management DPD in terms of the living conditions of residents.

Highways and Parking

Spatial Policy 7 states that 'the Council will encourage and support development proposals which promote an improved and integrated transport network and an emphasis on non-car modes as a means of access to services and facilities.' Policy DM5 of the DPD states that 'Provision should be made for safe and inclusive access to new development. Where practicable, this should make use of Green Infrastructure and as many alternative modes of transport as possible. Parking provision for vehicles and cycles should be based on the scale and specific location of the development.'

The proposed dwelling would have one allocated space for vehicle off road parking. Although the vehicle would have to reverse to exit the site, this situation is not uncommon along the what is a fairly quiet residential road. In addition, 6 further parking spaces will be created for other residents and visitors within the vicinity. This is a wider benefit as residents in the area appear to rely on on-street parking and the existing parking area is often full with cars then parking on the pavements etc. It is therefore considered the proposal would have a positive impact on highway safety and parking provision which weighs in favour of the scheme.

Dropped kerbs will be carried out for the vehicle crossings on the southern boundary. The pedestrian access from Regents Close to Healey Close will remain after the drop kerbs are installed.

NCC Highways have no objections to the proposal. The conditions suggested by NCC Highways have been included in the recommendation.

Waste Management

The new dwelling would have a paved area to accommodate 3no. bins away from the access paths. It is considered the proposed layout plan to be acceptable in relation to bin storage.

Conclusion

Having regards to the above, it is considered that the proposal is acceptable in principle and would not result in the loss of any functional green space. Despite the loss of amenity green space, the proposal relates well to the surrounding properties and would have an acceptable impact on the character of the area and neighbouring amenity. There would be no adverse impacts in terms of highway safety and the proposal would bring about some welcome benefits by creating 6 additional off street parking spaces for local residents whilst retaining the existing footway link to the adjacent street. Furthermore the proposal would provide a much needed affordable housing unit, when there is a shortfall for such accommodation District wide. It is therefore recommended that planning permission is granted.

RECOMMENDATION

That full planning permission is approved subject to the following conditions:

01

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

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

02

The development hereby permitted shall not be carried out except in complete accordance with approved proposed plans and documents reference:

- Site Location Plan 100 416 ID217 001D, received on 07 August 2020
- Proposed Site Layout Opt3 – 100 416 ID217 005F, received on 07 August 2020
- Proposed Plans & Elevations 100 416 ID217 010, received on 07 August 2020
- Proposed Levels and Kerbing Layout G042 (ID217) C 0110, received on 19 November 2020

Reason: So as to define this permission.

03

The development hereby permitted shall be constructed entirely of the materials details submitted on drawing no. 100 416 ID212 007.

Reason: In the interests of visual amenity.

04

Prior to first occupation of the dwelling hereby approved, certification for any imported topsoil shall be submitted to and approved in writing by the Local Planning Authority. The topsoil shall thereafter be brought onto the site in accordance with the approved details.

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

05

The dwelling hereby permitted shall not be occupied until its parking space and other parking spaces shown on the approved drawing are surfaced in a hard bound material (not loose gravel). The parking spaces 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.).

06

The dwelling hereby permitted shall not be occupied until dropped vehicular footway crossings to serve all parking spaces are available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.

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

07

The dwelling hereby permitted shall not be occupied until the parking spaces are constructed in such a way to prevent the unregulated discharge of surface water from the spaces to the public highway in accordance with details first submitted to and approved in writing by the Local Planning Authority. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.

Reason: To ensure surface water from the site is not deposited on the public highway causing dangers to road users.

08

Notwithstanding the details submitted, prior to first occupation of the dwelling 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;

boundary treatments/means of enclosures.

Reason: This condition is necessary in the interests of visual amenity as the details submitted relating to the south and east boundaries is not considered appropriate being adjacent to the public realm.

09

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.

010

The bin storage facilities/area shown on the approved plan reference 100 416 ID217 005F shall be provided prior to first occupation of the dwelling hereby approved and retained for the lifetime of the development.

Reason: To ensure that adequate bin storage is provided for occupiers in the interests of residential and visual amenity.

Informative Notes:

01

This application has been the subject of pre-application discussions and has been approved in accordance with that advice. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

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/cil/

The proposed development has been assessed and it is the Council's understanding that CIL may not payable on the development hereby approved as the development is made up entirely of Social Housing provided by local housing authority, registered social landlord or registered provider of social housing and shared ownership housing. It is necessary to apply for a formal exemption to confirm this view, which must be made to the Council prior to the commencement of development on CIL 4 form which is also available on the Councils website.

03

The development makes it necessary to construct vehicular crossings 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/temporaryactivities>

04

Please note that the District Council no longer provides wheeled bins for residential developments free of charge. Wheeled bins can be purchased from the District Council or any other source provided they conform to appropriate standards and requirements of the Council. Enclosed is a leaflet from the District Council's Waste Management Section entitled 'Guidance for New Development – Waste Storage and Collection' which sets out these standards and requirements. If you wish to purchase wheeled bins or discuss this matter further please contact the Waste Management Officer on 01636 655677 or email: waste.management@nsdc.info.

BACKGROUND PAPERS

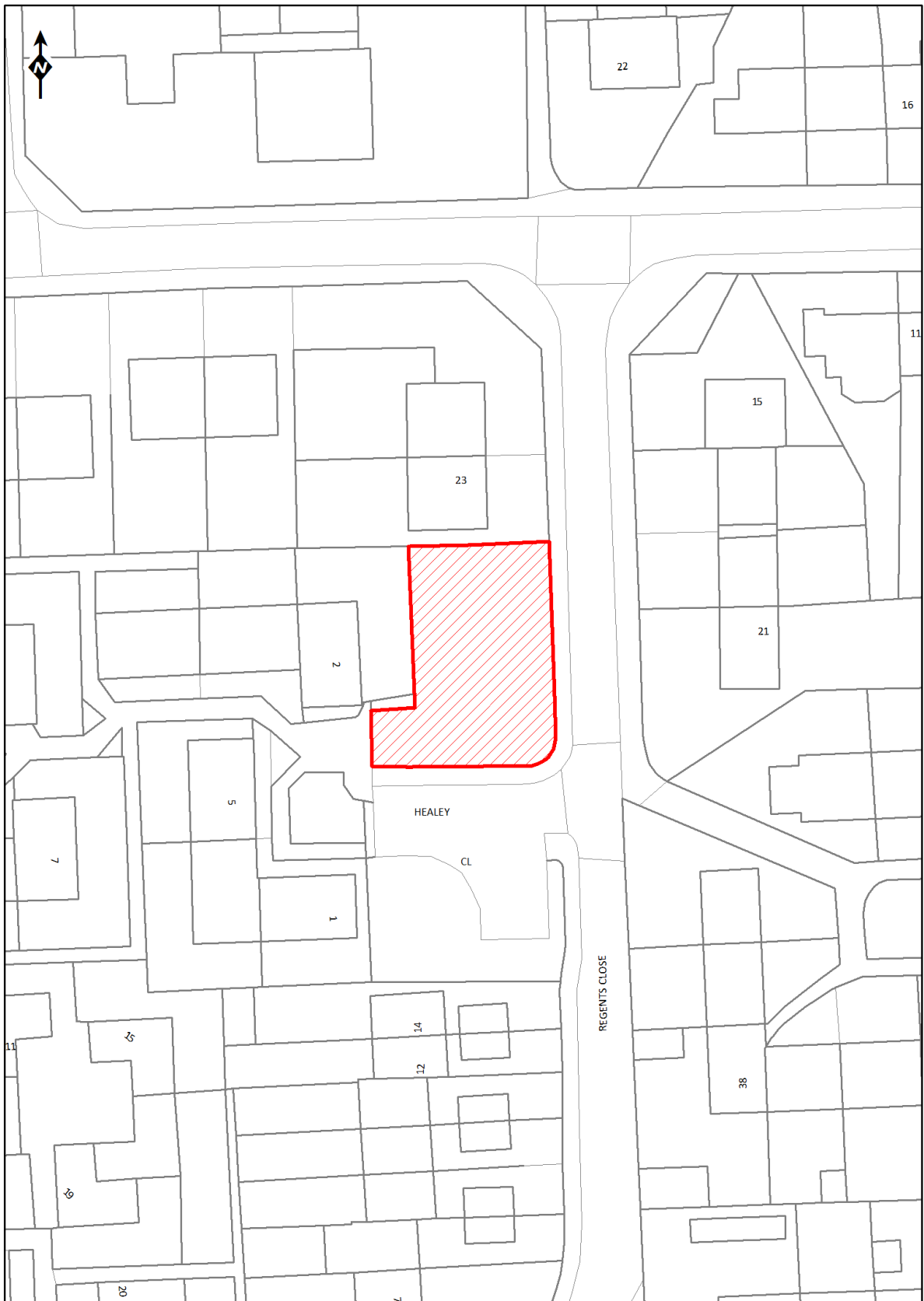
Application case file.

For further information, please contact Yeung Brown on ext 5893.

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

Committee Plan - 20/01481/FUL



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PLANNING COMMITTEE – 1 DECEMBER 2020

LEGISLATIVE UPDATES TO GENERAL PERMITTED DEVELOPMENT ORDER

1.0 Purpose of Report

1.1 To provide an update to Members on a recently published Statutory Instrument (SI)

- SI 2020 No. 1243 - The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 3) Order 2020.

This statutory instrument will have a significant impact in terms of decision making for the types of permitted development proposals this applies to.

2.0 Changes to Legislation

2.1 The Government has made a number of changes to the Town and Country Planning (General Permitted Development) (England) Order 2015 since it originally came into force. This latest amendment includes a number of amendments as set out below.

2.2 From 6th April 2021, SI 2020 1243 will not permit any residential conversion where the gross internal floor area is less than 37m² in size, or which does not comply with the nationally prescribed space standard issues by the Department for Communities and Local Government in March 2015. Members will be aware that a new SI introduced an assessment of adequate natural light earlier this year. However, the assessment of floor size, unlike natural light is not subject to the prior approval process. The requirement in terms of floor area is in effect a condition that the developer has to comply with. The requirement will apply to any application submitted on or after the 6th April 2021.

2.3 In addition, the temporary change of use of buildings as a hot food take-away introduced as a result of the Covid-19 pandemic has been extended for a further 12 months until 23 March 2022. This permitted development right, as before, does not allow such a change of use where a condition has been imposed on a planning permission preventing this use change.

2.4 Lastly, the permitted development right for demolition of buildings under Part 11, Class B previously did not exempt any type of building from demolition. However, concert halls, venues for live music performance and theatres are now exempt, thus planning permission will be required from the 3rd December 2020 for their demolition. This permitted development right relates to the method of demolition and not the principle of demolition.

3.0 RECOMMENDATIONS that:

- (a) Members note the contents of this report.
- (b) Further changes to legislation will be reported to Members

Reason for Recommendations

To enable Members to be up to date with recent planning changes.

Background Papers

The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 3) Order 2020 - <https://www.legislation.gov.uk/uksi/2020/1243/contents/made>

For further information please contact Lisa Hughes on Ext 5565.

Matt Lamb
Director – Growth & Regeneration

PLANNING COMMITTEE – 1 DECEMBER 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 17 October 2020 and 17 November 2020)

Appeal reference	Application number	Address	Proposal	Procedure	Appeal against
APP/B3030/W/20/32594 16	20/01120/S73	Girton Farm Bungalow New Lane Girton Newark On Trent NG23 7HY	Application to remove condition 3 attached to planning permission E/12/46 to remove the agricultural occupancy condition as no longer required	Hearing	Refusal of permission to vary a condition(s)
APP/B3030/W/20/32609 70	19/00854/OUTM	Flowserve Pump Division Hawton Lane Balderton NG24 3BU	Outline application with all matters reserved except access for up to 322-unit residential development on land at Flowserve premises, Hawton Lane, Balderton, Newark	Public Inquiry	Refusal of a planning application
APP/B3030/W/20/32602 14	20/01163/FUL	47 Lower Kirklington Road Southwell NG25 0DN	Proposed Bungalow (resubmission)	Written Representation	Refusal of a planning application
APP/B3030/W/20/32608 38	20/01027/FUL	Land Off Moor Lane East Stoke	Erection of two dwellings with garages and new vehicular access	Written Representation	Refusal of a planning application
APP/B3030/W/20/32608 62	20/01200/FUL	Rear Of Mccolls Mansfield Road Blidworth NG21 0RB	Proposed Two storey dwelling, fell 5 Sycamore Trees	Written Representation	Refusal of a planning application
APP/B3030/W/20/32593 94	20/00052/S73	Birkhouse Oxton Hill Southwell NG25 0RN	Variation of condition 2 attached to planning permission 19/00965/FUL to	Written Representation	Refusal of permission to vary a condition(s)

			allow the addition of a workshop and garage element		
APP/B3030/W/20/32613 23	20/00308/PIP	Land Adjacent To Sunnyside Barnby Road Balderton Newark On Trent NG24 3NE	Application for permission in principle for residential development of three to six dwellings	Written Representation	Refusal of a planning application
APP/B3030/W/20/32614 89	20/00253/FUL	Stonewold Gravelly Lane Fiskerton NG25 0UW	Demolition of existing dwelling and garages. Construction of new 5 bedroom dwelling and self-contained 1 bedroom annex with associated hard and soft landscaping	Written Representation	Refusal of a planning application

PLANNING COMMITTEE – 1 DECEMBER 2020

Appendix B: Appeals Determined (between 17 October 2020 and 17 November 2020)

App No.	Address	Proposal	Application decision by	Decision in line with recommendation	Appeal decision	Appeal decision date
20/00060/ADV	Pizza Express The Wharf Newark On Trent NG24 1EU	1no. internally illuminated sign with address (A), 1no. internally illuminated sign 'pizzeria' (B)	Delegated Officer	Not applicable	Appeal Allowed	27th October 2020
20/00378/TPO	26 Blenheim Avenue Lowdham NG14 7WD	Undertake works to trees protected by TPO 93 G6 Removal of Willow Tree	Delegated Officer	Not applicable	Appeal Dismissed	26th October 2020
20/00113/S73	Land At Rear 37 Easthorpe Southwell	Application to vary condition 02 to add extension to approved dwelling, attached to planning permission 17/01839/FUL; Demolition of shed and erection of 1 No. 4 bedroomed house	Planning Committee	Yes	Appeal Dismissed	12th November 2020

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.

Lia Hughes
Business Manager – Planning Development



Appeal Decision

Site visit made on 27 October 2020

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 November 2020

Appeal Ref: APP/B3030/W/20/3255351

Land r/o 37 Easthorpe, Southwell NG25 0HY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Jason Templeman (Ogon Homes) against the decision of Newark & Sherwood District Council.
 - The application Ref 20/00113/S73, dated 21 June 2019, was refused by notice dated 2 April 2020.
 - The application sought planning permission for application to vary condition 02 to add extension to approved dwelling, attached to permission 17/01839/FUL; Demolition of shed and erection of 1No. 4 bedroomed house.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall not be carried out except in complete accordance with the following approved plans reference: Site Plan 10A/3/2016 Rev A : 30th October 2017 : House Plans and Elevations – 11/3/2016 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.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the setting of the area.

Reasons

3. The appeal site is a dwelling under construction with access from the side of No37 Easthorpe and is located within the urban boundary of Southwell as defined by the Proposals Map. The site access is within the Conservation Area but only the western boundary of the actual site is adjacent the Conservation Area. I understand that the house to the front of the site No37, is a Listed Building as are many of the properties that front Easthorpe.
4. The appeal seeks to vary condition 2 of the extant approval in order to amend the approved plans. This would allow the construction of a two storey addition to the north elevation with a raised decking area. Externally it would be constructed of vertical timber cladding with a clay pantile roof, contrasting to the main building.
5. It is not contested by the parties that the original design of the dwelling was based upon a threshing barn as a nod to the heritage aspects of the site. I find that the appeal proposals, if built, would no longer meet that context and with

- large areas of glazing and a Juliet balcony, as well as contrasting materials of construction, would give the outward appearance of a more modern dwelling, rather than maintain the design ethos it started with. The extension would be subservient, as would be expected, but the contrasting materials would give it prominence in comparison to the remainder of the proposed new dwelling. The additional raised decking area further introduces more domestic design principles and effectively washes away any design interpretation of an agricultural barn.
6. Whilst the proposed extension might not be visible from the street scene, that does not mean that the proposal will be acceptable, the site is still adjacent the Conservation Area and to the rear of a Listed Building. I find that the proposals would not preserve or enhance the heritage assets, but I find the harm to be less than significant.
 7. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (the Act) requires that with respect to development affecting buildings or other land in a conservation area, 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.' Paragraph 193 of the National Planning Policy Framework (the Framework) sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
 8. With regard to Paragraph 196 of the Framework, the harm to the conservation area and listed buildings would be no greater than 'less than substantial'. Less than substantial harm does not equate to less than substantial planning objection, and the Framework sets out the need to address the 'less than substantial harm' against the public benefits of the scheme.
 9. In this instance, no public benefits have been forwarded that would outweigh the harm to the setting of the heritage assets and would therefore conflict with the aims and objectives of the Framework which seek to sustain and enhance the significance of heritage assets.
 10. I also find the proposals to be contrary to Core Policy 9 and 14 of the Amended Core Strategy (2019) and Policy DM9 of the Allocations & Development Management Development Plan Document (DPD) which state that, amongst other matters, should be of a design and layout that is of appropriate form and scale to its context, should have regard to the scale of harm or loss and the significance of the heritage asset and take account of the distinctive character and setting of Conservation Areas.

Other Matters

11. I note the appellants comments with regard to the approved scheme for the Listed Building to the front of the site. I do not have full details of that proposal, but it does not reflect on the current proposals, which I have assessed on their own merits.
12. Based on the above, I consider that Condition 2 is reasonable and necessary in its current form. It is drafted in a precise manner and enforceable, reasonably imposed and consistent in respect of guidance in the Framework.

Conclusion

13. For the reasons given, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Paul Cooper

INSPECTOR



Appeal Decision

Site visit made on 18 August 2020

by Elaine Benson BA (Hons) DipTP MRTPI

An Inspector appointed by the Secretary of State

Decision date: 26 October 2020

Appeal Ref: APP/TPO/B3030/7876

26 Blenheim Avenue, Lowdham, Nottingham, Nottinghamshire NG14 7WD

- The appeal is made under regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a refusal to grant consent to undertake work to a tree protected by a Tree Preservation Order.
 - The appeal is made by Mr Lee Kummer against the decision of Newark and Sherwood District Council.
 - The application Ref: 20/00378/TPO, dated 7 March 2020, was refused by notice dated 30 March 2020.
 - The work proposed is fell Willow.
 - The relevant Tree Preservation Order (TPO) is N93 (Formerly land NE of Lowdham Railway Station), which was confirmed in 1988.
-

Decision

1. The appeal is dismissed.

Main Issues

2. These are the likely effect of the proposed tree works on local amenity and whether the reasons for felling the tree are sufficiently justified.

Reasons

Amenity

3. The appeal tree is a Willow standing in the rear garden of 26 Blenheim Ave (No 26), close to the boundary with No 30 Blenheim Ave (No 30). The Willow is around 12-14m tall, with a crown spread of some 8-10m. It appears to be in good structural and physiological condition. The Willow has previously been pollarded in accordance with a 2010 consent. There is no indication of any disease or decay on the pruning wounds.
4. The Willow tree is visible for a wide area from the adjacent road. It is part of Group 6 of the TPO protected trees which comprises 3 Limes, 4 Poplars, 4 Horse Chestnuts and 3 Willows running along the rear boundaries of Nos 26-39 Blenheim Ave. The Group is also viewed in the context of the other linear Groups identified in the TPO.
5. In the appellant's opinion the Willow has no amenity value. However, I find that as an important part of Group 6, the Willow makes a significant contribution to the attractive character of the surrounding area. Its removal would result in significant harm to amenity.

6. Within this context, it is necessary to determine whether the reasons for felling the tree are sufficiently justified.

Reasons for proposed works

7. It is proposed to fell the Willow due to its size and location which the appellant considers excessively shades his rear elevation and garden and those of No 30. Furthermore, the tree blocks light to the kitchen at No 30. The Willow drops large amounts of leaves and twigs all year round, covering both gardens and blocking drains and guttering.

Assessment

8. I have had regard to the orientation of Nos 26 and 30, the height and density of the crown and other aspects of the Willow's relationship with those properties. The tree certainly has an impact on the amount of daylight reaching the gardens beneath the canopy. However, the limited evidence of excessive shading of the garden-facing rooms, including kitchens, is unconvincing. Nonetheless, in such situations limited daylight usually goes hand-in-hand with living in an area defined by mature trees which contribute to a pleasant living environment.
9. The appellant states that there is a constant stream of falling leaves and twigs, which are more excessive in autumn. However, fallen leaves and other debris are common matters which should be considered when making a decision to live in a property containing or adjacent to trees, particularly protected ones. Additionally, the management of those trees as well as the maintenance of drains and guttering etc, including the cost, should also be taken into account as part of ongoing property maintenance. The nuisance factors identified do not justify felling the Willow. Notwithstanding these conclusions, the appeal evidence indicates that there may well be other means by which to limit the identified effects of the Willow, such as reduction pruning or pollarding, which would also secure its continuing contribution to local amenity.
10. The appellant refers to a clause in the property Deeds which seeks to prevent anything being done on the property or estate that could be or become a nuisance, annoyance or injury to any part of the estate or its occupiers. However, the clause appears to relate to the activities of the owners/occupiers of dwellings on the estate and in my view could not reasonably relate to the presence of a tree which significantly pre-dates those properties. But in any event, this appeal decision relates only to protected trees legislation.
11. The proposed replacement planting of 2 fruit trees would not replicate the size, scale or appearance of the mature Willow and would not mitigate against its loss.
12. In the normal course of events there is a strong presumption against the removal of an apparently healthy, protected tree. There is no arboricultural justification for felling the appeal Willow. Having considered all of the evidence put forward, I conclude that the reasons for felling the Willow are insufficient to justify the proposed works. Accordingly, the appeal is dismissed.

Elaine Benson

INSPECTOR



Appeal Decision

Site visit made on 5 October 2020

by Louise Nurser BA (Hons) Dip UP MRTPI

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

Decision date: 27 October 2020

Appeal Ref: APP/B3030/Z/20/3253860

Street Record, The Wharf, Newark on Trent, NG24 1EU

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mr Rob Weller (Pizza Express) against the decision of Newark & Sherwood District Council.
 - The application Ref 20/00060/ADV, dated 13 January 2020, was the subject of a split decision by notice dated 11 March 2020.
 - The advertisement proposed is 1 no. internally illuminated sign with address (A), 1 no. internally illuminated sign 'pizzeria' (B), 1 no. externally illuminated sign 'pizzeria' (C) and, 1 no. externally illuminate projecting sign (D).
-

Decision

1. The appeal is allowed and express consent is granted for the display of the 1 no. internally illuminated sign with address, 1 no. internally illuminated sign 'pizzeria', as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations.

Preliminary matters

2. Advertisement consent has already been granted, in the form of a split decision, for the externally illuminated sign 'pizzeria' and the externally illuminated projection sign. These are proposed to be located on the historic element of the property.
3. For the avoidance of doubt, the appeal before me relates to the remaining two advertisements refused by the Council. Namely, an internally illuminated sign, setting out the address of the restaurant and the internally illuminated sign 'pizzeria', both of which are proposed to be located on the modern element of the appeal property and which were refused. I am clear that this is the case and have proceeded on that basis.
4. Reference has been made within the officer's report to a separate application for listed building consent. This solely relates to the advertisements for which consent has been granted by the Council. Whether an application for listed building consent is required as a result of my decision is not a matter before me.
5. National Planning Policy sets out that advertisements should be subject to control only in the interests of amenity and public safety, taking account of

cumulative impacts. The Planning Practice Guidance¹ makes clear that consent cannot be refused if the local planning authority considers the advertisement to be unnecessary.

Main Issue

6. The Council raises no public safety objection. Therefore, the main issue is the effect of the proposed advertisements on visual amenity.

Reasons

7. The appeal site is a restaurant located in a Grade II listed building. It is a converted early 18th century, two storey warehouse, with 20th century alterations, and a glass panel link to a modern brick rotunda. From the evidence before me, the significance of the building is related to its modest and simple form, derived from its historic function as warehousing, to service the historically significant commercial use of the river Trent. The extension, whilst clearly a modern design, is broadly sympathetic.
8. The restaurant faces a car park, accessed from Trent Bridge which is one of the main entrances to Newark. It sits at a tangent to the banks of the river and lies in the Newark Conservation Area which flanks both sides of the River Trent and rises up towards the commercial centre of the town.
9. I am mindful, that the Planning Practice Guidance sets out, in the context of a locality which has important scenic, historic, architectural or cultural features, that a decision maker should consider whether the advertisement is in scale and in keeping with these features in relation to considerations affecting amenity².
10. From my extensive site visit of the CA I noted that a key characteristic of the CA was the sensitive way in which corporate branding had been adapted to the individual retail units; the number of original shop fronts; and the remarkably few examples of illumination of fascia of commercial premises. This makes a very positive contribution to the character and appearance of the CA.
11. It is no part of the Council's case that the two internally illuminated signs, and illuminated horizontal bar running the length of the fascia which sweeps across the rotunda and curves to intersect with the original former warehouse do not benefit from advertisement consent. The illuminated signage which has been refused by the Council would refresh the corporate branding of the restaurant. This would alter the balance of the existing signage. However, whilst I have taken into account the current situation, I must consider the proposed signage on its own merits.
12. Whilst the appellant has applied for two separate internally illuminated signs, the impact of the proposed advertisements needs to be considered as a whole.
13. It appears that the Council does not object per se to the internally illuminated gold leaf 'pizzeria' lettering proposed to be located over the main entrance to the restaurant. Rather, it objects to its proposed position over the entrance rather than on the prominent element of the rotunda. However, I can only determine what is before me. Given the way in which the modern rotunda and the former warehouse intersects, the sign would only be highly visible in a

¹ ID: 18b-026-20140306

² ID: 18b- 079-2014306

- restricted area, from the direction of the river and adjacent car park. As such it would not be visually conspicuous. Moreover, when viewed from these vantage points, its discrete design, which would remain within the boundary of the fascia that curves across the brick rotunda and glass link, would not result in harm, either to the visual appearance or historic significance of the former warehouse, or when considered in the context of the wider area.
14. The proposed second element of the scheme would be for illuminated lettering setting out the address of the restaurant. Whether this text, which would extend 1122 mm, and have internally illuminated push through lettering that would be no greater than 203mm in height, would be necessary or not, is not before me. I must concern myself with its visual impact.
 15. Any illuminated signage would be strictly contrary to the guidance set out in the Council's Shopfronts and Advertisement Design Guide Supplementary Planning Document, (SPD) which considers internal illumination to always be inappropriate, even on premises which have a night time use, such as the appeal property.
 16. However, I consider that rather than being unduly prominent on the most visible element of the fascia, the small element of illuminated lettering, on an otherwise blank fascia, would be seen as a subtle approach to identifying the appeal property. The lettering would be consistent with the modern element of the listed building and would be appropriately differentiated, and subservient to the larger externally illuminated gold lettering which has already been consented as part of this application, and which would sit on the historic element of the former warehouse.
 17. Notwithstanding the conflict with the SPD, to which I have had due regard, and the subsequent objection by Newark Town Council, in this particular circumstance, such an approach of allowing limited internal illumination, would be consistent with the clear delineation between the historic converted warehouse, which functionally and visually links with the former warehousing in the immediate area, and the extension which is of a simple modern design.
 18. The scheme succeeds on its own merits and would not adversely impact on the character or appearance of the wider conservation area, nor the special interest of the listed building through an adverse impact on its appearance.
 19. As such, I conclude that both elements of the appeal, singly and cumulatively, would not have any adverse effect on amenity.

Conclusion

20. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area in the exercise of planning functions. I have found in this instance, that no harm would result from the proposed advertisements.
21. Similarly, Section 66(1) of the Act requires me, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. As set out above, I have found no harm to the listed building. However, this conclusion does not predetermine, nor negate, the requirement

to apply for separate listed building consent in relation to the internally illuminated signs including their method of fixing.

22. The Council has referred to the development plan policies which they consider to be relevant to this appeal. However, given that I have concluded that the advertisements would not have an adverse visual impact, including in relation to the historic character and appearance of both the Grade II listed building and the wider conservation area, there is no policy conflict with Policies CP9 and CP 14 of the Amended Core Strategy adopted 2019 , and Policies DM5 and DM9 of the Allocations and Development Plan Document adopted 2013 (DPD), which collectively seek to ensure the continued conservation and enhancement of the district's distinct, heritage assets and historic environment.
23. For the reasons which are set out above, I allow the appeal and grant express consent for the display of both internally illuminated signs.

L. Nurser

INSPECTOR