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**Friday, 7 January 2022**

**Chairman: Councillor R Blaney**  
**Vice-Chairman: Councillor Mrs L Dales**

**Members of the Committee:**

**Councillor M Brock**  
**Councillor R Crowe**  
**Councillor L Goff**  
**Councillor Mrs R Holloway**  
**Councillor Mrs P Rainbow**  
**Councillor Mrs S Saddington**  
**Councillor M Skinner**

**Councillor T Smith**  
**Councillor T Thompson**  
**Councillor I Walker**  
**Councillor K Walker**  
**Councillor T Wildgust**  
**Councillor Mrs Y Woodhead**

**MEETING:      Planning Committee**

**DATE:            Tuesday, 18 January 2022 at 4.00 pm**

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

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

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



## **AGENDA**

### **Page Nos.**

1. Apologies for Absence
2. Declarations of Interest by Members and Officers
3. Declaration of any Intentions to Record the Meeting
4. Minutes of the meeting held on 6 December 2021

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### **Part 1 - Items for Decision**

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| 5.  | Staunton Industrial Estate, Alverton Road, Staunton In The Vale - 21/02386/FULM (MAJOR) | 10 - 33   |
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### **Part 2 - Items for Information**

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| 15. | Appeals Determined   | 127 - 133 |

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

There are none.

### **Part 4 - Exempt and Confidential Items**

There are none.

16. 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 **Planning Committee** held in the Civic Suite, Castle House, Great North Road, Newark, Notts, NG24 1BY on Monday, 6 December 2021 at 4.00 pm.

PRESENT: Councillor R Blaney (Chairman)  
Councillor Mrs L Dales (Vice-Chairman)

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

APOLOGIES FOR ABSENCE: Councillor L Brazier (Committee Member) and Councillor T Smith (Committee Member)

The Planning Committee undertook a minutes silence in remembrance of Councillor Mrs Maureen Dobson, who sadly passed away on the 30 November 2021.

### 77 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

Councillor Mrs P Rainbow declared a disclosable pecuniary interest in Agenda Item No. 9 – Seven Hills, Quibells Lane, Newark On Trent, NG24 2FE (21/02009/RMAM) (MAJOR) as she owned land which abutted land on Quibells Lane.

Councillors Mrs L Dales, I Walker and K Walker declared registerable Interests as Council appointed representatives on the Trent Valley Internal Drainage Board and Upper Witham Valley Drainage Board.

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

The Chairman advised that the proceedings were being recorded by the Council and that the meeting was being livestreamed and broadcast from the Civic Suite, Castle House.

### 79 MINUTES OF THE MEETING HELD ON 2 NOVEMBER 2021

AGREED that the Minutes of the meeting held on 2 November 2021 were approved as a correct record and signed by the Chairman.

### 80 STAUNTON WORKS, ALVERTON ROAD, STAUNTON IN THE VALE, NG13 9QB - 21/01879/FUL

The Committee considered the report of the Business Manager – Planning Development which sought full planning permission for the retention of an existing concrete casting structure and its cover and a proposed new identical additional structure immediately to its east.

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 Robert Jenrick MP and the Planning Case Officer, which provided a revised committee plan as the one provided in the agenda was incorrect.

The Business Manager – Planning Development informed the Committee of an inaccuracy within the report which stated that no new employment would ensue from the proposal. Confirmation had been received that the proposal would create approximately 2 - 3 job opportunities and therefore would be of economic benefit.

Members considered the application and it was felt that the benefits to the economy through employment outweighed any harm.

AGREED (with 12 votes For and 1 vote Against) that planning permission is approved (partly in retrospect) subject to the conditions and reasons contained within the report.

81 BRAMLEY HEDGE, BOAT LANE, BLEASBY, NG14 7FT - 21/02104/FUL

The Committee considered the report of the Business Manager – Planning Development which sought planning permission for the demolition of all existing buildings on the site and the erection of a two-storey 3-bed dwelling.

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

Members considered the application and clarification was sought regarding the dwelling being in flood zone 3. The Senior Planning Officer confirmed that a flood assessment had been submitted in terms of the development. There were conditions in place requiring the house to comply with higher floor measurements and the requirement to sign up to a flood warning evacuation plan. A two storey dwelling in flood risk terms was better than a single storey.

AGREED (with 12 votes For and 1 Abstention) that planning permission be granted subject to the conditions contained within the report.

82 HOVERINGHAM CRICKET PITCH, MAIN STREET, HOVERINGHAM, NG14 7JR - 21/02082/FUL

The application was removed from the agenda having been withdrawn by the applicant.

83 FIELD REF NO 4804, SOUTHWELL ROAD, KIRKLINGTON - 21/01219/FULM

The Committee considered the report of the Business Manager – Planning Development which sought planning permission for the change of use of the agricultural field to a dog exercise area and creation of a new access and parking area.

Members considered the presentation from the Business Manager – Planning

Development, which included photographs and plans of the proposed development.

The Business Manager – Planning Development informed Committee of a typographical error in condition 8 of the report, which should read ‘metres’ and not meters, this would be clarified in the decision notice, should the Committee be minded to grant the application.

Members considered the application and it was commented that whilst this enterprise was different, Members had seen this operate successfully in other areas and considered the business plan adequate with a demand for this service. Concern was raised regarding the access road if there was a high intake for this operation and whether there would be enough vehicle parking bays and how parking would be enforced, if at all. Hours of operation was also raised. A Member commented that an online booking system would be used and a code would be issued which would control the access and parking for the site. It was suggested that an additional condition be included stipulating the number of vehicles to a maximum of six on site associated with the use of the field at anyone time.

AGREED (with 10 votes For, 2 votes Against and 1 Abstention) that full planning permission be approved subject to the conditions contained within the report and an additional condition of a maximum of six vehicles in the parking area.

84 SEVEN HILLS, QUIBELLS LANE, NEWARK ON TRENT, NG24 2FE - 21/02009/RMAM (MAJOR)

The Committee considered the report of the Business Manager – Planning Development which sought reserved matters consent for all remaining matters including appearance, landscaping, layout and scale for the erection of a replacement temporary living accommodation facility for the homeless.

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 approval be granted subject to the conditions and reasons contained within the report.

85 APPEALS LODGED

AGREED that the report be noted.

86 APPEALS DETERMINED

AGREED that the report be noted.

87 EXCLUSION OF THE PRESS AND PUBLIC

That, under section 100A (4) of the Local Government Act 1972, the public be

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excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in Paragraphs 1, 2, 3 and 7 of part 1 of Schedule 12A of the Act.

88 HALLOUGHTON SOLAR PLANNING APPEAL PUBLIC INQUIRY UPDATE

The Business Manager – Planning Development, provided Committee with a verbal update regarding the Halloughton Solar Planning Appeal which was due to take place the following day.

The reason for the verbal late report was due to additional information being submitted and the Public Inquiry being the following day.

(Summary provided in accordance with 100C(2) of the Local Government Act 1972.)

Meeting closed at 5.24 pm.

Chairman



By virtue of paragraph(s) 1 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

## PLANNING COMMITTEE – 18 JANUARY 2022

<b>Application No:</b>	<b>21/02386/FULM (MAJOR)</b>	
<b>Proposal:</b>	<b>Erection of commercial storage units and erection of new office with associated parking (resubmission)</b>	
<b>Location:</b>	<b>Staunton Industrial Estate, Alverton Road, Staunton In The Vale NG13 9QB</b>	
<b>Applicant:</b>	<b>Pete Norris Ltd, Midland Feeds</b>	
<b>Agent:</b>	<b>Grace Machin Planning &amp; Property</b>	
<b>Weblink:</b>	<a href="#">21/02386/FULM   Erection of commercial storage units and erection of new office with associated parking. (Resubmission)   Staunton Industrial Estate Alverton Road Staunton In The Vale (newark-sherwooddc.gov.uk)</a>	
<b>Registered:</b>	<b>10.11.2021</b>	<b>Target Date: 09.02.2022</b>

This application is presented to the Planning Committee for determination given that members previously refused the scheme, that it is a major scheme which has a recommendation of approval (on balance) contrary to the views of the Parish Meeting and a recommendation which represents a departure from the Development Plan.

### The Site

The site is situated at the long established Staunton Industrial Estate, approximately 750m to the north-west of Staunton-in-the-Vale which is located in the open countryside to the south of the district. This part of the industrial estate comprises a mix of compacted bare ground, improved grass and tall ruderals vegetation. This and the wider field to the north and east appears agricultural in character. There is a balancing pond located to the east, fed by a culvert that runs parallel with the drive that serves the industrial units.



JP Concrete is the business occupying the unit and associated land immediately adjacent (west) of the site. Midland Feeds occupy the larger unit (with a square footprint) west of that along with the

land to the south, east and west of it where they produce animal feeds.

The proposed development site is located approximately 150m to the east of existing industrial buildings within the Estate. An existing industrial estate access lies to the south of the application site and connects to the public highway C3 (Grange Lane) that runs parallel with the A1 to the east.

The site lies within flood zone 1 although lies in an area that is prone to superficial deposit flooding according to the EA maps.

#### Relevant Planning History

**21/00295/FULM** – Full planning application for the erection of commercial storage units and erection of new office with associated parking was recommended for approval (on balance) by officers and considered by the Planning Committee in July 2021. Members resolved to refuse the application for the following reason:

*In the opinion of the Local Planning Authority the proposal is not small scale and does not represent a proportionate expansion of an existing business and the need for a rural location in the open countryside has not been adequately demonstrated. Although the proposal would bring public benefit by providing economic benefits, the likely creation of new jobs would be in the longer term to the District with initial jobs filled by existing employees from Bottesford (outside the District) through the consolidation of the business to the application site. These benefits are not considered sufficient to outweigh the harm. The proposal therefore represents unjustified and unsustainable development in the open countryside. The proposal is therefore contrary to Spatial Policy 3 (Rural Areas) and Core Policy 6 (Shaping our Employment Profile) of the adopted Amended Core Strategy (adopted March 2019) and Policy DM8 (Development in the Open Countryside) of the adopted Allocations and Development Management DPD, which together form the up to date Development Plan for the district alongside the National Planning Policy Framework a material planning consideration.*

#### *Refused Drawing Numbers:*

- o General arrangement, feed store 2 plans, elevations, sections, drawing no. 8952-CPMG-oo-ZZ-DR-A-2011 P02
- o General Arrangement, office plans, elevations, sections, drawing no. 8952-CPMG-oo-ZZ-DR-A-2012 P01
- o General Arrangement external works, location plan, 8952-CPMG-oo-ZZ-DR-A-7001 P03
- o General Arrangement external works, proposed site plan, 8952-CPMG-oo-ZZ-DR-A-7010 P02
- o General arrangement drawings Plans and Elevations (weighbridge) drawing no. CPMG-00-ZZ-DR-A-2013 Rev P1

#### *Wider site including this application site*

94/51746/LDC – Use of site (Staunton Works British Gypsum Ltd) for general industrial purposes within Use Class B2. Certificate issued 04.12.1995.

94/51747/LDC – Retention of existing buildings (non-compliance with planning conditions requiring

removal of such buildings) certificate issued 04.12.1995.

94/51748/OUT – Demolition of some existing buildings and replacement with new buildings and use of site for B1, B2 and B8. Approved 18.09.1995.

#### *Land to south-west*

12/00224/AGR – Prior notification for proposed open cattle area, prior approval not required 23.04.2012

97/51912/CMM – Restoration of land to agricultural. NCC were decision makers.

#### *Land to west*

09/00995/FULM - Proposed change of use for storage and associated haulage for Farrell Transport Ltd, refused on 17.02.2010 (on grounds of impact on living conditions upon occupiers living alongside the local highway) but appeal was allowed 27.07.2010 under appeal ref APP/B3030/A/10/2126156.

02/02452/FUL – Proposed extension for storage of Glulan & I Beams, approved 19.12.2002

98/51825/FUL – Change of use of agricultural land for open storage, approved 25.08.1998.

#### The Proposal

The application represents a resubmission of the previously refused scheme. The scheme is identical but has been supplemented with additional supporting information.

Full planning permission is sought for new commercial development by Midlands Feeds who already occupy a unit on the Staunton Industrial Estate to allow them to relocate their other site and staff from Bottesford (within Melton Mowbray borough) and consolidate and expand their business. The business is for animal feed storage.

The applicants existing site at Bottesford is said to comprise c10,000 sq ft (c929m<sup>2</sup>) of storage. The applicant has advised that they currently operate or store at six different sites and this application will allow the company to consolidate down to two sites (this one and the other on a farm just outside of Claypole; just across the Lincolnshire border into South Kesteven) with all staff moved to the Staunton site.

The development proposals includes storage buildings and an office, detailed as follows:

An office building (24.68m x 9.68m x 3m eaves x 6.35m ridge) is proposed comprising an open plan office space of 239m<sup>2</sup>, reception, server room, toilet/shower room, lobby and small kitchen, additional lobby, kitchen, store, plant room, office and board room. This would be located at the southern part of the site adjacent to the site access that serves the estate. This would be constructed of profiled metal coated cladding, glazed roof lights, with metal windows and doors.

Parking for 19 cars to the west of the office is proposed and the access road would loop around the office and parking (a weigh bridge is proposed to the north also).

To the north of the office and in the center of the site, a double bay feed store is proposed (c38.36m x 25m x 8.75 ridge x 5.6m eaves) giving 2 x storage areas of 466.63 m<sup>2</sup> and 466.62m<sup>2</sup>. A further 4 parking spaces would be provided adjacent. This would be constructed in a portal steel frame, with dark brickwork, profiled pvc coated metal cladding and metal roller shutter doors.

A service yard to the north of the site is proposed instead of the previously proposed triple bay feed store (albeit this was removed from consideration prior to the previous decision).

A weighbridge 18m long with 3m ramps at either end is also proposed between the offices and the two bay feed store.

The application form is noted as having 16 full time and 2 part time employees. However these employees would be existing staff relocated from Melton Mowbray.

The application has been assessed on the basis of the amended plans and documents listed below (the items in **bold** are additional supporting information).

- Topographical survey, drawing no. 20-202-01 & 20-202-02
- General arrangement, feed store 2 plans, elevations, sections, drawing no. 8952-CPMG-oo-ZZ-DR-A-2011 P02
- General Arrangement, office plans, elevations, sections, drawing no. 8952-CPMG-oo-ZZ-DR-A-2012 P01
- General Arrangement external works, location plan, 8952-CPMG-oo-ZZ-DR-A-7001 P03
- General Arrangement external works, proposed site plan, 8952-CPMG-oo-ZZ-DR-A-7010 P02
- Design and Access Statement rev P4
- Ecological Appraisal, FPCR, December 2020
- Flood Risk Assessment and Drainage Strategy Rev P03, BSP Consulting, 12 March 2021
- Transport Statement, BSP Consulting, (amended, version P03) 21 May 2021
- Planning Statement (submitted previously)
- BSP Consulting written response to NCC LLFA objection (not resubmitted)
- General arrangement drawings Plans and Elevations (weighbridge) drawing no. CPMG-00-ZZ-DR-A-2013 Rev P1
- Appeal decision APP/R2520/W/20/3254834 dated 4<sup>th</sup> May 2021 relating to Thorpe Grange Farm in Auburn (North Kesteven DC) where an inspector considered an outline application (only appearance was reserved) for the erection of industrial and commercial units at Enterprise Park. One of the key issues was whether it was an appropriate location for employment development with particular reference to whether it is classed as a 'Local Employment Site'. The inspector found that whilst the site was open countryside, it was adjacent to the established business park and to expand the site it would have to be into the open countryside in order to allow the business to expand, support economic growth and productivity recognizing the specific locational requirements of different sectors etc. He found this to be in accordance with the Development Plan and allowed the appeal
- Emails 24.05.2021 from agent setting out further commentary on the need for the rural location and 08.06.2021 setting out links with cattle business.
- Plan showing location of cattle sheds.
- **Midland Feeds – Operational Business Overview and Justification for Expansion of Existing Business**
- **Supplier Map**

## Departure/Public Advertisement Procedure

Occupiers of 19 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 given that this is a major development and a potential departure from the development plan.

## **Planning Policy Framework**

### **The Development Plan**

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

Spatial Policy 1 - Settlement Hierarchy  
Spatial Policy 2 - Spatial Distribution of Growth  
Spatial Policy 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 10A – Local Drainage Designations  
Core Policy 11 – Rural Accessibility  
Core Policy 12 – Biodiversity and Green Infrastructure  
Core Policy 13 – Landscape Character

#### **Allocations & Development Management DPD**

DM1 – Development within Settlements Central to Delivering the Spatial Strategy  
DM4 – Renewable and Low Carbon Energy Generation  
DM5 – Design  
DM7 – Biodiversity and Green Infrastructure  
DM8 – Development in the Open Countryside  
DM9 – Protecting and Enhancing the Historic Environment  
DM10 – Pollution and Hazardous Substances  
DM12 – Presumption in Favour of Sustainable Development

### **Other Material Considerations**

National Planning Policy Framework  
NPPG  
Landscape Character Assessment SPD, 2013

### **Consultations**

**Staunton Parish Meeting** – The Parish meeting met on the 25th of November with the result below:

Object 5, Support 4, Abstain 3

The reasons for those who were against the proposal were the same as for the previous application:

- They did not wish to see Staunton Industrial estate expand into open countryside, as designated in the local plan.

- Such expansion into a grass field would negatively impact the rural landscape and would set a precedent for further expansion into open countryside
- There was concern over increase traffic to the new offices and industrial units including heavy goods vehicles on local roads that have a weight restriction
- There was unanimous concern (including those in support) regarding light pollution. **Those in support wished this to be subject to low level or down lighting on the new development only, as a planning condition.** (The high level bright all night lighting on the recently erected building at Farrell Transport adjoining continues to cause significant concern within the village)

Those in support felt the proposed development, including landscaping, would improve the look of the industrial estate in this rural area and also provide employment.

**NCC Highways Authority** –Repeat previous advice of no objections subject to conditions pertaining to parking provision, routing agreement and restrictions on any future permitted development.

Previous advice provided on refused scheme: ‘Further information has been submitted, including a revised transport assessment which details the parking provision, the only outstanding concern from Highways since the size of the development was reduced.

23 spaces are indicated. The office requires 7 spaces, but as highlighted previously, 13 staff are indicated within the office. Given the unsustainable location, staff are likely to drive to work. The development is too small for a travel plan to encourage car sharing etc.

Whilst the TA indicates that 8 spaces are required for a B8 use, the intended classification of the development remains unclear. The information submitted with the planning application indicates that a B2 use would suit the proposed description and this would require 17 spaces.

The provision of 23 spaces meets the minimum requirements for office space and B8 storage, with an excess of 8 spaces. However, the information has not addressed the concerns in regard to the offices showing 6 more staff than spaces provided, the lack of clarity over the use class of B8 or B2, nor addressed the indicated retail element of the site and parking spaces required for this. This would require 30 spaces plus any required for the retail use.

If the development is accepted by the LPA as a B8 use, then it is likely that the car parking spaces provided are adequate, even in consideration of retail use. Accordingly, we would have no objection as there would be no overspill parking impacting on highway.’

**NCC Lead Local Flood Authority** – 31.03.2021 – Confirmed no objection based on the drainage plans submitted subject to condition.

**Natural England** – No comments to make.

**NSDC (Environment Health, Land Contamination)** - Advice Note relating to Radon (included in the informatives).

**No representations have been received to the resubmission. The scheme previously attracted 4 representations (3 in support and 1 objection which are repeated below given the scheme is identical).**

**Support:**

- *It would make positive contribution to area in terms of aesthetics and by helping encourage business to the area;*
- *It will help with screening the existing buildings from the village as long as there is adequate landscaping;*
- *The style and look of the new buildings will in my opinion be an improvement to what is already there.*

**Object**

- *This further extension of an industrial site would continue to negatively impact this part of the Vale and would be detrimental to local environment;*
- *Amenity is already severely impacted in terms of both light and noise pollution from the existing businesses operating out of Staunton Works;*
- *We do not need additional Industrial or Warehousing or even office space locally. There is no shortage locally and there are much better sites where this sort of development would have no or little impact to both the local community and environment;*
- *Would mean further increased traffic and heavy goods lorry use of Grange Lane which rightly has a 7.5T weight restriction upon it. Grange Lane already suffers from excessive traffic from heavy goods vehicles from both Farrells and other local businesses exempt from the existing weight restrictions and other traffic illegally using it as a short cut from A1 to A52/A46;*
- *There has been a noticeable increase in general traffic over the last few years along Grange Lane at speeds seemingly well in excess of the prevailing national speed limit ( 60mph) which resulted in a local petition and application (2018/19) requesting a 40mph speed restriction from the junction of Grange Lane with turning for Staunton in the Vale up to the junction with Valley Lane (for Long Bennington);*
- *This development would mean expansion into the open countryside and would also set a precedent for potential further expansion into open countryside adjoining the site in the future leading to a further degradation of the environment for the local community;*
- *There are new structure on the Staunton Industrial Estate owned by the applicant which does not seem to have had any planning permission.*

**Comments of the Business Manager**

As the scheme is identical to the previous scheme the officer appraisal remains largely the same as previously published. Additional commentary is provided where appropriate in **bold**.

**The Principle**

Development of this scale in this location requires some justification. This proposal, if permitted, would effectively extend Staunton Industrial Estate despite there being undeveloped land within its current boundary and a more than adequate supply of available land suitable for employment uses elsewhere in the District.

The spatial strategy seeks to focus employment development in the sub-regional centre, Service Centres and Principal Villages, with a range of sites having been made available in such locations. The Development Plan seeks to ensure that development in the open countryside is strictly controlled (through policies SP3 and DM8) and it is important that any permissions granted do not set a precedent that undermines the ability of the District Council to resist inappropriate development proposals elsewhere.



Policy DM8 (Development in the Open Countryside) strictly controls development in the open countryside limiting it to certain exceptions of which there are 12. Exception no. 8 'Employment Uses' is considered the most applicable to this proposal. This states:

*'Small scale employment development will only be supported where it can demonstrate the need for a particular rural location and a contribution to providing or sustaining rural employment to meet local needs in accordance with the aims of Core Policy 6. Proposals for the proportionate expansion of existing businesses will be supported where they can demonstrate an ongoing contribution to local employment.'*

I therefore assess the scheme against this exception having regard to four key factors; 1) whether the proposal can be considered to be small-scale, 2) whether the proposal is considered a proportionate expansion of an existing business, 3) whether there is a need for this development to be in a rural location and 4) whether there would be a contribution to ongoing local employment.

#### *Whether the proposal is small-scale*

As originally submitted the scheme proposed 2,589m<sup>2</sup> of new floor space which was reduced to 1,172m<sup>2</sup> by the omission of the triple bay feed store. Nevertheless, this amount of development and with a land take of 1.04 hectares, I would say is not a small-scale development. Major developments in planning terms are defined by government as those having a floor area of 1,000 m<sup>2</sup> or above, or those exceeding 1 hectare in land area. This scheme exceeds both and constitutes a major development. Policy DM8 is silent on large-scale employment developments simply because it is expected that these would be located on sites allocated for employment type uses; only development demonstrated as necessary is permitted in the open countryside in line with the sequential approach to site selection. This element is considered further later in this report.

#### *Whether the proposal is considered a proportionate expansion of an existing business*

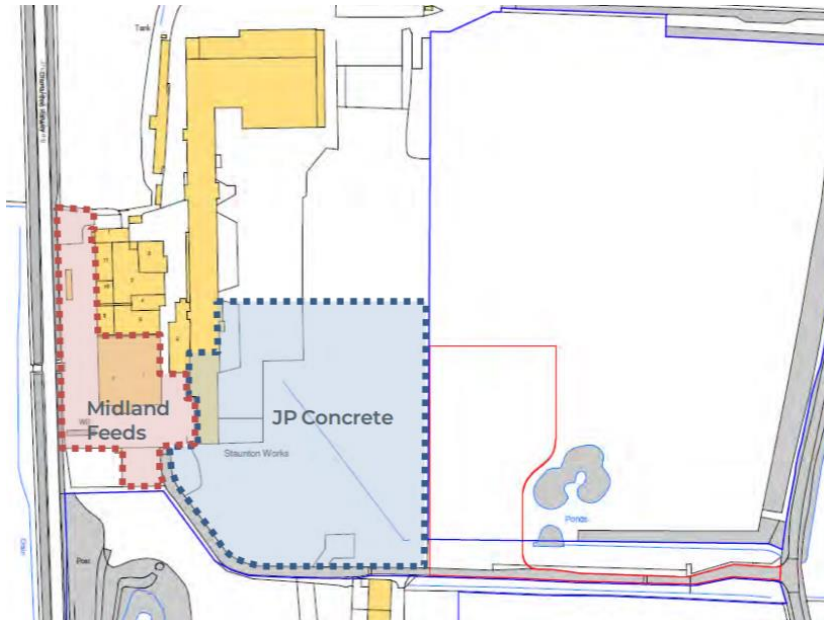
Core Policy 6, underpinning Policy DM8, requires that development sustaining and providing rural employment should meet local needs and be small scale in nature to ensure acceptable scale and impact. Policy DM8 refers to proportionate expansion, so a judgement needs to be reached as to whether the scale of this proposal is acceptable and proportionate. There is no definition in policy DM8 as to what is meant by a 'proportionate' expansion of an existing business. While proportionality should be considered in relation to the existing Midland Feeds Ltd. site, it is reasonable to view this in the wider context of the whole Industrial Estate.

In terms of whether the 'expansion' is proportionate, on a simple mathematical comparison, the existing business occupies a land area of approximately 0.672ha whilst the proposed site relates to 1.04ha which represents a 154.7% increase in land take which I do not consider to be proportionate to the existing business.

The applicant points to the fact that the scale of development has now been significantly reduced to a level which they feel is a proportionate expansion of the existing business. They also consider that significant weight should be given to the NPPF and point to an appeal recently allowed within North Kesteven's jurisdiction whereby an inspector considered an outline application (only appearance was reserved) for the erection of industrial and commercial units at Enterprise Park.

One of the key issues was whether it was an appropriate location for employment development with particular reference to whether it is classed as a 'Local Employment Site'. The inspector found

that whilst the site was open countryside, it was adjacent to the established business park and to expand the site it would have to be into the open countryside in order to allow the business to grow, support economic growth and productivity recognizing the specific locational requirements of different sectors etc. He found this to be in accordance with the Development Plan and allowed the appeal. The key and fundamental difference is that in this case the proposal would be contrary to the Development Plan policy (which have different objectives) which is the statutory starting point in decision making and as such this appeal decision doesn't weigh heavily in the planning balance.



As can be seen from the plan extract above, the application site does not sit immediately adjacent to the existing business which is seeking to expand and there is a separate business on the intervening land between the sites. Whether we can consider this proposal as an expansion of the existing business at all (rather than a separate business operating independently) is a matter that needs to be carefully considered. This issue is intertwined with the next issue discussed below.

*Whether there is a need for this development to be in a rural location*

**Midlands Feeds is an established business that manufactures, stores and sells cattle and sheep feed nationwide. To protect animal and human health this is regulated through assurance schemes (universal feed and feed materials) which the company is part of involving safe practices in sourcing, blending, storing and transporting etc. They have contracts for raw materials in the midlands but also have regular suppliers elsewhere and they buy from local farmers. Since gaining the FEMAS accreditation they have been able to procure materials from the food industry thus reducing waste and helping to prevent landfill. There is an increase in these food waste products being offered for sale (pasta, chocolate, cereals, syrups etc) as factories try to reduce waste. Midlands Feeds say it is *'difficult to cope with the demand of taking these products in and having adequate and available storage to facilitate the raw materials. We require a variety of store space throughout the year, storing anywhere between 3000 – 6000 tonnes a year in peak times, both bulk and palletised. We have seen sales increase every year and we are keen to take on more contracts, more staff and to continue to expand the Midland Feeds business.'***

The applicant has been asked why existing industrial units at Staunton Industrial Estate cannot be acquired for the expansion of the feed stores and office. They have commented that currently all units and space is occupied by other businesses and that in any case none of the other units are

suitable for HGV access, nor lend themselves to being suitable to the feed business as they are mainly workshops with small offices. The applicant has also been asked what benefits this relocation would bring to the business already operating. They have said:

*“The biggest benefit and the main reason for relocating is that the business has continually grown over the last 5 years and we are now at a situation where we need more room/space. Proportionate growth at Staunton will make the business a more efficient operation with a less dispersed array of sites to minimise unnecessary car journeys. There will be less vehicle movements internally by relocating from Bottesford. We want to invest in Newark and Sherwood and help in bringing prosperity and jobs to the District.”*

The applicant also indicates that the other auxiliary stores around the country that they use would no longer be needed by the business which would reduce the amount of vehicle movements between these sites and this one.

Whilst this is all noted, the same statement could be true for alternative land available at Newark Industrial Estate which is where we would expect to see such growth which also has good (I would suggest better) site access from major transport links to the applicant's other site at Claypole given it is just off the A1.

Midland Feeds Ltd is a company that produces animal feeds by blending and processing grains and cereals for cattle and sheep. It stores these on-site and delivers nationwide. While a rural setting seems appropriate for such a business, it is still important to be satisfied that this is the correct location for it and that the location is sufficiently justified compared with other locations which would be more consistent with the spatial strategy. The site is neither within the established Staunton Industrial Estate (in the sense that it is undeveloped land) nor adjacent to the existing Midland Feeds site and the impacts of the proposed development would be akin to a new business venture being established in the open countryside. As such I initially took the view that it was appropriate to undertake a sequential approach to site selection. The necessity of this location, and the unsuitability of alternative available land elsewhere will need to be understood (including but not necessarily limited to allocated employment sites).

In this regard the applicant has been asked why the business needs a rural location and how the existing unit and proposed site at Staunton interrelate together as it appears that both elements of the business could operate independently as they do currently on different sites. They initially responded as follows:

*“A rural location is essential for the business for a number of reasons. We have customers coming in to collect (feed) in a variety of transportation, ranging from small trailers to large tractors and trailers, as well as HGV lorries. We currently carry out all processing at the Claypole site (which is essentially an old farm, situated outside of Claypole village). To ensure the short, medium and long term viability of the business, expansion at Staunton is critical in order to store finished material and raw materials for blending. There is currently no plan to process at the new site, in order to keep it as “clean” as possible. However, there is a small amount of dust produced when for example we load a lorry (our feed is 90% dry) therefore being positioned on a ‘urban’ commercial site in a location with other operators where you have people coming for meetings (offices), dropping cars off for repair (i.e. you have a human interface within a reception area, etc) is simply unworkable.”*

Whilst it is understood that the variety of vehicles being able to collect the feed might be better suited to a rural location, it should be remembered that the office element of the scheme is exactly the type of urban commercial site that the applicant says would be unworkable. Notwithstanding my initial reservations regarding the need for a rural location the applicant maintains that the existing operational site is the best location to expand the business based upon its proximity (adjacent) to the existing business access, operational activity and to provide a natural sense of arrival to a 'business gate-house' office area. They maintain the units would be physically connected to one another by way of access and landownership and are clear that two planning units are not proposed and that the proposal would be ancillary to the existing business.

Based on this, I was not initially convinced that a rural location was necessary and previously considered that the applicant had not fully demonstrated a compelling need to be sited here as opposed to on the ample employment land we have allocated within the Development Plan; for example the Newark Industrial Estate which is close to the applicant's other site in Claypole and with arguably better transport links.

Further information was provided regarding the need for the location (emphasis added):

*"Midland Feeds Ltd has experienced business growth in the last 5 years and even throughout the pandemic, we have been extremely busy and under pressure to find more stores to accommodate the growth of our business. Existing jobs have been retained and we are wanting to create more jobs in the Newark and Sherwood District. It is an existing rural business in a rural location and would not operate in an urban or edge of urban location. Midlands Feeds needs to be in a rural location. They are a rural business....Their associated business Pete Norris Ltd, produce cattle, using Midland Feeds. They run trials throughout the year to ensure they are producing the best and most effective feed possible. The cattle must be in a rural location. The customers that collect the feed from their site, often in tractors and trailers, also like to see cattle on site, so they can see the effectiveness of the product they are buying firsthand. The nature of the business is totally rural and there are no sites available in the local area that would be remotely suitable."*

The link between Midlands Feeds and Pete Norris Ltd was not previously advanced. My understanding is that the associated business is operated by a close family member and there are formal contracts between the two. Pete Norris Ltd has a holding at the Staunton site (to the south of the site) and currently has 150 cattle but can hold 450 at any one time. This being the situation, I accept that this supports the case that the business does indeed need a rural location.

**Since the refusal the applicant has explored alternative sites. It should be noted that the applicant appears to have only looked at rural sites bearing in mind their claim that there is a genuine linkage between the feed business and the Pete Norris cattle holding. Evidence of contact made with local land agents has been included with the application. Whilst not all replies have been provided, our own economic growth officers only suggested two sites that would suit the requirements of the business; one of which is now sold STC and the other wasn't yet for sale and offers no benefits over the existing site.**

The applicant's state:

*'There are several major things that we need to consider when looking for sites; firstly, when renting stores, we must ensure they are TASCC (trade assurance scheme for combinable crops) approved stores. They have certain criteria that they must adhere to enable them to store feed materials safely, ensuring that the storage meets with food/feed safety laws and maintains*

*traceability. After contacting the accreditation scheme for a list of all the TASC stores in the area, they confirmed that we are currently using all the available TASC assured stores within in a 15-mile radius of our current site. Secondly, they must be manned and managed accordingly (for example strict controls on sampling, record keeping and temperature monitoring.) With skilled staff in place to ensure quality checks and assurance requirements are met. Thirdly, the stores would also require a Trading Standards accredited weighbridge. Other important factors include the height of the sheds to enable safe processing, loading, and tipping. Finally, as well as the structure of the sheds being suitable for bulk storage, grain concrete walling is required for the storage of the feed material as block/brickwork would not be robust enough to stand the nature of this work. Regarding the other sites that have been described as more suitable for our business needs in the committee report, we have been unsuccessful in locating or identifying anything at all which would meet the needs of the existing business. We have contacted our local estate agents (Richard Watkinson and Newton Fallowell) and have only been advised about one potential piece of land at Sutton on Trent. This was the same site that was suggested by the Economic Development / Growth Team from N&SDC. We also continue to monitor for site availability in the local area by way of Rightmove....'*

Points 1 and 2 are within the applicant's gift to deal with if an appropriate site became available albeit it is accepted that there would need to be space for a weighbridge and that the buildings be of an appropriate scale and size. From the information provided it would appear that there are no better sites currently available if looking at rural locations and one accepts that argument that the business relies on the linkage with the livestock adjacent. If that argument is not accepted by Members, I would conclude that the applicant has not demonstrated that more urban areas such as the Newark Industrial Estate have been fully explored and sequentially preferable sites could exist.

*Whether there would be a contribution to ongoing local employment*

Turning now to employment. Policy DM8 requires schemes to demonstrate a contribution to providing or sustaining rural employment to meet local needs. The application form notes the proposal would have 16 full time and 2 part time employees. However the Planning Statement previously submitted makes clear in paragraph 2.4 that the staff would be existing employees currently based in other locations. As currently set out there would be modest, if any, benefits in terms of local employment although of course in the future it is possible that local residents could find work here and the scheme would at least 'sustain' employment (though notably a move to Newark Industrial Estate would equally).

The applicants now state that:

*"The development would create jobs immediately from the day of permission being granted and going forward. We will be supporting locally based companies and have already had discussion with a structural engineer based in Staunton who will be working with us to erect the buildings, he will require extra employees to carry out his work. We will also be using a local concrete firm also based in Staunton to supply all relevant materials from the roadway, carpark, blocks etc. The whole project will be managed by Midland Feeds and local tradesmen and labourers will be used throughout the building process. Once the development is completed this will give us the space to be able to accept and hold extra material within the site, this in turn would create extra yard staff. An example of this would be a parcel of flour that we were recently offered; we were offered 4,000 tonnes; due to limited space we were only able to bid successfully for 1,200 tonnes as it had to be taken in very quickly from a food factory. The material arrived on pallets in 25 kilo bags, a three-*

***man team opened the bags over a 4-week period. If we had had the extra space available, we would have been able to buy the full parcel, and this would have given us the opportunity to increase the workforce by either 2 or 3-fold. We are continuing to be offered all sorts of different packaged parcels of material including chocolate, pasta and flour, all of which is labour intensive to rip and tip. Our current office space is at capacity, however on top of extra employment to yard operatives, with extra parcels of material this creates extra work within the office, also creating further jobs and enabling our expanding business to continue to grow.”***

**Officers accept that at construction phase there would be some economic benefits through temporary construction jobs and at operational stage it is plausible that jobs would be created as the company expands which would offer some additional employment benefits albeit these are unquantifiable at this stage.**

Of course there would be benefits to the district from the inward investment and the overall aim of Core Policy 6 is to strengthen and broaden the economy of the District so in that regard the proposal would align with the Development Plan.

In terms of general sustainability the site is not well served by public transport. The business is clearly dependent on the use of motor vehicles, including lorries, by both staff and customers. 23 car parking spaces are proposed and it is inevitable that there will be some impact on the local road network. Paragraph 84 of NPPF states that ‘planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist’.

The applicant has indicated that, if permission were granted, they would be willing to accept a condition restricting the use of the site to Midland Feeds Ltd, so the suitability of the site for other potential future users may be less of an issue than would otherwise be the case. Even so, it could be difficult to resist alternative future uses of comparable scale if the impacts were considered similar, as the principle of this type of development in this location would have been established. Equally, a further application to expand the business by building on the service yard I suspect would also be difficult to resist if this application were to be approved so long as further appropriate levels of parking could be provided.

#### *Loss of agricultural land*

The proposal is for brand new buildings in the field beyond the existing business in the open countryside. This is encroachment into good quality agricultural land. This is of relevance in that the final paragraph of Policy DM8 requires that where the loss of the most versatile areas of agricultural land is proposed, that a sequential approach to site selection is taken and implies that environmental or community benefits must outweigh this harm. The NPPF sets out at paragraph 170 that planning decisions should contribute to the natural and local environment by ‘ (a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); and (b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – *including the economic and other benefits of the best*

*and most versatile agricultural land, and of trees and woodland..'* emphasis added.

Clearly agricultural land is an important natural resource and how it is used is vital to sustainable development. The Agricultural Land Classification system classifies land into 5 grades, with Grade 3 subdivided into sub-grades 3a and 3b. The best and most versatile land is defined as Grades 1, 2 and 3a (as defined by the NPPF) and is the land which is most flexible, productive and efficient in response to inputs and which can best deliver food and non-food crops for future generations. This is a method of assessing the quality of farmland to assist decision makers.

Estimates in 2012 suggest that Grades 1 and 2 together form about 21% of all farmland in England; Subgrade 3a also covers about 21%. The vast majority of land within the Newark and Sherwood District is Grade 3. There is no Grade 5 land and very limited amounts of Grade 4 land which is located north of Gorton and Besthorpe and near North Clifton. Of the Grade 3 land, there is no database to distinguish between whether a site is formed by Grades 3a or 3b land.

The applicant is not able to confirm whether the land is either 3a or 3b graded land. No soil analysis has been undertaken to understand the versatility of the soil albeit the agent notes that the land was restored by British Gypsum prior to their ownership.

Without the soil analysis to confirm either way, taking a precautionary approach one could assume the land is Grade 3a quality land. The loss of an additional 1.04ha of Grade 3 agricultural land would be a negative factor in the overall planning balance. However without knowing what proportion of other land within the district is 3a and 3b it is difficult to quantify its true impact and in reality it is questionable as to whether the land could or would be actively farmed commercially given it is within the confines of an established industrial estate. This is particularly the case given that the land was restored from its previous quarrying history and given its location adjacent to the industrial uses.

### Landscape and Visual Impacts

Core Policy 9 of the N&SDC Core Strategy requires that all new development should achieve a high level of sustainable design and layout which is accessible to all and which is of an appropriate form and scale to its context complimenting the existing building and landscape environments. Criterion 4 of Policy DM5 of the Development Management and Allocations DPD considers local distinctiveness and character and requires that in line with Core Policy 13 of the Core Strategy, all development proposals should be considered against the assessments contained within the Landscape Character Appraisal (LCA).

A LCA has been prepared to inform the policy approach identified within Core Policy 13 of the Core Strategy. The LCA has recognised a series of Policy Zones across the five Landscape Character types represented across the District. The site falls within Policy Zone 10 (Alverton Village Farmlands) within the South Nottinghamshire Farmlands Regional Character Area. Here landform is predominantly flat with the landscape being in a mix of arable and pastoral farmland. The landscape condition is described as very good with its sensitivity described as moderate giving a policy action of 'conserve'. In terms of built features this means conserve what remains of the rural landscape by concentrating new development around existing settlements of Alverton, Kilvington and Staunton in the Vale.

The proposed grain store building is large in scale at 8.74m to ridge and with a large footprint of over 900m<sup>2</sup> with the office building being smaller in scale at 6.35m to ridge height and having a



footprint of 238.90 m<sup>2</sup> (2571.49sq ft). These substantial buildings would be seen with industrial buildings as a backdrop albeit further forward towards the roadside on currently undeveloped rural land.

#### **Current view towards the site from the main C3 highway**



The proposal goes against the landscape actions and objectives (conserve) set out in the SPD and CP13 in that it does not limit development to around the settlements. It could be argued that this doesn't limit development to around the industrial unit. As existing the industrial estate is reasonably compacted in a linear arrangement to the west. This scheme would be notably separate being in the adjacent field over from the built development and would represent

encroachment into the countryside, which could set a precedent for the remainder of this field to be developed. I do acknowledge that the site is reasonably well screened from the road and the applicant has stated they could propose further landscaping to increase screening and improve biodiversity in the local area if required. This would go some way to mitigate the proposals but cannot completely mitigate the impacts from encroachment and in summary I conclude there would be a level of harm from encroachment in the landscape and it would be contrary to CP13, CP9 and DM5.

#### **Highway Impacts**

Together Spatial Policy 7 and Policy DM5 seek to ensure that new development minimises the need for travel, provide safe and convenient accesses for all, be appropriate for the network in terms of volume and nature of traffic generated, ensure the safety of highway users, provide appropriate and effective parking and service provision and ensure schemes do not create or exacerbate existing problems.

The site has access onto the C3 road which links Newark to the north with the A52 at Elton-on-the-Hill to the south. The proposal would utilise the existing access arrangements on site.

A Transport Statement (TS) was submitted with the original application which included an additional grain store. NCC raised a number of concerns and sought some clarification in terms of what is actually being applied for and whether there would be a retail element as the submission indicates customers visit the site. They raised concerns that the scheme was not considered sustainable as it would encourage the use of private motor vehicles. They raised concerns that the TS deducted the vehicle movements to the existing Bottesford site but they don't accept this as the existing site at Bottesford could continue to operate, either with the existing or a new occupier. Significant concerns were also raised with the data with the trip rates used and that the parking provision showed a shortfall of 40% and no customer parking.



In an attempt to address the concerns officers raised, amended plans have been received removing the triple grain store which takes the scheme to a development below which a Transport Statement needs to be provided. Further transport information has also been provided.

NCC Highways Authority remain unclear as to how the use should be categorised (B2 or B8) and consequently how many parking spaces ought to be provided. I take the view that the site would be in a mixed use. I note that 13 staff are indicated as being within the office. The application previously clarified there would be no processing of feed on the site and I take the view that the grain stores therefore should be considered a B8 (storage and distribution) which require 8 spaces (together equating for 21 spaces). As 23 spaces are shown this appears to be satisfactory and NCC HA have commented that if we were to accept that the site would operate as B8 use the parking spaces would be adequate even if there were an element of retail use (the office plan shows a payment lobby where it is assumed customers would visit to collect their goods) and they would have no objection as there would be no overspill parking impact the highway. I consider that a condition to ensure the use of the site remains as advanced would be reasonable given the parking implications outlined.

NCC have previously stated they would require an acceptable routing agreement to be submitted and that it is unlikely that routing to the south, through the villages to the north of the A52 would be acceptable. This is a matter that can be controlled by condition.

#### Residential Amenity

Given the site's isolated location in the countryside, the nearest residential neighbours are some distance from the site, almost 700m away from the site. As such I have no concerns that the scheme would give rise to impacts such as overlooking, overlooking, loss of light etc. Concern has been expressed regarding general disturbance from noise and light pollution which it is said are already occurring from uses already operating closer to the objector in question. The concerns regarding light pollution from the Parish Meeting regarding light pollution are also noted. However I consider that in the event of an approval low level lighting could be secured by condition. I do not expect that noise from the proposal would be an issue here given the distances involved and as such it would comply with Policy CP9 and DM5 in this regard.

#### Drainage and Flood risk

Core Policy 9 requires developments to be pro-actively manage surface water and Policy DM5 builds upon this requiring developments to include, where possible, appropriate surface water treatments in highway designs and Sustainable Drainage Systems.

The site lies within Flood Zone 1 (at lowest risk of flooding) according to the EA Flood Maps albeit is in an area identified as being prone to surface water flooding.

The application has been accompanied by Flood Risk Assessment and Drainage Strategy to show how both surface water would be managed. This has been revised to address concerns raised by the Lead Local Flood Authority. In order to ensure flood risk is minimised the strategy makes a number of recommendations which could be secured by condition in the event of an approval. The LLFA as technical experts have now confirmed they have no objection to the scheme and therefore the scheme complies with the relevant policies in terms of drainage and flood risk.

## Ecological Impacts

CP12 and DM7 seek to protect, promote and enhance the environment through site development proposals and requires developments affecting sites of regional or local importance, sites supporting priority habitats, priority species, or where they contribute to the ecological network, to be supported by an up to date ecological survey.

An ecological appraisal has been undertaken and submitted in support of the application. The scope of this appraisal relates to the application site and the wider agricultural field within which it lies.

This concludes that given the lack of direct access from the site to the nearest local wildlife sites (of which there are 3) there would be no negative impacts. Given the land is under intensive agricultural management there is low ecological value. No evidence on site was found of protected species likely to be found given the environment such as badgers, water voles, great crested newts and the habitat was not considered suitable for these. Plants that are food for some species of Section 41 butterfly species were found on site and would be lost to the development. However the ecologist considers that this would not be a significant impact.

The appraisal recommends the following in order to provide a new high-quality foraging opportunities for locally present bat and bird species, enhancing the overall ecological value of the site.

- New planting should incorporate native tree and shrub planting, including flower, fruit and nut bearing species.
- Any grassland areas should consider native seed mixes that maximise their benefit to biodiversity. Amenity areas could for example be seeded with a flowering lawn mix and managed appropriately achieving a tidy appearance whilst enhancing nectar sources for invertebrates. Overseeding with a species-rich native meadow mix should be considered for areas of retained grassland habitat.
- Inclusion of ecological enhancement features within the development such as bat, bird and invertebrate boxes on retained trees.
- A suitable lighting scheme implemented to reduce lighting to the minimum required for safety and security.

Having assessed the scheme against the Natural England Standing Advice and against the Development Plan, it appears to me that the scope and findings of the appraisal is fair, appropriate and in accordance with the development plan. The recommendations outlined above also appear appropriate and could be secured by planning condition.

## Economic Factors

The applicant has been keen to impress that it is essential that this business is supported. They say that Midlands Feeds have been taking on bigger contracts of material, which is getting increasingly difficult to manage, and they have simply run out of room on a weekly basis. They take on all available auxiliary stores in the local area. Often those that are required are unavailable or those available are inadequate. They say that this application is about rural economic growth and productivity and refusing the application would severely hinder the business which wants to invest

in its Newark & Sherwood site. They also state that they have taken on stores as far away as Sewstern (Melton area) which they say is not environmentally friendly, nor cost effective for the business and too far away to maintain and manage our quality assurance checks. The extension they ask for is required as they have outgrown their existing offices and are unable to take on more staff or progress to the next level because of not being able to accommodate office staff. New contracts are being offered all the time and they require units for storage urgently.

They also comments that in recent weeks they have taken a contract from a flour mill for the over production of flour for human consumption for the use in their feeds and have had to accommodate 700 tonnes of material that wasn't particularly planned for but that will be extremely good feeding material for cattle and sheep. They comment that it has been very difficult to find storage for this amount of material at short notice which is often the case in their line of work. They also state that they are having to turn down contracts that require more staff because of their inability to expand. They also mention that they have a new staff member starting in the office who will take their last available seat with the director no longer having a seat and working remotng to free up space. Without more space they are unable to create more jobs.

### Planning Balance and Conclusion

Development in the countryside is strictly controlled and requires careful scrutiny. Having assessed the scheme carefully, I have concluded that the scheme is not small-scale nor proportionate to the existing business which is seeking to expand. This is contrary to the Development Plan. Notwithstanding that, I accept that whilst the proposed expansion site is not directly adjacent to the existing site there would be some linkages between the two and following the submission of further information I am inclined to accept that the business would require a rural location given the linkage with the associated business which relies on cattle grazing which could not reasonably occur in an urban/industrial area. As such I am persuaded that the sequential approach to site selection is passed. **Members previously did not accept this and it for you to consider whether the additional information provided has persuaded you otherwise.**

I am also mindful that the proposal would bring about inward investment to the District, bringing with it short term benefits to the construction industry and the local economy. It would sustain existing employees of the business through their relocation, though not in the first instance offer any new employment opportunities at the site once operational. It appears that that main benefit to the applicant is that they simply need more space to make it a more efficient operation. However longer term I accept there may be employment opportunities that arise as the business grows. I consider that the economic factors weigh in favour of the scheme.

Whilst the loss of grade 3 agricultural land could be a negative through a loss of a resource, its true impact is difficult to quantify given it is not known if this is 3a or 3b land and nor is it clear whether the land is likely to be in active agricultural use given its location adjacent to an industrial estate.

There would be some landscape harm arising from the encroachment into the open field adjacent to the industrial estate which, had it not been for the rural location requirement, could otherwise have set a precedent for similar forms of development which the LPA could find difficult to resist.

Following the submission of further information I am now satisfied that the parking provision is satisfactory and NCC Highways Authority raise no objection on highway safety grounds so this is neutral in the planning balance.

Whilst the scheme is contrary to the Development Plan (in terms of its size and proportionality), there are factors that are material planning considerations which are capable of overriding it in this instance. Officers have accepted that the site requires a rural location to get the best out of its proper functioning and thus there are no better sites available than which is located close to its existing operation within our district. Some degree of landscape harm is inevitable in accepting the need for the development, a harm which I do not consider need be fatal to the scheme. The impacts of the development are acceptable in terms of highway impacts. The size and scale of the proposed business are indicative of the success of a rural business which on balance I consider should be supported particularly in the current (pandemic) climate and I give significant weight to the economic factors which have been advanced. I find that all of the factors have tipped the balance to an approval **and this remains my professional view. However it is for Members to consider whether the additional information advanced is persuasive to overcome the previous concerns and reasons for refusal.**

### Recommendation

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

#### Conditions

01

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

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

02

The development hereby permitted shall be constructed entirely of the materials details submitted as part of the planning application.

Reason: In the interests of visual amenity.

03

Prior to first occupation of the development hereby approved full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include

full details of every tree, shrub, hedge to be planted (including its proposed location, species, size and approximate date of planting) and details of tree planting pits including associated irrigation measures, tree staking and guards, and structural cells. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species;

- proposed finished ground levels or contours;
- any means of enclosure;

- car parking layouts and materials and other hard surface materials; and
- other vehicle and pedestrian access and circulation areas.

Reason: In the interests of visual amenity and biodiversity.

04

The approved soft landscaping shall be completed during the first planting season following the first occupation 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. 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.

05

The development hereby approved shall be carried out in accordance with the details contained within the Flood Risk Assessment and Drainage Strategy dated 12 March 2021 by BSP Consulting.

Reason: In order to ensure that surface water on the development site is managed appropriately in accordance with the details submitted as part of this application.

06

No part of the development hereby permitted shall be brought into use until the parking areas shown on the drawing 'General Arrangement external works' reference 8952-CPMG-oo-ZZ-DR-A-7010 P02 are constructed in accordance with details agreed as part of Condition 3 of this permission and they are made available for parking. The provision parking shall be kept available for parking at all times and retained for the lifetime of the development.

Reason: To ensure that adequate parking provision is made available at the appropriate time in the interests of highway safety.

07

The development hereby approved shall not be brought into use until a routing plan relating to heavy goods vehicles associated with the use has been submitted to and approved in writing by the Local Planning Authority. Vehicles within the control of the applicant/occupier shall thereafter operate in accordance with the approved routing plan.

Reason: In order to limit the numbers of HGV's using the road network that are subject to the existing Environmental Weight Limit in the interests of highway safety.

08

No part of the development hereby approved shall be brought into use until an Ecological Enhancement Scheme has been submitted to and approved in writing by the Local Planning Authority. This scheme shall build upon the recommendations set out in the Ecological Appraisal, by FPCR, dated December 2020 which formed part of the application and set out details of how this will be managed. The approved enhancement measures shall be implemented on site prior to first occupation or to an alternative timetable embedded within the scheme and shall thereafter be retained for the lifetime of the development.

Reason: In order to provide new high-quality foraging opportunities for locally present bat and bird species, enhancing the overall ecological value of the site in line with the requirements of the Development Plan, the NPPF and in line with the applicants own submission.

09

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

Reason: In the interests of ecology and visual and residential amenity.

010

The buildings hereby approved shall be used for offices and storage/distribution uses and for no other purpose, including any other use falling within class B1(a) and B8 of the Schedule to the Town and Country Planning (Use Classes Order) 1987 or the Town and Country Planning (General Permitted Development) (England) Order 2015, or in any provision equivalent to that Class or Order or in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: In the interests of ensuring appropriate levels of parking are provided pursuant with those uses in the interests of highway safety.

011

The development and use hereby permitted shall be occupied and carried out only by Pete Norris Ltd/Midland Feeds. When the premises cease to be occupied by the named applicant in this condition, the use hereby permitted shall cease and the buildings shall be removed and the site restored to its current condition.

Reason: In recognition of the special circumstances of the development, namely that the business is an expansion of an established business at the site that requires this rural location, without which the Local Planning Authority would not have been prepared to grant planning permission.

012

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

- General arrangement, feed store 2 plans, elevations, sections, drawing no. 8952-CPMG-oo-ZZ-DR-A-2011 P02
- General Arrangement, office plans, elevations, sections, drawing no. 8952-CPMG-oo-ZZ-DR-A-2012 P01
- General Arrangement external works, location plan, 8952-CPMG-oo-ZZ-DR-A-7001 P03
- General Arrangement external works, proposed site plan, 8952-CPMG-oo-ZZ-DR-A-7010 P02
- General arrangement drawings Plans and Elevations (weighbridge) drawing no. CPMG-00-ZZ-DR-A-2013 Rev P1

Reason: So as to define this permission.

#### Notes to Applicant

01

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).

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

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

03

The proposed development is in a potentially Radon Affected Area\*. These are parts of the country where a percentage of properties are estimated to be at or above the Radon Action Level of 200 becquerels per cubic metre (Bq/m<sup>3</sup>). Given the above it would be prudent for you to investigate if the proposed development will be affected by radon and incorporate any measures necessary into the construction to protect the health of the occupants. Further information is available on the council's website at: <http://www.newarksherwooddc.gov.uk/radon>

\*based on indicative mapping produced by the Public Health England and British Geological Survey Nov 2007.

#### BACKGROUND PAPERS

Application case file.

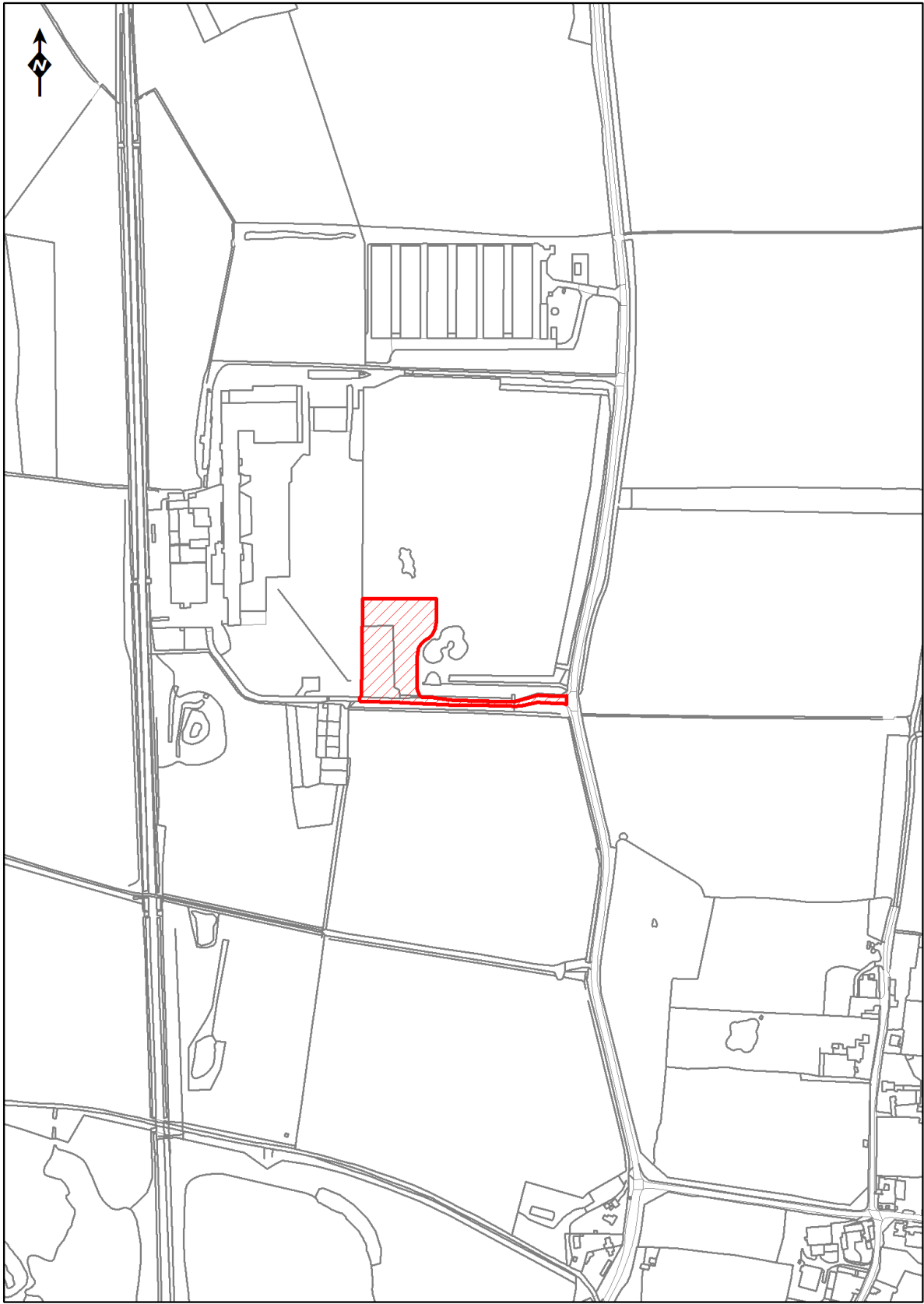
For further information, please contact Clare Walker on ext 5834.

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

**Lisa Hughes**

**Business Manager – Planning Development**





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## PLANNING COMMITTEE – 18 JANUARY 2022

Application No:	21/01899/S73M		
Proposal:	Variation of Condition 2 attached to 19/01828/FULM to allow the erection of single storey plant room and 3no. air-source condensing units to the east (side) elevation of the building approved under 19/01828/FULM for the erection of 12 units of living accommodation for assisted living following the demolition of the existing bungalow		
Location:	Springfield Bungalow, Nottingham Road, Southwell		
Applicant:	Reach Learning Disability – Sharon Card		
Agent:	Allan Joyce Architects Ltd – Tricia Akers		
Registered:	20 September 2021	Target Date: 15 November 2021	
	Extension of time agreed until 20 January 2022		
Link to application:	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage</a>		

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

### The Site

This application relates to circa 0.72 hectares of land situated on the western side of Nottingham Road at its junction with Halloughton Road on the southern approach into Southwell. The site comprises the eastern part of the wider Springfield Bungalow development site on which the detached bungalow (Springfield Bungalow) is situated. The wider development site included the erection of 38 dwellings on land to the west of this application site. This application relates to the easternmost end of the wider site where approval has been granted to provide 12 assisted living units (as part of the affordable housing offer on the wider development).

The gradient of the site rises from the highway along the access road into the main part of the site where the development is proposed. This part of the site is relatively level and screened to the north, south and east by existing mature trees and landscaping.

The immediately adjoining properties to the north and west of the access road comprises numbers 40 and 42 Halloughton Road and a small element of the garden of number 38. Housing within the area is a mix of single and two storey detached dwellings. Number 38 is a detached bungalow.

To the west of the site, the development approved under application 15/01295/FULM (and s73 variations) is situated and is currently under construction.

The site lies to the west of the Conservation Area boundary and within the Southwell Protected Views corridor. The site is allocated in the Newark and Sherwood LDF Allocations and Development Management DPD (2013) for housing development - Southwell Housing Site So/Ho/2 and is within, although on the edge of the defined built-up area of the town.

#### Relevant Site History

**15/01295/FULM** - Proposed residential development of 38 dwellings and conversion and extension of existing residential property to form 12 supported living units, approved 20.12.2017 subject to a S106 Legal Agreement (included adjacent land).

**19/01828/FULM** - Erection of 12 units of living accommodation for assisted living following the demolition of the existing bungalow, approved 09.04.2020, subject to a S106 Legal Agreement.

**20/01309/NMA** - Application for a non-material amendment to planning permission 19/01828/FULM to shorten the proposed building, remove the rear gables, amend some external materials, alter rear balcony frame and wheelchair storage building, install three external air source heat pumps with enclosures and move car parking spaces away from common boundary with neighbour, split decision 14.08.2020

**20/02026/DISCON** - Application to discharge Condition 4 (surface water drainage scheme) and Condition 8 (scheme to prevent unregulated discharge of surface water onto the public highway, approved.

#### The Proposal

This S73 application seeks to vary the approved list of plans set out within Condition 2 attached to application 19/01828/FULM which permitted a replacement building, but which has not yet commenced on site. The new plans now include the erection of a plant room measuring 4.8m in depth by 2.5m in width by 2.6m high. Attached to the east elevation, it has a flat roof and is constructed of brick to match the main building. To the rear of this plant building are three air source heat pumps, each one measuring 800mm by 1200mm and 1650mm high. A new 1.8m high close boarded timber fence is shown running along the eastern boundary with Nottingham Road, which has been moved further west during the consideration of the application to reduce impacts on the trees, as supported by a requested Arboricultural Impact Assessment. The submitted plans also incorporate the amendments approved under the non-material amendment application determined in August 2020.

Plans and documents considered in this application:-

- Site Location Plan (Drawing No: 100 Rev D);
- Block Plan (Drawing No: 101 Rev E);
- Site Plan (Drawing No: 102 Rev I);
- Plans and Elevations (Drawing No: 103 Rev C);
- Strebel Air to Water Heat Pump Details;
- Strebel Air Source Heat Pump Details;
- Arboricultural Impact Assessment and Method Statement by AT2 Tree Surveys dated 12 Nov 2021.

## Departure/Public Advertisement Procedure

Occupiers of 5 properties have been individually notified by letter.

## **Planning Policy Framework**

### **The Development Plan**

#### **Southwell Neighbourhood Plan (made October 2016)**

Policy SD1: Delivering Sustainable Development

Policy SS2: Land South of Halloughton Road (So/Ho/2)

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

Spatial Policy 1 - Settlement Hierarchy

Spatial Policy 2 - Spatial Distribution of Growth

Spatial Policy 7 - Sustainable Transport

Core Policy 9 - Sustainable Design

Core Policy 14 – Historic Environment

### **Allocations & Development Management DPD**

DM1: Development within Settlements Central to Delivering the Spatial Strategy

DM2: Development on Allocated Sites

DM5: Design

DM9: Protecting and Enhancing the Historic Environment

DM12: Presumption in Favour of Sustainable Development

So/PV: Southwell Protected Views

### **Other Material Planning Considerations**

- National Planning Policy Framework 2021
- Planning Practice Guidance

### **Consultations**

**Southwell Town Council** – Object on the grounds that tree roots will be damaged and question whether the plant room could be moved away from the side of the building. Councilors commended the proposal to install air source heat pumps.

**NSDC, Tree Consultant** – Concerns initially raised in relation to the impact of the development on the trees. Following the submission of a subsequent Arboricultural Impact Assessment, which addresses previous comments, recommend any approval has conditions attached relating to works to be carried out in accordance with method statement and protection scheme and prohibit activities on the site, to protect the existing trees.

**NSDC, Environmental Health** – Based on the information you have provided that the nearest receptor is 51m away and there is boundary treatment, I have calculated that the noise from the three air source heat pumps to be 29dB at the nearest receptor. This is likely to be below background levels and unlikely to be a noise nuisance.

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

### Appraisal

The NPPG acknowledges that Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area, thus providing a powerful set of tools for local people to ensure that they get the right types of development for their community where the ambition of the neighbourhood is aligned with the strategic needs and priorities of the wider local area.

Following public consultation and independent examination, at its council meeting on 11 October 2016 Newark and Sherwood District Council adopted the Southwell Neighbourhood Plan. The Neighbourhood Plan now forms part of the development plan for the district and its policies are a material consideration alongside other policies in the development plan and carry weight in the determination of planning applications in Southwell. In this instance the most relevant policies in the Neighbourhood Plan are listed above and are considered against the relevant aspects of the proposal in the assessment below.

### *Principle of the Development*

This application is made under Section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact.

If the application is acceptable a decision notice describing the new permission should be issued, setting out all of the conditions related to it. To assist with clarity, decision notices for the grant of planning permission under Section 73 should also repeat the relevant conditions from the original planning permission, as appropriate. As a Section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission.

The principle of the development has already been established through the granting of the permission for the development in April 2020. There has been no significant material change in the Development Plan context since this time.

The application seeks permission for a plant room and air source heat pumps attached to the east elevation of the proposed building to serve accommodation for 12 assisted living units that have extant permission approved under planning application 19/01828/FULM, but has not yet commenced development on site. This already approved application would demolish the existing single storey building and replace it with a new purpose built building 2-storeys high.

### *Impact on the character and appearance of the area*

Core Policy 9 of the Newark and Sherwood Amended Core Strategy states that new development proposals should demonstrate a high standard of sustainable design that both protects the natural environment and contributes to and sustains the rich local distinctiveness of the District. To achieve this development should be of “an appropriate form and scale to its context complementing the existing built and landscape environments”. In addition, policy DM5 of the DPD states that new development should respect the rich local distinctiveness of the District's landscape and character of built form and this should be reflected in the scale, form, mass, layout,

design, materials and detailing of proposals for new development.

Given their positioning on the site, the proposed side elevation of the plant room has the potential of being visible when viewed from Halloughton Road, from the public domain. However, given that there would be a distance of approx. 87m between the boundary with Halloughton Road and the plant room and given its small scale (2.5m wide and 2.6m high) it is considered that the visible side brick wall would assimilate as part of the larger building and would not be an overly prominent or dominate feature, as would the proposed fencing.

It is therefore considered the proposal complies with the aims of Core Policy 9 of the Amended Core Strategy and Policy DM5 of the ADMDPD.

#### *Impact on neighbouring amenity*

The NPPF seeks to secure a high standard of amenity for all existing and future occupants of land and buildings. Policy DM5 states planning permission will be granted for development provided it would not adversely affect the amenities of the adjoining premises, in terms of loss of privacy, light or overbearing impacts.

Given the scale of the proposed built form, it is considered that there would be no adverse impact on the amenities of neighbours in terms of overlooking, over-bearing impacts or loss of light or overshadowing. The Council's Environmental Health officer has considered the potential noise impact of the three air source heat pumps and given the distance between the pumps and the nearest direct receptor (No 42 Halloughton Road) (as well as the intervening brick building of the plant room together with boundary treatment between the site and this neighbour), it has been concluded that the noise from the three pumps is unlikely to be above the general background decibel level for the area and therefore unlikely to cause unacceptable impacts on the amenities of neighbouring properties.

Other neighbouring properties, such as Springfield House (which may be situated closer to the application site beyond a well landscaped common boundary), together with the other properties fronting Halloughton Road would be protected from any potential noise from the pumps by the two storey main building to which the plant would be attached.

As such the proposal is considered to accord with Policy DM5 of the A&DM DPD and the NPPF.

#### *Impact on trees*

The site is surrounded by soft landscaping and Southwell Town Council have queried the impact the plant room would have on the existing trees along the eastern boundary.

The Council's tree consultant initially raised concerns with the level of information submitted with regard to the potential impact on trees comprising G15, which run along the eastern boundary. An Arboricultural Impact Assessment and Method Statement was then submitted in response to these concerns and the positioning of the proposed fencing moved further west, resulting in a greater distance away from existing trees (which is an amendment and improvement to the positioning of the fencing approved under 19/01828/FULM, where the fencing was positioned amongst the existing trees). Subject to conditions, the Council's tree consultant now raises no objection to the proposals.

### *Southwell Protected Views*

Although not within Southwell Conservation Area (CA) or directly adjacent to any listed buildings, the application site falls within the Southwell Protected Views boundary (So/Pv) which aims to ensure that development respects the wider setting and context of, amongst other assets, the landmark Grade I listed Minster and Grade II listed Church of Holy Trinity. Furthermore, the gateway location of the site and its proximity to the Southwell CA are material considerations in this case.

Given the scale of the development proposed, it is considered that the works would not result in harm to the views the Minster. The proposal therefore meets the aims of Core Policy 14, Policies DM9 and So/PV of the DPD.

### *Conclusion*

The proposed plant room, air source heat pumps and fencing have been assessed and have been found to be acceptable in terms of their impact on the character and appearance of the area, in regard to residential amenities, in relation to trees and on the impact on Southwell Protected Views. The proposal is therefore compliant with both local and national planning policies in regard to the material considerations assessed above and it is therefore recommended that planning permission be granted, subject to conditions. The application will also need to be subject to a variation to of the existing S106 Legal Agreement, to reflect the amendments approved by this Section 73 application and impose the same obligations required by previous applications.

### **RECOMMENDATION**

**That planning permission is approved subject to the sealing of a S106 Legal Agreement and the conditions and reasons shown below**

#### Conditions

01

The development hereby permitted shall begin no later than 9 April 2023.

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

02

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

- Site Location Plan (Drawing No: 100 Rev D);
- Block Plan (Drawing No: 101 Rev E);
- Site Plan (Drawing No: 102 Rev I);
- Ground and First Floor Plan (Drawing No: 103 Rev E) but as Amended by Plans and Elevations (Drawing No: 103 Rev C received 6 January 2022);
- Elevations (Drawing No: 105 Rev D) but as Amended by Plans and Elevations (Drawing No: 103 Rev C received 6 January 2022);

- Strebel Air to Water Heat Pump Details;
- Strebel Air Source Heat Pump Details.

Reason: So as to define this permission.

03

Prior to the commencement of development at the site, the tree protection measures shall be carried out in accordance with the Arboricultural Method Statement dated 8th October 2019, report version 2 submitted under reference 19/01828/FULM. These measures shall be in place for the entire construction period.

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

04

The scheme for the disposal of surface water drainage as submitted and approved under reference 20/02026/DISCON shall be completed in accordance with the approved details prior to completion of the development.

Reason: A detailed surface water management plan is required to ensure that the development is in accordance with NPPF and local planning policies. It should be ensured that all major developments have sufficient surface water management, are not at increased risk of flooding and do not increase flood risk off-site. This is a pre-commencement condition as any surface water drainage required to be installed would likely be installed below ground.

05

No part of the development hereby permitted shall be occupied until the access/drive is surfaced in a hard bound material (not loose gravel) for a minimum of 10 metres behind the Public Highway boundary. The surfaced access/drive 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 new access/drive shall be laid out to a width of not less than 4.8 metres for at least 10 metres back from the nearside edge of carriageway and shall provide for vehicle parking and turning areas in accordance with the approved plan 102 rev I. The vehicle parking and turning areas shall not be used for any purpose other than the turning and parking of vehicles.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway and to ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems in the area, in the interests of highway safety.

07

No part of the development hereby permitted shall be occupied until the new dropped vehicular



verge crossing serving the site is available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety.

08

The provision to prevent the unregulated discharge of surface water from the access/drive to the public highway as submitted and approved under reference 20/02026/DISCON shall be fully installed in accordance with the approved details prior to any occupation of the development hereby permitted and 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.

09

Details of the location, design and specification of the refuse bin and recycling materials storage bin and area to serve the residential units shall be submitted to and approved in writing by the Local Planning Authority. Subsequently the refuse and recycling materials storage bins and areas shall be constructed, equipped and made available for use prior to first occupation and retained in that form thereafter.

Reason: To ensure a satisfactory standard of refuse and recycling provision and to protect the residential amenity of adjoining and future occupiers.

010

No works or development shall take place until details of foundations to accommodate the protection of retained trees has been submitted to the Local Planning Authority for approval in writing. All works/development shall be carried out in full accordance with the approved tree protection scheme. The protection measures shall be retained during the development of the site.

Reason:

To ensure that existing trees to be retained are protected, in the interests of visual amenity. This is a pre-commencement condition as foundations might affect the roots of existing trees.

011

No trees, shrubs or hedges within the site which are shown as being retained within the Arboricultural Method Statement dated 8th October 2019, report version 2 shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior consent in writing of the local planning authority. Any trees, shrubs or hedges which die, are removed, or become seriously damaged or diseased within five years of being planted, shall be replaced with trees, shrubs or hedge plants in the next planting season with others of similar size and species.

Reason: To ensure the existing trees, shrubs and or hedges are retained and thereafter properly maintained, in the interests of visual amenity and biodiversity.

012

All development hereby approved shall be carried out in full accordance with the Arboricultural Impact Assessment and Method Statement dated 12th November 2021 and tree/hedgerow protection scheme.

Reason: To ensure the existing trees, shrubs and or hedges are retained and thereafter properly maintained, in the interests of visual amenity and biodiversity.

013

The following activities must not be carried out under any circumstances.

- a. No fires to be lit on site within 10 metres of the nearest point of the canopy of any retained tree/hedgerow on the proposal site.
- b. No equipment, signage, fencing etc shall be attached to or be supported by any retained tree on to the application site,
- c. No temporary access within designated root protection areas without the prior written approval of the District Planning Authority.
- d. No mixing of cement, dispensing of fuels or chemicals within 10 metres of any retained tree/hedgerow on the application site.
- e. No soak-aways to be routed within the root protection areas of any retained tree/hedgerow on the application site.
- f. No stripping of top soils, excavations or changing of levels to occur within the root protection areas of any retained tree/hedgerow on the application site.
- g. No topsoil, building materials or other to be stored within the root protection areas of any retained tree/hedgerow on the application site.

Reason: To ensure the existing trees, shrubs and or hedges are retained and thereafter properly maintained, in the interests of visual amenity and biodiversity.

014

The development hereby permitted shall be constructed entirely of the materials detailed within application reference 19/01828/FULM and as amended by application reference 20/01309/NMA and as stated within this application.

Reason: In the interests of visual amenity.

015

No development shall be commenced, including any works of demolition or site clearance, until a Construction Method Statement has been submitted to, and approved in writing, by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors;

- ii. loading and unloading of plant and materials;
- iii. storage of plant and materials used in constructing the development;
- iv. wheel washing facilities;
- v. a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In the interests of residential amenity. This is a pre-commencement condition as the works (i) to (v) will be provided upon commencement of development.

#### Notes to Applicant

01

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

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

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 carry out works within 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](mailto:licences@viaem.co.uk) Tel. 0300 500 8080 and further information at: <https://www.nottinghamshire.gov.uk/transport/licences-permits/temporary-activities>

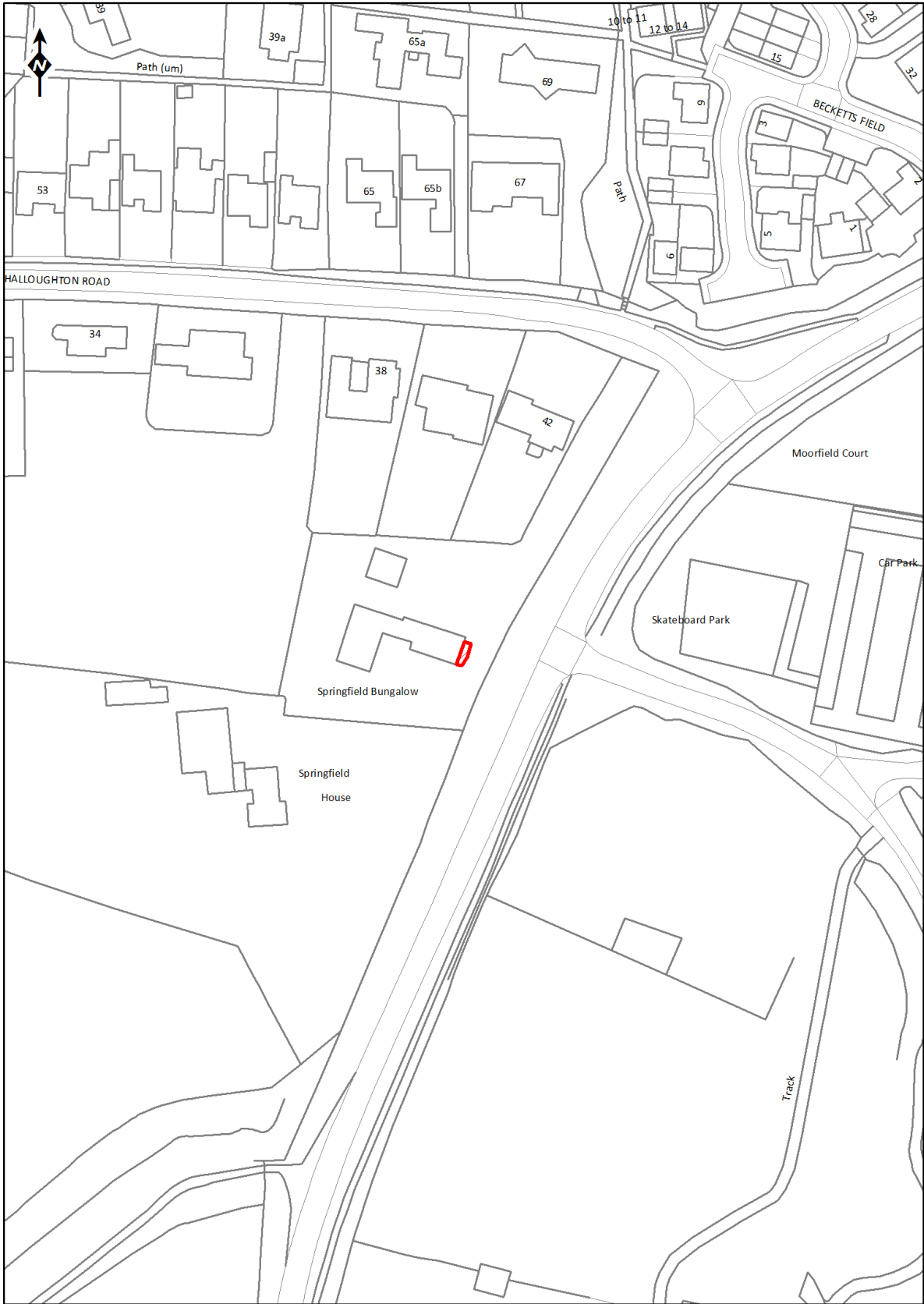
#### BACKGROUND PAPERS

Application case file.

For further information, please contact Julia Lockwood on ext 5902.

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

**Lisa Hughes**  
**Business Manager – Planning Development**



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## PLANNING COMMITTEE – 18 JANUARY 2022

<b>Application No:</b>	<b>21/02210/FUL</b>		
<b>Proposal:</b>	<b>Proposed change of use of land for the siting of 3 no. holiday lodges and creation of a wildflower meadow</b>		
<b>Location:</b>	<b>Woodlands Livery, Beckingham Road, Coddington, Newark On Trent, NG24 2QU</b>		
<b>Applicant:</b>	<b>Mr and Mrs Briggs - Price</b>		
<b>Agent:</b>	<b>GraceMachin Planning &amp; Property</b>		
<b>Registered:</b>	<b>13.10.2021</b>	<b>Target Date: 08.12.2021</b>	<i>Extension agreed to 21.01.2022</i>
<b>Application File:</b>	<a href="#">21/02210/FUL   Proposed change of use of land for the siting of 3 no. holiday lodges and creation of a wildflower meadow   Woodlands Livery Beckingham Road Coddington Newark On Trent NG24 2QU (newark-sherwooddc.gov.uk)</a>		

The Parish Council have commented in objection to the proposal, which is contrary to the Officer recommendation. As a result Councillor J Lee has requested to call in this application to Planning Committee on the grounds that the development would be inappropriate in the open countryside and due to concerns about loss of trees.

### The Site

The application site is approx. 65m x 40 m and lies on the northern side of the A17, close to the Beckingham Road Roundabout at Coddington (west). The site is accessed via the existing Livery access which is directly off the A17 and lies directly to the north to the existing stable building and land which recently gained consent for the erection of an equestrian storage barn. Stapleford Woods lies to the NE of the site and Newark Golf Course lies to the south across the A17. Coddington Moor (a residential dwelling) lies to the west but surrounding land comprises open countryside. Views into the site from the highway to the south are limited as the southern boundary comprises dense trees. There is an L shaped stable building in the SE corner of the wider site adjacent to the highway and a number of post and rail fences separating paddocks within the wider livery site. Boundaries otherwise comprise tree lines and hedgerows. Whilst there are sporadic residential properties located off the A17/Beckingham Road the application site lies outside of any defined village – the site is therefore within the Open Countryside.

### Relevant Planning History

**21/00570/FUL** – Equestrian storage barn and re-surfacing of existing yard – Permitted 04.05.2021

**20/01414/FUL** - Erection of new 2 storey dwelling – Refused 16.09.2020

**12/00273/FUL** - Temporary siting of mobile home for period of 3 years – Refused 03.05.2012

## **13/00549/FUL - Temporary siting of mobile home for period of 3 years – Refused 28.06.2013**

### The Proposal

The application seeks full planning permission for the change of use of the land and the siting of 3 no. holiday lodges located adjacent to the eastern and northern boundaries of the site set back approx. 80m from Beckingham Road.

The 2 no. 2 bed lodges would provide a kitchen, an open plan dining/sitting area with two bedrooms, one en-suite and a main bathroom. The 1 no. 3 bed lodge would provide an open plan kitchen/dining/sitting area with three bedrooms, one en-suite and a main bathroom.

Each lodge would be just under 73m<sup>2</sup> in footprint designed with a dual-pitched roof with a maximum height of around 3.5m. Material finishes proposed are vertical larch board cladding with metro tile roman profile lightweight roof tiles and stained timber joinery. A total of 4 car parking spaces would be provided (1 per 2 bed and 2 per 3 bed lodge). A wildflower meadow area is proposed to the western side of the site.

Access would be via the existing access off Beckingham Road, down the rolled stone access track passed the commercial livery and through a gate into the site.

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

- Existing Site Location Plan;
- Proposed Site Location Plan;
- Topographical Survey – 21 135 01;
- Proposed Site Layout/Block Plan – WL C 2021 L3;
- Floor Plan and Elevations for 2 Bed Lodge-type – WL C 2021 L2;
- Floor Plan and Elevations for 3 Bed Lodge-type – WL C 2021 L1;
- Tree Survey;
- Design and Access Statement;
- Heritage Impact Assessment;
- Drawing no. F21200/01, titled: Proposed Access Layout, Swept Path Assessment & Visibility Assessment, dated: 23.11.21; and
- Drawing no. F21200/02, titled: Proposed Site Plan & Swept Path Assessment, dated: 24.11.21.

### Departure/Public Advertisement Procedure

Occupiers of 5 properties have been individually notified by letter.

Earliest decision date: 5.11.2021

### Planning Policy Framework

#### The Development Plan

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

Spatial Policy 1 - Settlement Hierarchy

Spatial Policy 3 – Rural Areas

Spatial Policy 7 - Sustainable Transport

Spatial Policy 8 – Protecting and Promoting Leisure and Community Facilities

Core Policy 6 – Shaping our Employment Profile  
Core Policy 7 – Tourism Development  
Core Policy 9 -Sustainable Design  
Core Policy 12 – Biodiversity and Green Infrastructure  
Core Policy 13 – Landscape Character

#### **Allocations & Development Management DPD**

DM5 – Design  
DM7 – Biodiversity and Green Infrastructure  
DM8 – Development in the Open Countryside

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

- National Planning Policy Framework 2021;
- Planning Practice Guidance (online resource);
- D2N2 Visitor Accommodation Strategy prepared for D2N2 Visitor Economy Advisory Group dated June 2017;
- Nottinghamshire County Council's Visitor Economy Strategy 2019-2029;
- Destination Management Plan for Newark on Trent 2018.

#### **Consultations**

***NB: Only most recently received comments are included below – please see the online planning file for comments in full.***

**Coddington Parish Council** – Object - The Parish Council objected to the application on a unanimous vote & one abstention, on the grounds of development in open countryside. There were also concerns about road safety for access to the A17 and that the lodges were positioned too close to the trees.

**NCC Highways Authority** – No objection subject to conditions – The Highway Impact Assessment provides a clear background of the current and proposed use of the site. The information provided in the Assessment show that a safe access is possible to be achieved at the proposed location and the traffic generated by the proposed development would not have a detrimental effect on the safety and capacity of the existing highway network.

**NSDC Tree Consultant** – No objection subject to conditions (Arb Method Statement, Prohibited Activities, Planting Scheme and Implementation).

#### **Appraisal/ Comments of the Business Manager**

##### *Principle of Development (including Impact on Tourism)*

This site relates to an approx. 0.26 Ha paddock to the north of the A17, it is accessed via an existing access that serves Woodlands Livery and is surrounded by undeveloped paddocks save for the property, Coddington Moor, which lies to the west. Although the site is adjacent to an existing commercial livery and a residential dwelling which lies 170m to the east, the site is very clearly distinct from the village of Coddington and is therefore considered to fall within the open countryside.

In accordance with the requirements of Spatial Policy 3, development in the open countryside is strictly controlled and limited to certain types listed in Policy DM8. Of these types of development, there is an in principle allowance for tourist accommodation where it is necessary to meet identified tourism need and can support local employment, community services and infrastructure. DM8 also states that accommodation that is related and proportionate to existing tourist attractions will also be supported and all proposals will need to take account of any potential visual impact they create and in particular address the requirements of Landscape Character, in accordance with Core Policy 13.

The D2N2 Visitor Accommodation Strategy 2017 aims to provide a robust assessment of the future opportunities for visitor accommodation development across Derbyshire & Nottinghamshire and the requirements for public sector intervention to support and accelerate visitor accommodation. In addition to considering and analysing existing provision, the study looked at new provision of accommodation across the above area. The report shows that there is a significant interest in, and market potential for, the development of all forms of non-serviced accommodation (holiday cottages, holiday lodges and lodge parks, golf lodges, fishing lodges, eco lodges, holiday resorts, holiday parks, caravan and camping sites, camping pods, glamping, treehouses, hostels, bunkhouses and outdoor education centres) across the D2N2 area. Nottinghamshire County Council's Visitor Economy Strategy 2019-2029 acknowledges that more accommodation is required for visitors to stay in the countryside.

Core Policy 7 outlines that the District Council recognises the economic benefits of tourist accommodation and in doing so will view such proposals positively. In the context of countryside setting however, there is a need to meet a number of criteria as discussed further below.

The submitted Planning Statement refers to the Local Enterprise Partnership D2N2's Accommodation Strategy Report 2017 which identifies that there is a shortage of holiday lodge accommodation across Nottinghamshire and a lack of other forms of self-catering accommodation in and around Newark. Reference is also made to the D2N2 Visitor Accommodation Strategy which identifies there is significant interest in, and market potential for, all forms of non-serviced accommodation including holiday lodges. The statement also references the Council's Destination Management Plan 2018 - there is no dispute that this document notes the visitor economy to be a core contributor to the economic wellbeing of Newark given the known correlation between increased spending and overnight stays. The D2N2 Visitor Accommodation Strategy 2017 which it is noted specifically states: *"From talking to these types of accommodation operator in the D2N2 area, the appeal of a holiday cottage, holiday lodge, caravan or camping holiday in the area appears to be largely about getting away from it all to spend a relaxing break in the countryside."* (para. 4.2.12.) Holiday lodge parks are identified as achieving 75-92% occupancy with the national chain Centre Parcs reporting much higher occupancy rates (pre-Covid 19 restrictions).

Core Policy 7 accepts that countryside locations can meet an identified tourism need not provided for through existing facilities of the main built up area of villages. It is considered that the proposal would achieve such a requirement in providing a countryside appeal but in close proximity to the village of Coddington and its associated facilities but also the wider Newark Urban Area which would be readily accessible from the site.

The supporting statement advances that the holiday lodges would support the existing use of the commercial livery to the south, however no detailed information has been provided to explain the nature of the tourism offer at this site. It is also noted that the supporting statement puts forward that visitors would be able to enjoy Stapleford Woods which lies to the NE of the site.



Overall, I concur with the stance of the application that the development would positively contribute towards the tourism offer of the District in an area of the District specifically capable of supporting the economy of the Newark Urban Area. This weighs positively in the overall planning balance and renders the proposal compliant with Core Policy 7 and Policy DM8 subject to the assessment of other material considerations outlined below.

#### *Impact on Economy*

Core Policy 6 seeks to expand the District's employment base in line with the economic aims of the NPPF.

There is clearly the opportunity for increased spend in the area through the users of the lodges using local facilities or even just local shops for the convenience of self-catering. The application form also states that the development would result in the need for 1 full-time and 4 part-time employees and states that there are currently 1FT and 2PT employees working at the livery site resulting in a net addition of 2PT roles on site. This would contribute to local employment. In addition to this, the construction of the development would create short term construction jobs. All of these factors can be weighed positively in the overall balance.

#### *Impact on Landscape Character and Design*

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

The three lodges would all follow the same design set against the east and north boundaries of the site. The construction with external cladding is typical of a development of this nature. Parking areas are proposed by the side of the lodges with an area set with wild flowers proposed to the west.

The site is within the East Nottinghamshire Sandlands Policy Zone 4: Winthorpe Village Farmlands as defined by the Landscape Character Assessment for the District. Characteristic features include a flat landscape with occasional undulating landform around the village and a mixture of intensive arable fields with strongly trimmed hedges and some low intensity farming. The landscape condition and sensitivity is defined as moderate with the landscape action to conserve and create. In terms of built features one of the policy actions is to conserve what remains of the rural landscape by concentrating new development around existing settlements. The positioning of the site away from the main village of Coddington would fail to meet this requirement.

However, the built form associated with the proposal would be discretely positioned at the north eastern side of the site some 80m set back from Beckingham Road. The site is screened by the boundary hedgerow and tree line both to the east and adjacent to the highway such that it is not immediately visible from the highway travelling east or west. The lodges would be positioned behind the existing commercial livery business but would expand built development further northwards within the site into the undeveloped paddock land beyond the existing livery business. Nevertheless the modest proportions of the lodges is noted in addition to the proposed use of

natural materials and their limited visibility from the public realm given the site context and proposed siting.

Given the location of the site, away from the village, and the proposed sprawling of built form within this countryside location the proposal would result in some erosion of the undeveloped nature of the open countryside around the existing livery. However, in two recent appeal decisions for very similar developments<sup>1</sup> the Inspectors concluded that this low level type of holiday lodge development would be unmistakably different from dwellings and thus would not unacceptably harm the character of the open countryside.

In this case, the separation from the highway and the modest scale and limited number means the development would not be seen prominently and instead (when viewed from the west) would be seen as a distant, low level development against the backdrop of the mature vegetation along the side boundary. The lodges' low profile, simple design and finishing materials would mean they would not have the same visual appearance as dwelling houses and the lodges would also be relatively well screened from the surrounding area.

In summary, the development would not unacceptably harm the character and appearance of the area. It would therefore accord with Core Policies 7 and 13, of the Amended Core strategy and policy DM5 of the Allocations and Development Management Development Plan Document which both require development to have regard to the character of the local landscape.

#### *Impact on Ecology and Trees*

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

The lodges are proposed to be located close to the boundary of mature trees that lie to the east of the site. These trees contribute positively to the character of the area and link with Stapleford Woods to the NE which provides relief and green cover in a pocket of development otherwise within the countryside. Two out of three lodges and their associated parking/turning areas would be sited marginally within the canopy of the adjacent trees (having been amended throughout the course of this application). However, the Tree Officer has reviewed this information and has raised no objection to the development subject to conditions.

On this basis I am satisfied that the proposal would not adversely impact the existing trees on site and thus would accord with the above-mentioned policies subject to conditions.

#### *Impact on Highways*

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

The lodges would all be accessed from the existing access from Beckingham Road which serves the existing commercial livery business.

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<sup>1</sup> Appeal Decision APP/B3030/W/21/3271251 - Land Adjacent 2 Gainsborough Road, Winthorpe (20/02279/FULM) and Appeal Decision APP/B3030/W/20/3260155 - Orchard Stables, Cottage Lane, Collingham (20/00550/FUL)

The proposal has been assessed by Nottinghamshire County Council as the Highway Authority – initially a Highways Impact Assessment (HIA) was requested to consider the existing and proposed use of the site and was provided during the course of the application.

The HIA explains that details of a manual speed survey at the site access have proved how the recently implemented 40 mph speed limit is effectively reducing vehicle speeds and the proposed site access layout shown in Drawing Number F21200/01 confirms how the corresponding visibility splays will be achievable within publicly maintained highway land. A review of Personal Injury Collisions for the past years has also shown how no accidents have been recorded near to the site frontage since late 2018. The HIA explains that research online suggests that the current posted 40 mph speed limit was implemented late in 2019, which suggests it has addressed any ongoing concerns that may have existed along the route and therefore there should be no issues for the proposed scheme.

The proposed site access layout is shown in Drawing Number F21200/01 and is in line with local and national design standards for the proposed activities. The HIA asserts that the layout presents a marked improvement over the current access arrangement with formal control radii and increased carriageway width that will allow visitors to turn safely to and from the site. The layout also includes the full visibility splays calculated in accordance with the observed vehicle speeds.

The proposed internal site layout is presented within Drawing Number F21200/02. This shows how the proposed road layout would be sufficient to accommodate access by fire appliance vehicles along with parking spaces for each unit. Overall, the Highways Authority have reviewed the HIA and have advised that the HIA provides clear background of current and proposed use of the site. The information provided in the Assessment shows that a safe access is possible to be achieved at the proposed location and the traffic generated by the proposed development would not have a detrimental effect on the safety and capacity of the existing highway network. Subject to conditions relating to the amendments of the access and provision of parking spaces the Highway Authority have raised no objection.

The proposal would therefore have no adverse effect on highways safety which accords with the provisions of SP7 and DM5.

#### *Impact on Amenity*

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

Owing to the countryside location of the site, there are limited neighbouring receptors which would be affected by the development. The closest would be the dwelling known as Coddington Moor some 170m to the west of the site.

The lodges would be single storey and given the intervening landscape, the proposal is unlikely to have any visual amenity impacts such as overbearing or loss of privacy. The greatest potential impact would be a general increase in noise and disturbance. However, the separation of the site from the closest sensitive receptor is such that any sound from the lodges would be significantly reduced and unlikely to result in any amenity impact. Even if all 3 lodges were to be occupied at

the same time, the level of activity created externally is unlikely to be a nuisance to existing neighbours given the distance between the lodges and neighbouring built form.

Although the site does not relate to permanent occupations, there will still be an expectation from occupiers that they will enjoy a certain level of privacy. However, the lodges have been orientated so that there would be no direct window overlooking or overlooking into the amenity spaces around them which is considered to be acceptable.

With regard to the compatibility of the holiday lodge use and the commercial livery to the south – any future visitors would be aware of this close relationship prior to occupying the holiday lets. On the basis of the above, there would be no justifiable reason to resist the application on amenity grounds.

### *Overall Balance and Conclusion*

Despite being within the open countryside, the proposal relates to a tourism use which is in principle acceptable under the development types of Policy DM8. The applicant has demonstrated that the proposal would contribute towards much needed overnight accommodation close to the Newark Urban Area. This and the economic benefits of the proposal are deemed as strong factors in favour of the development.

Whilst the development would not be clustered around an existing settlement, the lodges would be modest in their height and positioned behind existing built form on the site, separated and screened from the highway to the south. Their design and positioning against the existing backdrop of woodland and trees will assist in their assimilation into the open countryside and visually they would appear as low level development. The nearest neighbouring property would be some distance from the nearest lodge, separated by the intervening landscape. No other harm has been identified in respect to ecological impacts or impacts on the highways network. The economic and tourism benefits therefore hold positive determinative weight and the proposal is recommended for approval subject to the conditions outlined below.

### **RECOMMENDATION**

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

#### **Conditions**

01

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

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

02

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

- Existing Site Location Plan
- Amended Proposed Site Location Plan (21.10.21)

- Topographical Survey – 21 135 01
- Proposed Site Layout/Block Plan – WL C 2021 L3 R1
- Floor Plan and Elevations for 2 Bed Lodge-type – WL C 2021 L2
- Floor Plan and Elevations for 3 Bed Lodge-type – WL C 2021 L1
- Drawing no. F21200/01, titled: Proposed Access Layout, Swept Path Assessment & Visibility Assessment, dated: 23.11.21
- Drawing no. F21200/02, titled: Proposed Site Plan & Swept Path Assessment, dated: 24.11.21

Reason: So as to define this permission.

03

The development hereby permitted shall be used for holiday accommodation and for no other purpose including any other purpose within Class C3 'Dwelling Houses' of the Town and Country Planning (Use Classes) Order 1987 (as amended) or any purpose permitted through the Town and Country Planning (General Permitted Development) (England) Order 2015 (and any order revoking, re-enacting or modifying that Order). No part of the accommodation hereby approved shall be used by any person as their sole or main residence.

Reason: To avoid the creation of a separate residential unit in a location which would not be considered sustainable for such and in acknowledgement of the intentions of the application.

04

The owners/operators of the visitor accommodation hereby approved shall maintain a register of occupiers for each calendar year, which shall be made available for inspection by the Local Planning Authority, at any time, and a copy of the register shall be supplied to the Local Planning Authority at the end of each calendar year.

Reason: The proposed visitor accommodation would be situated in the open countryside, outside any defined settlement boundary where new residential development will be strictly controlled. The proposed accommodation is only acceptable as a tourism development. To grant permission without such a condition would be contrary to policies Core Policy 7 of the Core Strategy and Policy DM8 of the Allocations and Development Management DPD.

05

The development hereby permitted is for use as holiday accommodation and no unit shall be occupied by the same person or persons, for a total period exceeding 28 days in any calendar year.

Reason: To ensure that the units are not occupied for residential purposes in a location where new residential development would not normally be permitted in accordance with Core Policy 7 of the Core Strategy and Policy DM8 of the Allocations and Development Management DPD.

06

No development above damp proof course shall take place until manufacturers details (and samples upon request) of the external facing materials (including colour/finish) have been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out and retained in accordance with the approved details.

Reason: In the interests of visual amenity.

No works or development shall take place until an arboricultural method statement and scheme for protection of the retained trees/hedgerows has been agreed in writing with the District Planning Authority. This scheme shall include:

- a) A plan showing details and positions of the ground protection areas.
- b) Details and position of protection barriers.
- c) Details and position of underground service/drainage runs/soakaways and working methods employed should these runs be within the designated root protection area of any retained tree/hedgerow on the application site.
- d) Details of any special engineering required to accommodate the protection of retained trees/hedgerows (e.g. in connection with hard surfacing).
- e) Details of construction and working methods to be employed for the installation of drives and paths within the root protection areas of any retained tree/hedgerow on the application site.
- f) Details of timing for the various phases of works or development in the context of the tree/hedgerow protection measures.

All works/development shall be carried out in full accordance with the approved arboricultural method statement and tree/hedgerow protection scheme.

Reasons: To preserve and protect existing trees and new trees which have and may have amenity value that contribute to the character and appearance of the area.

The following activities must not be carried out under any circumstances.

- a. No fires to be lit on site within 10 metres of the nearest point of the canopy of any retained tree/hedgerow on the proposal site.
- b. No equipment, signage, fencing etc shall be attached to or be supported by any retained tree on the application site,
- c. No temporary access within designated root protection areas without the prior written approval of the District Planning Authority.
- d. No mixing of cement, dispensing of fuels or chemicals within 10 metres of any retained tree/hedgerow on the application site.
- e. No soak- ways to be routed within the root protection areas of any retained tree/hedgerow on the application site.
- f. No stripping of top soils, excavations or changing of levels to occur within the root protection areas of any retained tree/hedgerow on the application site.
- g. No topsoil, building materials or other to be stored within the root protection areas of any retained tree/hedgerow on the application site.

Reasons: To preserve and protect existing trees and new trees which have and may have amenity value that contribute to the character and appearance of the area.

Notwithstanding the details shown on plan reference 'Proposed Site Layout/Block Plan' Ref. WL C 2021 L3 R1, no development shall be occupied until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall thereafter 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 and shall take account of the advice within Section 6.2 'General Site Enhancement' and associated Appendix F of the Preliminary Ecological Appraisal by deltasimons 20-0897.01 dated January 2021.

Reason: In the interests of visual amenity and biodiversity.

The approved soft landscaping shall be completed during the first planting season following the occupation 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. The approved hard landscaping shall be implemented on site prior to first occupation.

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

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 shall be implemented prior to the first occupation of any unit and shall then be retained thereafter for the lifetime of the development.

Reason: In the interests of residential and visual amenity.

Details of any external lighting to be used in the development shall be submitted to and approved in writing by the Local Planning Authority prior to its installation. The details shall include location, design, levels of brightness and beam orientation, together with measures to minimise overspill and light pollution. The lighting scheme shall thereafter be carried out in accordance with the approved details and the measures to reduce overspill and light pollution retained for the lifetime of the development.

Reason: In the interests of visual and residential amenity.

Occupation of the site shall not take place until:

- a) the access and the driveway are provided in accordance with the approved plans ref. F21200/01 and F21200/F2, and shall provide for vehicle parking and turning areas in accordance with the approved details. The vehicle parking and turning areas shall not be used for any purpose other than the turning and parking of vehicles.
- b) The access and the private driveway shall be surfaced in a suitably bound material (not loose gravel) as shown on the approved plans for a minimum distance of 12 metres from the back of the carriageway. The surfaced driveway shall then be maintained in such hard-bound material for the life of the development.
- c) The gates at the access shall open away from the highway and be located minimum of 12m back from the carriageway, as shown on the approved plan, and they shall be maintained for the life of the development.

Reason: To ensure a safe and practical access is constructed to facilitate the site. To prevent deleterious material from being discharged onto the public highway, in the interest of highway safety. To ensure that adequate off-street parking provision is made and turning facilities for vehicles are provided in the interest of the highway safety.

#### Notes to Applicant

01

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

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

02

The application as submitted is acceptable. In granting permission without unnecessary delay the District Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

03

The development makes it necessary to amend a vehicular access over a verge of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are therefore required to contact the County Council at the Highway Authority on 0300 500 8080 to arrange for these works to be carried out and/or apply for appropriate permission to work in the highway, which is land outside the applicant's control.

#### BACKGROUND PAPERS

Application case file.



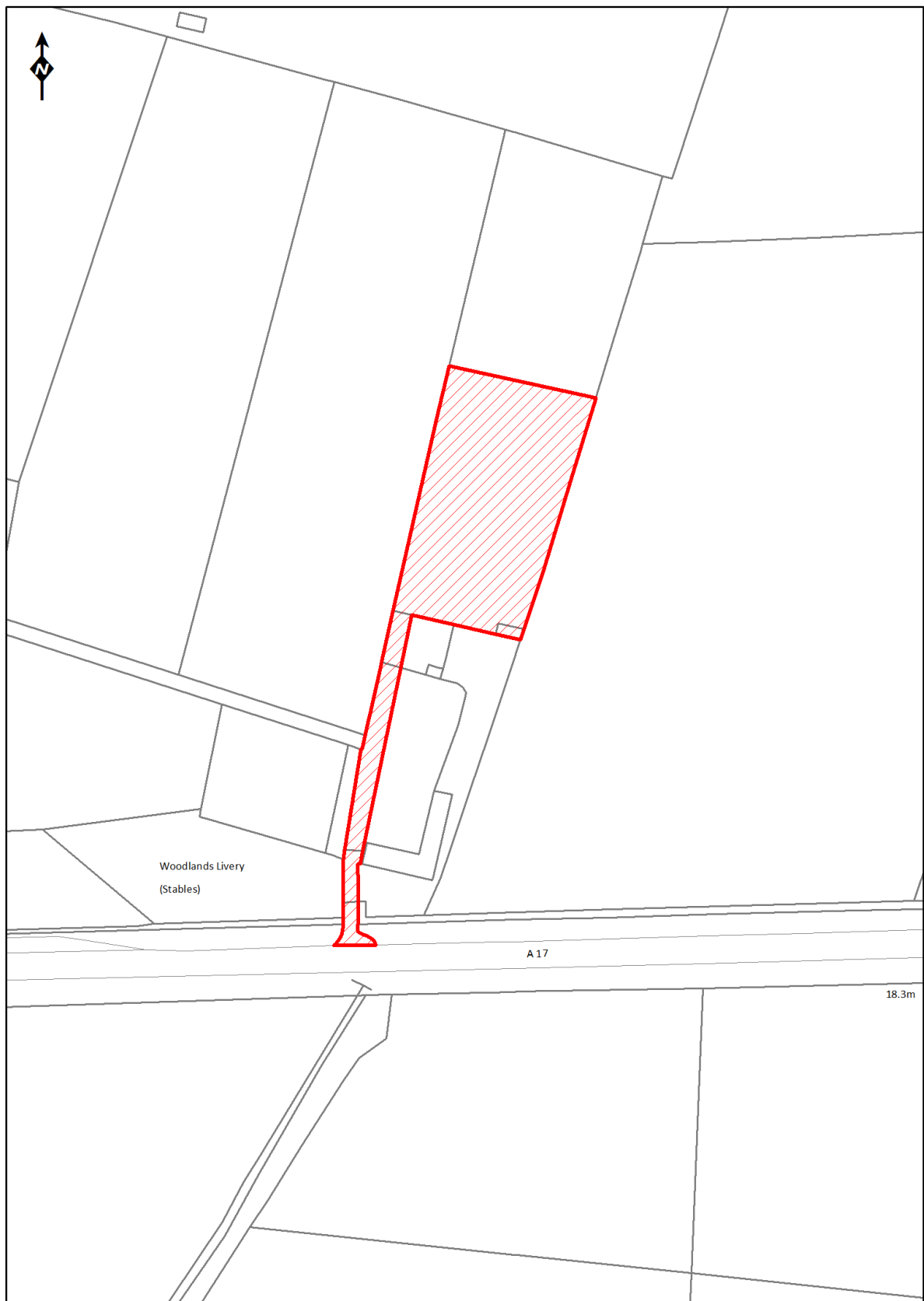
For further information, please contact Honor Whitfield on ext 5827

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

**Lisa Hughes**

**Business Manager – Planning Development**

Committee Plan - 21/02210/FUL



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## PLANNING COMMITTEE – 18 JANUARY 2022

<b>Application No:</b>	<b>21/02261/FUL</b>
<b>Proposal:</b>	<b>Proposed alterations to No.81 Lincoln Road and erection of new dwelling.</b>
<b>Location:</b>	<b>81 Lincoln Road, Newark, NG24 2BU</b>
<b>Applicant:</b>	<b>Mr Robert Chambers-Asman</b>
<b>Agent:</b>	<b>N/A</b>
<b>Registered:</b>	<b>20.10.2021                      Target Date: 15.12.2021</b> <b>Extension of time agreed until: 21.02.2022</b>
<b>Website Link:</b>	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage</a>

**This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation and it has been called to Committee by two Ward Members.**

### The Site

The application site sits just south of the junction with Gainsborough Drive and relates to the gardens to the rear of no.79 and 81 Lincoln Road, a pair of semi-detached two-storey properties with long, narrow, gardens approximately 78m in length. To the side and rear of No 81 Lincoln Road is a garage that serves the dwelling. The property to the north, on the other side of No 81, is a bungalow, which is positioned approx. 1m off the common boundary and has a habitable room window in the south side elevation facing onto the existing driveway of No 81.

The rear garden between no.79 and 81 is not defined by a boundary demarcation but the periphery contains a mixture of 1-1.8m high fencing in the whole.

The rear garden of No 79 currently contains a large rendered outbuilding/garaging/workshop close to the shared boundary with no.77 Lincoln Road, to the south-west.

This side and part of Lincoln Road is characterized by both two storey and bungalow development, with predominantly undeveloped long rear gardens to the south. However, there are a cluster of 4 bungalows immediately to the north of the site, to the rear of Nos 85 and 87 (both bungalows) set back from Lincoln Road and served by a private drive. Beyond those bungalows to the north is a two-storey dwelling that sits behind No 89 (a two storey dwelling), served by a private drive from Lincoln Road.

The site is within the defined Newark Urban Area.

## Relevant Planning History

### *No. 79 Lincoln Road*

16/00576/FUL Householder application for demolition of garage and outbuildings and erection of two storey side extension, single storey rear extension, new rear store and boundary wall/gates  
Approved 12.07.2016

## The Proposal

The application seeks full planning permission for a single storey, almost full width, rear extension with lean-to roof to no.81 Lincoln Road and the erection of a 1.5 storey, L-shaped, detached three bedroom dwelling within the rear curtilages of no. 79 and 81 Lincoln Road. The dwelling would be positioned 1m off the common rear garden boundary with No 77 to the south. The new dwelling would be accessed by utilizing and amending the vehicular access serving no.81 Lincoln Road, which would extend along the northern boundary of the rear garden.

Approximate dimensions of the proposal:

### Extension to 81 Lincoln Road

4.9m (depth) x 6.2m (width) x 4.1m (ridge) x 2.7m (eaves)

### New dwelling

13.0m (width) x 18.9m (length) x 6.5m & 5.5m (ridge) x 3.2m & 2.8m (eaves).

A parking area is shown to be provided to the front of No 81 to serve that dwelling, and the new dwelling would be served by two garaged spaces incorporated within the existing rear outbuilding, where a turning head is also provided at the end of the driveway.

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

DRWG no. 2101-01 Rev A Existing site plan;  
DRWG no. 2101-02 Rev A Existing floor plans;  
DRWG no. 2101-03 Rev A Existing elevations;  
DRWG no. 2101-04 Rev C Proposed site plan;  
DRWG no. 2101-05 Rev A Proposed floor plans no.81 Lincoln Road;  
DRWG no. 2101-06 Rev A Proposed elevations no.81 Lincoln Road;  
DRWG no. 2101-08 Rev C Proposed floor plans;  
DRWG no. 2101-09 Rev C Proposed elevations;  
DRWG no. 2101-10 Rev C Proposed elevations;

## Departure/Public Advertisement Procedure

Occupiers of 10 properties have been individually notified by letter.

## **Planning Policy Framework**

## **The Development Plan**

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

Spatial Policy 1 - Settlement Hierarchy  
Spatial Policy 2 - Spatial Distribution of Growth  
Spatial Policy 7 - Sustainable Transport  
Core Policy 9 - Sustainable Design  
Core Policy 12 – Biodiversity and Green Infrastructure  
NAP1 - Newark Urban Area

### **Allocations & Development Management DPD**

DM1 – Development within Settlements Central to Delivering the Spatial Strategy  
DM5 – Design  
DM6 – Householder Development  
DM7 – Biodiversity and Green Infrastructure  
DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

National Planning Policy Framework 2021  
Planning Practice Guidance  
National Design Guide – Planning practice guidance for beautiful, enduring and successful places  
September 2019  
Residential Cycle and Car Parking Standards & Design Guide SPD June 2021  
Householder Development SPD 2014

### **Consultations**

**Newark Town Council – 02/12/2021** It was agreed to sustain this Committee's original Objections to this application but with a slight amendment to point i) as follows:

- i) Loss of amenity for neighbours, in particular, boundary treatments with adjacent property No. 83.
- ii) Not in keeping with the surrounding area.
- iii) Back-land development.
- iv) Would set a precedent for any future developments in the area.

**29/10/2021** object to this application on the following grounds:

- i) loss of amenity for neighbours;
- ii) not in keeping with the surrounding area;
- iii) back-land development
- iv) would set a precedent for any future developments in the area.

**Nottinghamshire County Council Highway Authority** - The applicant has submitted a revised Drawing (2101-04 Rev B). This arrangement is a vast improvement over the original. The access driveway is now straight improving maneuverability within the site. There is also a turning head at the top of the driveway.

The existing access is to be used widening to 4.5m, the applicant does not state that the dropped kerb will need to be widened. The Highway Authority would not wish to raise objection.

In our original comments we requested swept path analyses for emergency appliances, these were not submitted. Whilst this does change the rest of our comments, and overall recommendation of no objection. We would recommend consulting both the Building Regulation Officer and the Fire

Service to ascertain that all requirements with regards to fire safety are met and the development can be tended by a fire appliance.

This includes widths for the whole length of the driveway including the pinch point between the house and neighbouring wall which is shown at 3m.

**East Midlands Building Consultancy** - The proposal needs some mitigation as a fire engine should have road access 3.7m wide.

If the fire engine parked on the drive it would need to be within 45metres of all parts of the proposed bungalow, and this does not appear to be the case.

However this distance may be doubled if the new property has a sprinkler system fitted throughout. This can be managed through a Building Regulations application.

**Four representations have been received from two neighbouring properties which can be summarised below:**

- Building is close to existing windows, boundary fence should be returned;
- Building is over 6.6m high and over 19.5m in length within 0.5m of the boundary, overshadow their bungalow and garden;
- Nearest properties are all bungalows;
- Is a septic tank to be used?;
- Not adequate space to pass domestic and commercial vehicles past our property;
- No space for lorries during construction;
- Conflict with the intensified use of the access and the neighbouring property access rights due to lack of fence and tightness of the relationship;
- Not in-keeping with the surrounding properties;
- Backland development.

#### Comments of the Business Manager

The application is formed of two elements 1) the extension to no.81 Lincoln Road, and 2) the erection of the dwelling within the rear garden of no.79 and 81. These matters, although they are on the same application, will be discussed separately below.

##### 1) Extension to no. 81 Lincoln Road

#### *Principle of development*

Householder developments are acceptable in principle subject to an assessment of numerous criteria outlined in Policy DM6 of the DPD. These criteria include the provision that the proposal should respect the character of the dwelling and surrounding area and have no adverse impact upon the amenities of neighbouring properties from loss of privacy, light and overbearing impacts.

Furthermore Policy DM6 states planning permission will be granted providing the proposal “respects the character of the surrounding area including its local distinctiveness and the proposal respects the design, materials and detailing of the host dwelling.” The Council’s SPD states the addition should respect and is balanced with the scale and proportions of the host dwelling, and is well related to the characteristics of the application site in terms of its size and shape (para 7.4).

#### *Impact on character and appearance*

Policy DM5 of the ADMDPD states that the character and distinctiveness of the District should be reflected in the scale, form, mass, layout, design, materials and detailing of the development.

The rear extension would extend virtually the entire width of the rear elevation and would match the depth and lean-to form of the existing rear addition of the adjoining dwelling and single storey in scale.

The materials are proposed to match that of the main dwelling which is render and the roof would be finished in slate.

Due to the use of materials and the design of the extension, and the positioning to the rear of the property, it is considered the form and scale would not have any detrimental impact upon the character of the surrounding area. The development although cumulatively large in footprint, would not dominate the dwelling.

The proposal is considered to adhere to the development plan.

### *Residential Amenity*

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

Due to its siting, scale and the presence of the extension to no.79, it would not have any detrimental impacts on neighbour amenity.

There are no windows proposed in the side elevation of the extension and it is not considered that the proposal would result in harm from direct overlooking to neighbouring properties.

The siting and the scale of the extension to the dwelling is such that no unacceptable harm would result from loss of light, privacy or overbearing impacts upon adjoining occupiers.

This is therefore in accordance with Policy DM5 and DM6 of the ADMDPD, the National Planning Policy Framework and in the Council's Householder Development SPD which are material planning considerations.

## 2) Erection of the dwelling

### *Principle of Development*

Spatial Policy 1 of the Core Strategy outlines the settlement hierarchy for the District identifying the Newark Urban Area as the sub-regional centre. It is intended that the Newark Urban Area be the main focus for housing and employment growth in the District. As such residential development within the site is acceptable in principle provided the proposal accords with the remainder of the development plan.

### *Impact on Character and Appearance*

Core Policy 9 requires a high standard of sustainable design that protects and enhances the natural environment and contributes to the distinctiveness of the locality and requires development that is appropriate in form and scale to the context. Policy DM5 mirrors this.

The site as existing is used as functional garden space for no.79 and 81. The proposal would comprise backland development which is generally resisted by policy DM5 of the Allocations and Development Management DPD. This states proposals creating backland development will only be approved where they would be in-keeping with the general character and density of existing development in the area and would not set a precedent for similar forms of development. Inappropriate backland development will be resisted.

The area is characterized by long thin plots with dwellings fronting the main highway, Lincoln Road. Whilst this is largely retained to the south of the application site, to the north, backland development already exists in the form of 4 single storey properties. There are also some other examples of backland development along Lincoln Road, that are mainly one property behind another (for example to the rear of 93 Lincoln Road to the north). Therefore, whilst from a design and layout perspective backland development is resisted as being harmful to the character of an area, in this particular case, it is considered that the local planning authority may struggle to defend a reason for refusal based on the harm to the character and appearance of the area alone given the layout of existing development immediately to the north.

Overall, I consider that the design of the final scheme is acceptable and conclude that the development of this plot in this way would not be unacceptably harmful to the character or appearance of the area or the street scene, thus according with the policies identified above.

#### *Highway Safety*

Policy DM5 is explicit in stating that provision should be made for safe and inclusive access to new development whilst Spatial Policy 7 encourages proposals which place an emphasis on non-car modes as a means of access to services and facilities.

Two spaces are proposed for the new three bed unit, which would meet the standards in terms of the quantum of spaces required in accordance with the Residential cycle and car parking standards SPD. The parking would be specified within the existing outbuilding to the rear of the site which would also include provision for cycle storage.

The proposal includes the utilization of the existing vehicular access serving no.81 which is currently 3m in width where it adjoins the highway. The proposal seeks to increase this to 4.5m wide which is considered acceptable to the Highway Authority. Vehicles are also able to manoeuvre within the site and exit in a forward gear. On this basis the proposal would not likely result in any unacceptable level of increased danger to highway users.

The main concern, which has been raised by residents is the access to the site for emergency and construction vehicles due to the narrowness of the access between the side elevation of no. 81, and the boundary with no.83. This is shown on the submitted drawings as approximately 3m wide. Having consulted with colleagues in Building Control (which is shown in full in the Consultation Section) they state that although the width would not allow emergency vehicle access, matters of fire prevention would be resolved through the associated building regulations application. Such concerns relating to the access of emergency service vehicles to the new dwelling would not therefore represent a reasonable reason for refusal by the local planning authority as this is a

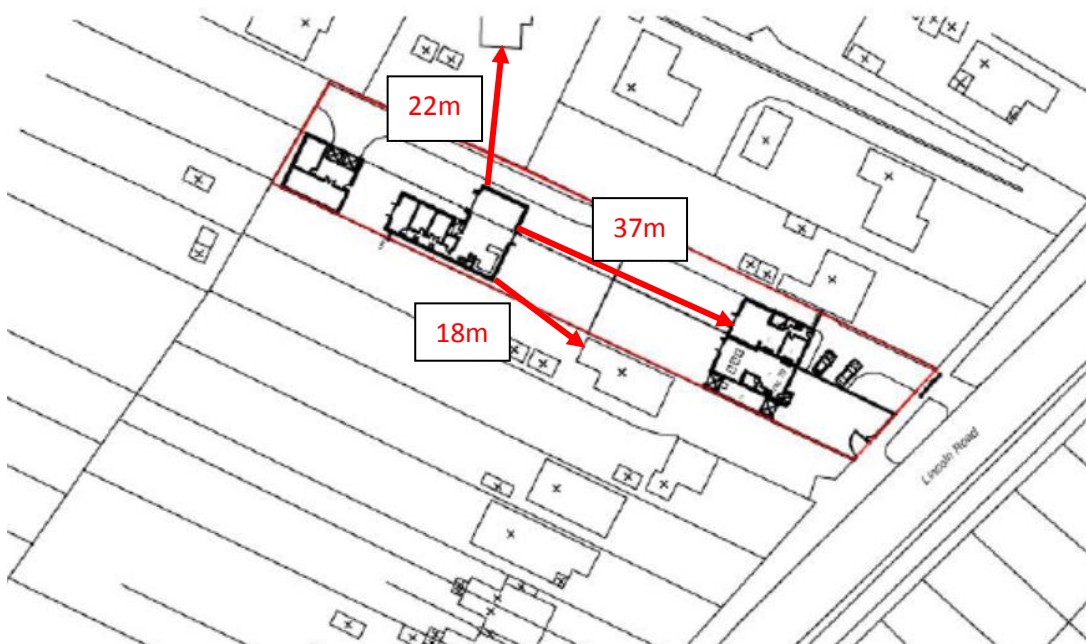


matter covered by other legislation through which such matters can be adequately controlled and resolved.

On this basis the proposal is compliant with Spatial Policy 7 and the relevant elements of Policy DM5 and the Residential cycle and car parking standards SPD and as such is acceptable in highway safety terms.

#### *Impact on Amenity*

Policy DM5 requires development to be acceptable in terms of not having a detrimental impact on residential amenity both in terms of existing and future occupiers. Indeed seeking to secure a high standard of amenity for existing and future users as set out in paragraph 130 of the NPPF.



The siting of windows is such that it is not considered to result in direct harm through loss of privacy subject to the imposition of suitable boundary treatments. A dormer window is proposed in the rear elevation of the principle section which would face west along the rear garden serving the proposed dwelling. Due to its siting and the distance (illustrated above), it is not considered that this would afford direct views to neighbour's private amenity space at no.87c (22m directly to the north). As originally submitted, the proposed dwelling stood adjacent to the northern boundary with No 87c but amendments were sought and the positioning altered to be adjacent to the southern boundary of the site. There is a small rooflight in the east facing roofslope of the principle section that serves an en-suite which is conditioned to be obscurely glazed and fixed shut to protect the privacy of No 77 to the south.

Although positioned in close proximity to the common boundaries of gardens, it is considered that the scale, the principle element 3.2m to eaves and 6.5m to ridge and the rear projection 2.8m to eaves and 5.5m to ridge, and its positioning relative to existing properties would not result in unacceptable loss of light or overbearing impacts on the living environment of neighbours, to warrant refusal.

One neighbour has raised concerns with regard to the lack of boundary between the application site and no.87c, however if Members are minded to approve the proposal, suitable boundary

treatments could be conditioned which would also improve the amenity for both existing and future occupants.

A resident at no.83 has raised concerns over the intensification of the use of the driveway and the impact upon their existing window which faces onto the driveway of No 81. The existing scenario on site shows the existing driveway of No 81 serving a garage that sits to the rear of the house. It must be acknowledged therefore that the relationship between the existing driveway allowing vehicles to access the garage already exists. The proposal would provide parking for the existing property at No 81 to the front of the property, therefore removing the need for these vehicles to use the existing driveway. As such, the driveway would only be used to serve the new dwelling and therefore there would be no further intensification beyond that which already exists. As such, it would be considered difficult to sustain a reason for refusal on the intensification of the use and its impact on the neighbour's existing window. Furthermore, as set out below, a condition requiring details of boundary treatments to include the boundary between the application site and the building at No 83 can be imposed to assist in improving the relationship and indeed the safety they refer to when exiting their door. However, it is acknowledged that during the construction period, the only way in and out of the site is via this access and as such, the process needs to be appropriately managed to minimize disruption. A condition has also been imposed therefore to require a Construction Method Statement to be submitted and approved.

In terms of future users of the site, it is considered that the proposal provides an adequate level of private amenity space to serve the dwelling.

All of the concerns raised by residents have been given due consideration however on balance, it is not considered that the proposal would result in an unacceptable level of harm to neighbour amenity that would warrant refusal of permission in this case and as such that the proposal meets with the provisions of the development plan.

### Conclusion

Located in the Newark Urban Area, the principle of development is acceptable. It has been concluded that the site could accommodate a detached dwelling without adversely affecting the character of the area given the presence of existing backland development to the north of the site. Matters of highway safety and residential amenity have been carefully considered but it is concluded that the proposal is acceptable and approval is recommended to Members subject to the following conditions.

### RECOMMENDATION

**That planning permission be granted subject to the following conditions.**

#### **Conditions**

01

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

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

02

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

DRWG no. 2101-04 Rev C Proposed site plan;  
DRWG no. 2101-05 Rev A Proposed floor plans no.81 Lincoln Road;  
DRWG no. 2101-06 Rev A Proposed elevations no.81 Lincoln Road;  
DRWG no. 2101-08 Rev C Proposed floor plans;  
DRWG no. 2101-09 Rev C Proposed elevations;  
DRWG no. 2101-10 Rev C Proposed elevations

Reason: So as to define this permission.

### 03 – Materials (dwelling)

No development above damp proof course shall take place in the construction of the dwelling, until manufacturers details (and samples upon request) of the external facing materials (including colour/finish) have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of visual amenity.

### 04 – Materials (extension)

The materials and the colour of such, to be used in the construction of the extension to no.81 Lincoln Road, hereby approved shall match those corresponding materials in terms of the colour, type and finish to those on the existing dwelling.

Reason: In the interests of visual amenity.

### 05 - PD

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

Class B: The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.

Class C: Any other alteration to the roof of a dwellinghouse.

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

Reason : To ensure that the local planning authority retains control over the specified classes of development normally permitted under the Town and Country Planning (General Permitted Development) (England) Order 2015 or any amending legislation) and in order to safeguard the amenity of neighbours.

## 06 - Boundary treatments

No part of the development shall be brought into use until details of all the boundary treatments proposed for the site (which shall include treatment between the application site and the side elevation of the existing building at No 83) 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 new dwelling and shall then be retained as such for the life of the development.

Reason: In the interests of residential and visual amenity.

## 07 - Landscape

Prior to first occupation of the new 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;

car parking layouts and materials;

other vehicle and pedestrian access and circulation areas;

hard surfacing materials.

Reason: In the interests of visual amenity and biodiversity.

## 08

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. 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.

## 09 - Highways

No occupation of the new dwelling hereby approved shall take place until:

- a) the access driveway is constructed to a width as shown on drawing no. 2101-04 Rev C (proposed site plan);

- b) The new driveway is provided in a hard-bound material (not loose gravel) for a minimum distance of 5.0 metres behind the highway boundary. The surfaced driveway shall then be maintained in such hardbound material for the life of the development;
- c) the parking and turning areas are provided in accordance with approved drawing no. 2101-04 Rev C (proposed site plan). The parking and turning areas shall not be used for any other purpose other than the parking and turning of vehicles.

Reason: In the interests of highway safety.

#### 010 – Obscurely glazed

The rooflight opening on the south-east facing roofslope shall be obscured glazed to level 3 or higher on the Pilkington scale of privacy or equivalent and shall be non-opening up to a minimum height of 1.7m above the internal floor level of the room in which it is installed. This specification shall be complied with before the development is occupied and thereafter be retained for the lifetime of the development.

Reason: To safeguard against overlooking and loss of privacy in the interests of amenity of occupiers of neighbouring properties.

#### 011 – Construction Method Statement

No development shall be commenced, including any works of demolition or site clearance, until a Construction Method Statement has been submitted to, and approved in writing, by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors;
- ii. loading and unloading of plant and materials;
- iii. storage of plant and materials used in constructing the development;
- iv. wheel washing facilities;
- v. a scheme for recycling/disposing of waste resulting from demolition and construction works;
- vi. confirmation of hours of construction and deliveries to site.

Reason: In the interests of residential amenity.

#### **Note to Applicant**

##### 01

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).

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

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

03

The development may make it necessary to construct a vehicular crossing over a footway of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact VIA in partnership with NCC tel: 0300 500 8080 to arrange for these works to be carried out.

#### **BACKGROUND PAPERS**

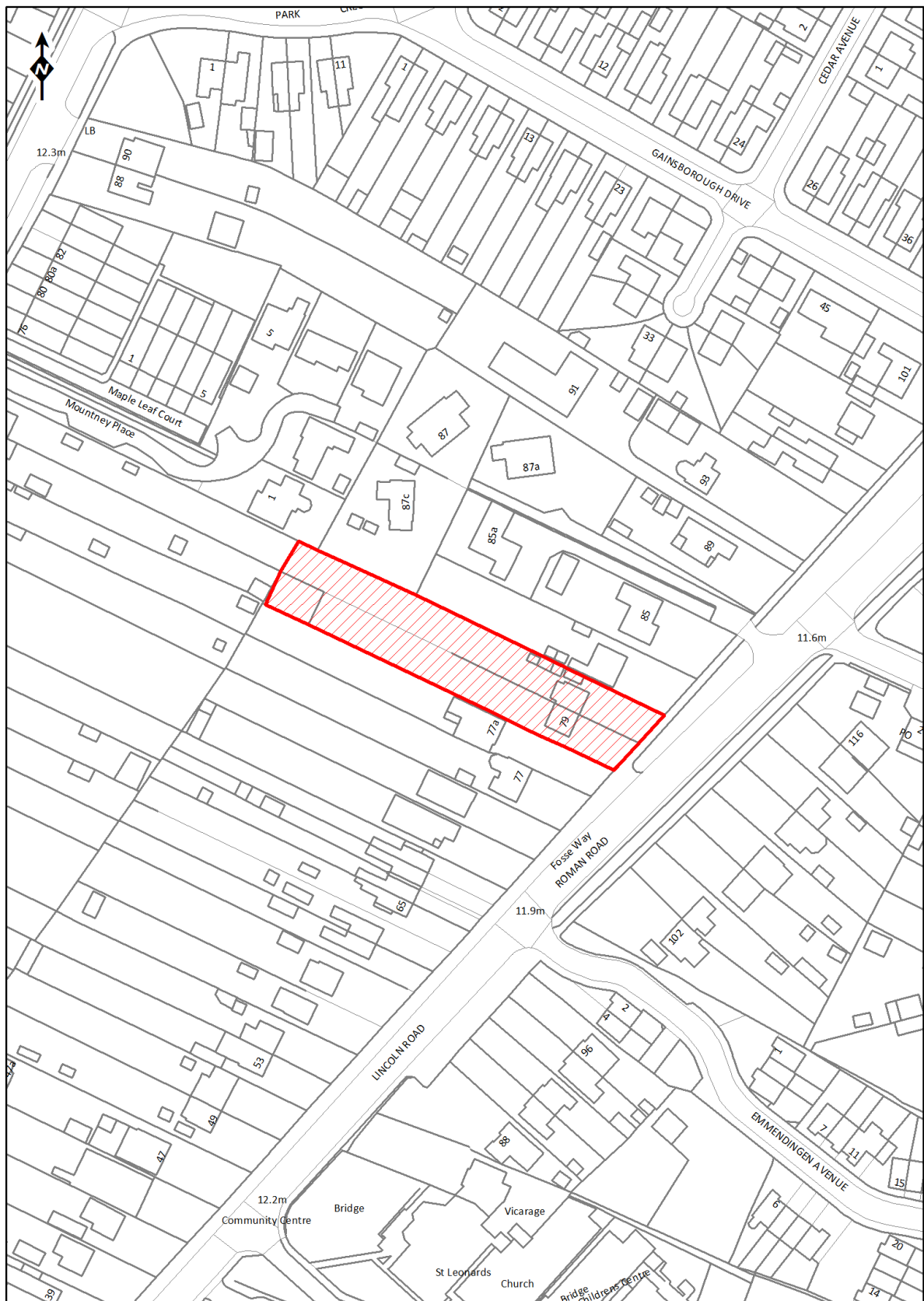
Application case file.

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

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

**Lisa Hughes**  
**Business Manager – Planning Development**

Committee Plan - 21/02261/FUL



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## PLANNING COMMITTEE – 18 JANUARY 2022

<b>Application No:</b>	<b>21/02396/S73</b>		
<b>Proposal:</b>	<b>Application to remove condition 8 of planning permission 19/00208/FUL to allow the takeaway of hot food</b>		
<b>Location:</b>	<b>The Rustic Crust Pizzeria, Main Street, Farnsfield, NG22 8EF</b>		
<b>Applicant:</b>	<b>Mr Ross Oliver</b>		
<b>Registered:</b>	<b>18.11.2021</b>	<b>Target Date:</b>	<b>13.01.2022</b>
		<b>Extension agreed to:</b>	<b>21.01.2022</b>
<b>Link to Application File:</b>	<a href="#">21/02396/S73   Application to remove condition 8 of planning permission 19/00208/FUL to allow the takeaway of hot food (19/00208/FUL - Change of use of former Co-op Retail Store (A1) to Pizza Restaurant, Cafe Bar (A3 &amp; A4) including interior and exterior alterations and refurbishments, new shopfront and new access door to courtyard.)   The Rustic Crust Pizzeria, Main Street, Farnsfield, NG22 8EF (newark-sherwooddc.gov.uk)</a>		

**This application is being referred to members of the Planning Committee for determination as the application relates to the removal of a condition that was originally requested by the Planning Committee.**

### The Site

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

The building formerly operated in the former A1 use class (retail) and was previously used as a Co-Op convenience store before this relocated further east along the Main Street. The unit is currently operating as The Rustic Crust Pizzeria (former A3 & A4 use, now use classes E(b) and sui generis) and lies to the south of Main Street towards the western side of the defined local centre. Across the highway to the north is a collection of retail units; to the South West is a residential property, 'Janik'. Adjoining the application site to the east is a Grade II listed residential property. The premises is surrounded by residential and mixed use buildings with an industrial unit to the rear.

### Relevant Planning History

**19/00208/FUL** – Change of use of former Co-op Retail Store (A1) to Pizza Restaurant, Cafe Bar (A3 & A4) including interior and exterior alterations and refurbishments, new shopfront and new access door to courtyard – Permitted 29.08.2019 and conditions discharged under 19/02151/DISCON.

**19/02148/ADV** – Hand painted fascia sign, signage board and projecting sign – Permitted 30.01.2020



## The Proposal

The application is a Section 73 application submitted to request the removal of Condition 08 attached to planning permission 19/00208/FUL to remove the restriction on the takeaway of hot food. The original application approved the conversion of the retail unit to a Pizza restaurant, café and bar.

Condition 08 reads:

*There shall be no ancillary hot food take away operated from this site unless planning permission has first been granted for such use by the local planning authority.*

*Reason: In the interest of highways safety*

The supporting statement explains that the Pizzeria opened 10 days before the first Covid-19 lockdown in March 2020 but managed to keep trading under the guidance from the government which allowed restaurants to operate takeaway options, in order to sustain local businesses and the economy, until March 2022 temporarily overriding any planning restrictions that may have been in place. During the pandemic the supporting statement explains the business had an 'App' developed which allowed customers to view the full menu online, order and pay securely by card, book a collection timeslot and collect upon arrival with minimal, if any time, remaining on site. The App allows the business to ensure the restaurant doesn't become overcrowded with collection customers, ensures there are no traffic and congestion problems as time slots are spaced appropriately and only bookable in advance, order sizes and numbers can be policed in real time and that takeaway is only permitted by pre-booking with collections times that can be controlled.

During the pandemic collection takeaway times were limited to Wednesday-Saturday 4:30-8:30pm, with 10-15 minute collection timeslots and the business took an average of 10 takeaway orders a night.

Permission is sought to remove condition 08 to allow the business to continue operating this ancillary takeaway function of the business due to continuing local demand. The supporting statements explains that the intention is for the takeaway function to be ancillary to the principal restaurant/café use of the building. The percentage of sales from takeaway has been, on average, less than 10% of monthly sales (October 5%, Sept 7%, August 12%, July 7%), which is anticipated to continue.

The restaurant currently only opens Wednesday-Saturday but as Friday and Saturdays are peak restaurant trading days the takeaway function is currently only usually operated on Wednesdays and Thursdays. The applicant has explained that the takeaway options allows the business to continue to trade/operate on quieter days and in any event, given the size of the premises, number of staff and cooking facilities, they are limited to making and cooking on a certain number of pizzas at any one time. The premises can cater for a maximum of 80 covers (60 inside and 20 outside) under normal circumstances and the takeaway app opens up approx. 14 collection slots per day. The intention is to continue to operate with an ancillary takeaway function to support the main restaurant/café business.

## Departure/Public Advertisement Procedure

Occupiers of 46 properties have been individually notified by letter, a site notice has been displayed close to the site and an advert has been placed in the local press.

Earliest decision date: 15.12.21

**Planning Policy Framework**  
**The Development Plan**

*Farnsfield Neighbourhood Plan (made 28 September 2017)*

FNP4 - Local Employment Opportunities

FNP5 - Creating A Thriving Parish

*Newark and Sherwood Amended Core Strategy Adopted 2019*

Spatial Policy 1 – Settlement Hierarchy

Spatial Policy 2 – Spatial Distribution of Growth

Spatial Policy 8 – Protecting and Promoting Leisure and Community Facilities

Core Policy 6 – Shaping our Employment Profile

Core Policy 8 – Retail Hierarchy

Core Policy 9 - Sustainable Design

Core Policy 14 – Historic Environment

*Newark and Sherwood Allocation and Development Management DPD, adopted 2013*

Policy DM5- Design

Policy DM7- Biodiversity and Green Infrastructure

Policy DM8 – Development in the Open Countryside

Policy DM9- Protecting and Enhancing the Historic Environment

Policy DM12- Presumption in Favour of Sustainable Development

**Other material planning considerations**

National Planning Policy Framework 2021

Planning Practice Guidance 2014

**Consultations**

**Farnsfield Parish Council** – Object – “The Planning Committee discussed this application in detail. The Committee do have concerns that the application does not meet the aims outlined in the Farnsfield Neighborhood plan with respect to traffic and parking. The Neighborhood plan outlines that applications can only be supported if they do not adversely impact on the availability of parking.

The Committee have concerns that the takeaway facility could adversely impact on the availability of car parking for residents within the village as well as concerns that this application could increase inconsiderate parking and encourage additional traffic into the village.

The Planning Committee would strongly recommend that the Highways team are consulted in this application to be able to estimate the effect this application may have on the traffic and parking within Farnsfield and recommend accordingly.

As a committee we request that the current temporary take away license be extended rather than a permanent removal of condition 8 of the original planning permission. This will allow for the Council to monitor how the takeaway service effects the traffic and parking, as the traffic returns to “normal” after the Covid Pandemic, before making a decision if this should be a permanent take away premises.”

**NCC Highways** – Concerns Raised – “The Highway Authority understand this is an application to remove Condition 8 of planning permission 19/00208/FUL to allow the takeaway of hot food at The Rustic Crust Pizzeria on Main Street in Farnsfield.

By way of background, the Highway Authority advised that the original application be refused because, *“The proposed development fails to make adequate provision for the parking of any vehicles within the site curtilage resulting in an increase in the likelihood of danger to other users of the highway due to the likelihood of vehicles being parked on the public highway and surrounding area to the detriment of highway safety.”* Despite this, the application was approved, but Condition 8 was imposed in the interests of highway safety.

It is accepted that this business begun operating just before the commencement of the COVID-19 pandemic and has in fact been operating a takeaway function as result of government relaxations when they have not been able to operate as a sit-down restaurant and have continued to do so once restrictions permitted the reopening of the restaurant. However, this ability to offer a takeaway function ceases in early 2022 unless Condition 8 is removed.

It should be acknowledged however that this is and has been an extraordinary event and is by no means the norm, and as such traffic levels have reflected this.

In terms of assessing this application, consideration has to be given to the business operating at full capacity as both a sit down restaurant, alongside a takeaway function both of which will generate parking demand albeit for different durations.

Main Street is subject to some parking restrictions albeit not in front of this business. However, no parking is permitted on the other side of the carriageway Monday-Saturday 0800-1800hrs plus there is junction protection (no parking at any time) at the junctions of New Hill and Tippings Lane.

The business itself has no onsite parking, so any staff or customers which require parking park on street. The surrounding properties are a mixture of residential and commercial premises with those accessed from Main Street with limited opportunities for on-site parking. Given the site’s location within Farnsfield, clearly there are opportunities for customers to arrive on foot, however, when it comes to takeaway food it is considered usual to collect your food by vehicle, to ensure its still hot to eat when you get home with it.

As such, the Highway Authority have reservations about supporting the removal of Condition 8, in a location which would result in an increase in on street parking, where there is already existing demand from the business in its current form and its neighbours together with restrictions already limited opportunities to do so, without the submission of any empirical evidence to demonstrate that the additional demand generated by a permanent takeaway function could be accommodated, without adversely affecting the safe, and satisfactory operation of the adjacent highway network.”

**Environmental Health** – No comments to make.

**NSDC Conservation** – No comments to make.

**Comments have been received from 3 interested parties/local residents that can be summarized as follows:**

### **Support: 2**

- Since Rustic Crust opened it has provided a very good family dining service for the village and it should be able to continue to provide a takeaway service in the future. Unlike other types of fast food outlets takeaway pizzas do not create any litter in the vicinity of the restaurant and the ability to eat at home is helpful for families with young children and also with mobility problems.

### **Object: 1**

- There is no spare parking on Main Street (photo appendix included) and parking has deteriorated on the street since the restaurant opened. Customers will double park, park on double yellow lines and block driveways just to collect their takeaway.
- The Survey commissioned by the business in 2019 shows that there is no parking during the early evening.
- NCC Highways objected to this proposal in 2019 but pizza was prioritized over safety.
- Management and staff of the Rustic Crust occupy 3 valuable spaces on the High Street during opening hours. It is very likely that this will increase if permission was granted.
- There is currently a committee/working party on Farnsfield Parish Council to try to improve the parking problem. This will exacerbate the problem and the parking situation in Farnsfield will never improve.

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

The NPPG acknowledges that Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area, thus providing a powerful set of tools for local people to ensure that they get the right types of development for their community where the ambition of the neighbourhood is aligned with the strategic needs and priorities of the wider local area.

Following public consultation and independent examination, at its council meeting on 28 September 2017 Newark and Sherwood District Council adopted the Farnsfield Neighbourhood Plan. The Neighbourhood Plan now forms part of the development plan for the district and its policies are a material consideration alongside other policies in the development plan and carry weight in the determination of planning applications in Farnsfield. In this instance the most relevant policies in the Neighbourhood Plan are listed above and are considered against the relevant aspects of the proposal in the assessment below.

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

An application under Section 73 is in effect a fresh planning application but should be determined in full acknowledgement that an existing permission exists on the site. This Section provides a different procedure for such applications for planning permission, and requires the decision maker to consider only the question of the conditions subject to which planning permission was granted. As such, the principle of the approved development cannot be revisited as part of this application.

An application can be made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. In determining such an application the local planning authority is only able to consider the question of the conditions subject to which planning permission should be granted, and—

- (a) if the authority decides that planning permission should be granted subject to conditions

differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, the authority shall grant planning permission accordingly, and

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

The NPPF is clear that any new permission should set out all conditions related to it unless they have been discharged and that it cannot be used to vary the time limit for implementation which must remain unchanged from the original permission.

Whilst the application has defined which conditions are sought to be varied, the local authority has the power to vary or remove other conditions if are minded to grant a new planning consent.

Full planning permission was granted in August 2019 subject to a number of conditions (some of which have been discharged). The condition to be removed in this application is number 08 to remove the restriction of ancillary hot food takeaway as explained in the description of the proposal. The justification for the removal of this condition is fully explained in the description of the proposal section. On the basis of the information supplied by the applicant it is considered that the takeaway use proposed would be ancillary to the main restaurant and café business/use, representing around 10% of their overall sales and therefore would not require consent in its own right for sui generis hot food takeaway use.

In assessing the impact of the removal of this condition the main considerations are the impact the removal of the condition would have on Amenity and Highways Safety.

#### *Impact on Amenity*

The NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy DM5 of the DPD states that the layout of development within sites and separation distances from neighbouring development should be sufficient to ensure that neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy.

In assessing the principle of the restaurant/café use it was determined that subject to compliance with the details submitted to accompany the application in respect of noise and odour abatements and restrictions to the external seating area opening times that there would be no adverse impact on the amenity of nearby residents.

The scope of this application would essentially see the business continuing to operate as it has done since March 2020 (under the flexible business guidance issued by the government during the pandemic restrictions). There have been no complaints of nuisance related to this premises but nevertheless, it is not considered that people attending the site to collect pre-ordered and pre-paid food would result in any greater disturbance over the existing authorised restaurant use. It is therefore considered that the removal of this condition would not result in any conflict with the abovementioned policies in respect of amenity impact.

#### *Highways Safety*

Spatial Policy 7 or the Core Strategy and Policy DM5 of the ADMDPD, along with the NPPF make clear the requirements for development to ensure safe and inclusive access, and to make parking

provision appropriate to the scale of development. Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems.

It is noted that the Planning Committee resolved to grant permission for the restaurant/café use at this site contrary to the officer recommendation, which was to refuse permission on highway safety grounds. During the assessment of the previous application the Highways Authority objected to the proposal on the grounds that the proposal failed to make adequate provision for the parking of any vehicles within the site curtilage which would result in an increase in the likelihood of danger to other users of the highway due to the likelihood of vehicles being parked on the public highway and surrounding area to the detriment of highway safety. Whilst consideration was given to the fallback position that the building could operate in retail use in the Committee Report, a recommendation of refusal was offered in light of the Highways objection.

However, at the planning committee meeting of 6<sup>th</sup> August 2019, Members came to a different view. They noted that the current use of the building was retail (former A1 use) which had no on-site parking provision and that this could resurrect without planning consent attracting significant vehicular movements and on-street parking pressures. Members referred to the local (public) car parking facilities available along Main Street and in the surrounding area and highlighted that many patrons would likely be local and could also walk to the venue. Concerns were however raised over the potential safety issues that could arise from people parking up on the street directly outside to collect takeaways and thus a condition was imposed to restrict this as an ancillary function in the interest of highways safety.

The applicant has put forward the case that customers have been able to collect takeaways during the pandemic for over 1 year now with no highway safety incidents arising. There have been no reports of nuisance from collections which they put down to customers being directed to local car parks on their website etc. and collection being only by pre-order, pre-payment and during an allocated slot to minimise the time spent on the site.

I note that the Parish Council have objected to this proposal and have raised concerns that the application does not meet the aims outlined in the Farnsfield Neighborhood Plan (FNP) with respect to traffic and parking. The Parish Council state that the *“neighborhood plan outlines that applications can only be supported if they do not adversely impact on the availability of parking”*. The FNP states that development will only be supported where it *“would not adversely impact on the availability of public car parking within the village”* (my emphasis added) and goes on to advocate for development proposals making parking facilities available outside of operating hours for residents. It is not considered that the proposal at hand would have any physical impact on the availability of the public car park areas within the village (noting that this policy does not relate to parking on the highway), whilst customers would be encouraged to use the public car park further up the Main St, this would not impact the availability of the car park as a resource.

The Parish Council have also stated that the *“current temporary take away license [should] be extended rather than a permanent removal of condition 8 of the original planning permission [... to] allow for the Council to monitor how the takeaway service effects the traffic and parking, as the traffic returns to “normal” after the Covid Pandemic, before making a decision if this should be a permanent take away premises.”* However, it is noted that the ability for restaurants to operate temporary takeaway use during the pandemic was not a decision made by the District Council but a decision made by the government to support local economies and businesses – this is due to end in March 2022 and the District Council cannot extend this.

The proposal is to continue with the ancillary takeaway function as a true ancillary element of the business and to continue to encourage customers to park in the local public car parks when

visiting the site to minimise on-street parking and disturbance. Collection would continue to be by pre-booking and payment only which would overall limit the amount of visitors per sitting.

The Highway Authority (HA) have provided some comments on this application and have raised concerns. They advise that whilst the business may have been able to operate a takeaway function without traffic concerns in the recent past, the pandemic has been an extraordinary event, and is by no means the norm, with traffic levels that reflect this. The HA note that this application should be assessed based on the business operating at full capacity as both a sit down restaurant, alongside an ancillary takeaway function (both of which will generate parking demand, albeit for different durations). The HA conclude that they have reservations about supporting the removal of Condition 8, in a location which would result in an increase in on street parking (where there is already existing demand from the business in its current form and its neighbours together with restrictions already in place) where there are limited opportunities to do so.

Whilst the HA does not formally object to the proposal, Officers are mindful of the concerns they have raised, however equally must consider the previous decision made by the Planning Committee, the weight they gave to the previous A1 use (as a fallback position) and the way the applicant intends to operate the takeaway function in a time and volume controlled manner which has been the case over the last year. In the local vicinity of the application site Officers note that there is a public car park within easy walking distance that customers could use to park in and collect their takeaway. Whilst acknowledging the concerns raised by the HA, the NPPF is clear that Development should only be prevented or refused on highways grounds if there would be *“an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”*. Officers consider that if the takeaway function was to continue in the same time and volume controlled manner which has been the case over the last year, utilising the collection slot app, then within the context of this application, it is not considered that the removal of the condition to allow the continued ancillary function of the takeaway would result in a ‘severe highways safety impact’ that would be contrary to SP7 or DM5 that would warrant resisting the removal of this condition.

Subject to a suitably worded condition the takeaway customer volume could continue to be time and volume regulated to minimise any customer congestion within close proximity to the site which would also alleviate the concerns raised by the Highways Authority. Furthermore, the takeaway use in this instance would only be ancillary to the main restaurant use (which could be argued would generate more and longer term parking over an evening than occasional takeaway collections) and any sole hot food takeaway use would still require separate consent in the future. It is therefore considered that, subject to condition, the proposal would be in accordance with SP7 and DM5 in this regard.

#### *Other Matters*

The amendments sought do not alter the previous assessment in terms of impact on character, the conservation area or setting of listed buildings, or flood risk.

#### *Assessment of the remaining conditions*

The NPPG is clear that any new permission should set out all conditions related to it unless they have been discharged and that it cannot be used to vary the time limit for implementation which must remain unchanged from the original permission.

For ease of reference the conditions as originally imposed are listed in full below (in the recommendation section) with ~~striketrough~~ text used to represent parts of the condition no

longer required and **bolded text** used to indicate new wording. The conditions have been reworded where required.

### *Conclusion*

Only the very narrow scope of the matters of varying or removing the conditions imposed are open for consideration. I consider the amendment sought to this consent would not unduly impact the amenity of local residents, nor compromise the safety of the highway network. As such it is therefore recommended that planning permission be granted subject to the conditions outlined below.

### **RECOMMENDATION**

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

~~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~~ **01**

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

- Site Location Plan (1.2.19)
- Proposed Plans and Elevations - 1154\_PO4
- Proposed Plan Layout - SK\_01 rev H
- Air Conditioning Units - SK\_AC
- NAPOLI 1250 PIZZA OVEN SPECIFICATION

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.

**02**

**The development hereby permitted shall be constructed entirely of the materials details approved under 19/02151/DISCON:**

- **Painted Render: Farrow and Ball 'Moles Breath' (No. 276)**
- **Shopfront & Elevations – Ref. 1154\_AC04B (deposited 26.1.20) showing materials for the rear store building to be brickwork, timber cladding, and a metal profile roof.**

~~No external works hereby approved shall take place until manufacturers details (and samples upon request) of all external facing materials (including colour/finish) have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details.~~



Reason: In order to preserve or enhance the character and appearance of the conservation area.

03

**The development hereby permitted shall be constructed entirely in accordance with the technical details approved under 19/02151/DISCON:**

- **Shopfront and Signage 3 - Ref. 1154\_AC03B (deposited 26.1.20)**
- **Shopfront & Elevations – Ref. 1154\_AC04B (deposited 26.1.20)**
- **Shopfront – Ref. 1154\_AC01A (deposited 26.1.20)**
- **Shopfront – Ref. 1154\_AC02A (deposited 26.1.20)**
- **100mm (4”) Fan Range Technical Details**

~~No development shall be commenced in respect of the features identified below, until details of the design, specification, fixing and finish in the form of drawings and sections at a scale of not less than 1:10 have been submitted to and approved in writing by the local planning authority. Development shall thereafter be undertaken and retained for the lifetime of the development in accordance with the approved details.~~

- ~~— External windows including roof windows, doors and their immediate surroundings, including details of glazing and glazing bars which for the avoidance of doubt shall be of timber construction~~
- ~~— Treatment of window and door heads and cills~~
- ~~— Extractor vents~~
- ~~— External plant screening~~
- ~~— Flues~~

Reason: In order to preserve or enhance the character and appearance of the conservation area.

04

The premises shall only be open to members of the public during the following hours:-

08:00h to 22:30h Monday - Thursday & Sunday

08:00h to 23:00h Friday & Saturday

Reason: In the interests of residential amenity.

05

The external seating area as shown on the approved plan reference 'Proposed Plan Layout - SK\_01 rev H' shall only be for customers use between the following hours:-

8:00h to 20:30h Monday - Thursday

8:00h to 21:00h Friday & Saturday

11:00h to 20:30h Sunday

Reason: In the interests of residential amenity

06

**The use hereby permitted shall be undertaken in accordance with the mitigation works embedded within the Peak Acoustic Noise Assessment Report Rev. 1 – Reference PA939 NM0810192NR carried out by Peak Acoustics dated 12/12/2019 approved under 19/02151/DISCON and shall be retained for the lifetime of the development.**

~~The use hereby permitted shall not commence until a noise assessment is undertaken by a suitably qualified acoustic consultant/engineer to determine an adequate level of internal sound insulation (in order to protect the eastern adjoining residential occupiers from noise from the use hereby permitted) has been submitted to and approved in writing by the local planning authority. All mitigation works as embedded within the noise assessment shall be completed before any part of the premises is brought into use. The scheme as approved shall be retained for the lifetime of the development.~~

Reason: In the interests of residential amenity.

08

~~There shall be no ancillary hot food take away operated from this site unless planning permission has first been granted for such use by the local planning authority.~~

Reason: In the interest of highways safety

07

Prior to the erection of any smoking shelter details of its design, materials and siting shall first be submitted to and agreed in writing by the local planning authority. The smoking shelter shall be implemented in accordance with the approved details.

Reason: In the interest of residential amenity.

08

**The sound-insulation of the external plant equipment shall be undertaken in accordance with the mitigation works embedded within the Peak Acoustic Noise Assessment Report Rev. 1 – Reference PA939 NM0810192NR carried out by Peak Acoustics dated 12/12/2019 and the Environ Technologies Packaged Plant Solutions Details deposited 10.01.2020 approved under 19/02151/DISCON. The mitigation works shall retained for the lifetime of the development.**

~~Before any external plant equipment is used on the premises, it shall be enclosed with sound-insulating material and mounted in a way which will minimise transmission of structure borne and air borne sound. Any such structure/s shall be designed and installed by a suitably qualified acoustic consultant/engineer in accordance with a scheme to be first approved in writing by the local planning authority. The scheme as approved shall be retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.~~

Reason: In the interests of residential amenity

09

No live or recorded music shall be played outside the premises in the seating area shown on the approved plan reference 'Proposed Plan Layout - SK\_01 rev H' or any other external space.

Reason: In the interests of residential amenity.

010

**The external seating area hereby approved on approved plan ref. 'Proposed Plan Layout - SK\_01 rev H' shall be constructed in complete accordance with the acoustic screening details embedded within Peak Acoustic Noise Assessment Report Rev. 1 – Reference PA939 NM0810192NR carried out by Peak Acoustics dated 12/12/2019 approved under 19/02151/DISCON. The acoustic mitigation measures shall also be retained for the lifetime of the development.**

~~No part of the external seating area shown on the approved plan reference 'Proposed Plan Layout - SK\_01 rev H' shall be brought into use until details of acoustic screening to reduce the impact of noise on surrounding properties including types, height, design and materials, have been submitted to and approved in writing by the local planning authority. The approved acoustic screening shall then be implemented prior to the use of the external seating area and shall then be retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.~~

Reason: In the interests of residential and visual amenity.

11

**The takeaway use hereby permitted shall only operate ancillary to the principal use of the building as a restaurant, café and bar. Takeaway collection must also be by pre-order and pre-arranged time slots only as controlled by the businesses online order and collection programme/mobile app, details of which shall be provided to the Local Planning Authority upon request.**

**Reason: This condition is necessary in the interest of highways safety to help control the flow and volume of customers collecting from the premises.**

#### Notes to Applicant

01

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).

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

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

03

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

#### BACKGROUND PAPERS

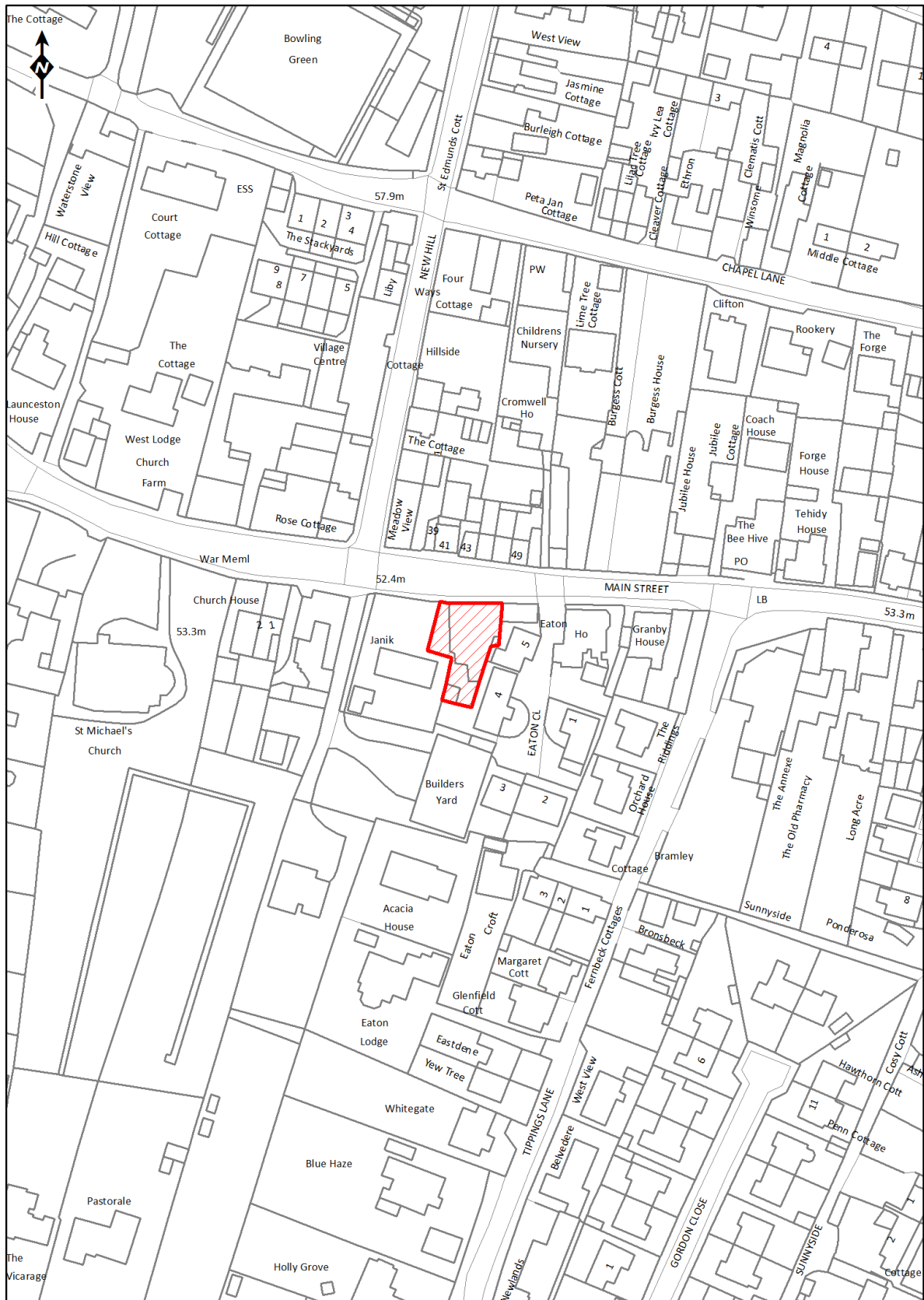
Application case file.

For further information, please contact Honor Whitfield on ext 5827

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

**Lisa Hughes**  
**Business Manager – Planning Development**

# Committee Plan - 21/02396/S73



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## PLANNING COMMITTEE – 18 JANUARY 2022

Application No:	21/02462/LBC		
Proposal:	Removal of existing in-filled wall within the Buttermarket First Floor Atrium and provision of new access doors.		
Location:	The Buttermarket, 27 Middle Gate, Newark-on-Trent, NG24 1AL		
Applicant:	Newark and Sherwood District Council – Mr Pete Preece		
Agent:	Jackson Design Associates - Mr Alex Brown		
Registered:	22 <sup>nd</sup> November 2021	Target Date: 18 <sup>th</sup> January 2022	
	Extension of Time Agreed Until 21 January 2022		
Website Link:	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/advancedSearchResults.do?action=firstPage">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/advancedSearchResults.do?action=firstPage</a>		

**This application is being presented to the Planning Committee in accordance with the Scheme of Delegation, as the applicant is Newark and Sherwood District Council.**

### The Site

The application site comprises the building known as the 'Buttermarket'. This building fronts Middle Gate, with a side access to Chain Lane. It is connected to Newark Town Hall.

In accordance with Section 1 (5) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act'), the building complex known as the Buttermarket is considered to form part of the Grade I Town Hall listing, which adjoins to the east of the application site.

The Buttermarket is otherwise surrounded by important period buildings within a highly sensitive location at the heart of Newark Conservation Area (CA). In terms of the Council's Local Development Framework, the site lies within the area defined as Newark Town Centre and Primary Shopping Area, and also within Newark's Historic Core.

The main building within the Buttermarket complex comprises a distinctive former Victorian covered market, built 1883-84. It has an attractive gabled façade to Middle Gate, and is constructed in red brick externally with lead, glazing and slate roofs. Ancillary areas to the rear of 23 and 25 Middle Gate include an area at first floor known as the 'old bar' area. For ease of reference, the Buttermarket is considered to be the entirety of the building complex comprising the former covered market (which currently includes Tambo and Iguazu), and the Exchange (including Hobsons Shoes), as well as vacant upper floor space behind 23 and 25 Middle Gate (Specsavers and Gracegentle). When we refer to the former covered market, we refer only to the main building element which includes the central atrium and mezzanine.

The Buttermarket complex is an important thoroughfare between Middle Gate, Chain Lane and the Market Place (via the Town Hall). The Council has invested significantly in the renovation and repurposing of this building complex.

#### Relevant Planning History

19/01410/FUL & 19/01411/LBC - Alterations and conversion of units 4, 9, 10 and 11 into a single unit including demolition of internal partitions and centralising of incoming services along with all required strip out; new openings into mall area; new floor levels within unit(s); tanking and damp proofing works to basement and creation of extract ducting through the building; Block up window and door to Chain Lane and re-design of shopfront to Middlegate. Approved, all conditions discharged fully.

20/00210/LBCLDC - Application for a Certificate of Lawfulness for proposed works to include the strip out and removal of former additions (not part of the original building fabric) at first floor. Certificate issued.

20/00322/LBCLDC - Certificate of lawfulness of for proposed works to Listed Building to include combining 3no former units to create 1no single unit, the internal alterations include the removal of former additions to the building (not part of the original building fabric). Certificate issued.

21/02468/LBCLDC – Fit out and refurbishments of 'old pub' area, refurbishments of Atrium floor and ceiling finishes at first floor and refurbishment of ground floor staff toilets. Certificate issued.

21/02470/LBC - Provision of a general access staircase within the Buttermarket atrium leading from ground floor to the first floor mezzanine level. Pending decision on this Committee Agenda; officer recommendation for approval.

#### The Proposal

The proposal seeks consent for a new access door on the first floor between the old pub area and the former covered market. The new door will be formed within an opening that appears to have been previously open. It is currently tiled and recessed in contrast to the historic masonry adjacent.

A concurrent application to install a new stair case in the adjacent foyer has also been submitted (ref 21/02470/LBC) and is being considered on this Committee Agenda. It is understood that this proposal, as well as that of the new staircase, form part of the Council's wider project to renovate and repurpose the Buttermarket.

Plans and documents considered within this application:

- Application form
- Revised site location plan – dwg no 19 2255 LP 300 A
- First floor door opening details – dwg no. 19 2255 (22) 310 A
- Heritage Impact Assessment

## Departure/Public Advertisement Procedure

Occupiers of 9 properties have been individually notified by letter, a site notice has been displayed at the site and an advertisement placed in the local press.

## Legal and Policy Framework

The Courts have accepted that Section 54A of the Town and Country Planning Act 1990 does not apply to decisions on applications for Listed Building Consents, since in those cases there is no statutory requirement to have regard to the provisions of the development plan. However, Local Planning Authorities are required to be mindful of other material planning considerations, including:

- National Planning Policy Framework (NPPF) 2021
- National Planning Practice Guidance (NPPG) on line resource
- Historic England's Good Practice Advice Note 2 and 3 – Managing Significance in Decision Taking in the Historic Environment and The Setting of Heritage Assets
- Historic England Advice Note 2 – Making Changes to Heritage Assets

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

The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 16 of the National Planning Policy Framework (NPPF – revised July 2021). When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, for example. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. In determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness. LPAs should also look for opportunities to better reveal the significance of designated heritage assets when considering new development within their setting (paragraph 206).

Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3). Historic England Advice Note 2 (2016) states: "The junction between new work and the existing fabric needs particular attention, both for its impact on the significance of the existing asset and the impact on the contribution of its setting. Where possible it is preferable for new work to be reversible, so that changes can be undone without harm to historic fabric. However, reversibility alone does not justify alteration; If alteration is justified on other grounds then



reversible alteration is preferable to non-reversible. New openings need to be considered in the context of the architectural and historic significance of that part of the asset and of the asset as a whole. Where new work or additions make elements with significance redundant, such as doors or decorative features, there is likely to be less impact on the asset's aesthetic, historic or evidential value if they are left in place" (paragraph 43).

### **Is the Buttermarket listed?**

There is no mention of the Victorian covered market in the list entry.

The listing description for Newark Town Hall advises: 'Town Hall and former gaol. 1774-6, with late C18 and mid C19 additions. By John Carr of York. Restored 1989-91 by Guy St John Taylor Associates and James Brotherhood Associates. Mansfield white sandstone ashlar and brick with slate roof. Plinth, frieze, dentillated cornice, open balustrade with urns at the corners. Windows are glazing bar sashes. 3 storeys; 7 window range. Projecting 3-bay centre has a giant tetrastyle Doric portico with balustrade, and pediment containing the Town Arms, topped with a central figure of Justice renewed c1983. At the angles of the pediment, pedestals with a lion to left and a unicorn to right. Within the portico, 3 tall windows, the central one pedimented and the flanking ones corniced. Above them, 3 smaller windows. Outer first floor windows have cornices and pseudo-balustrades. Smaller second floor windows have moulded architraves. Rusticated ground floor has round arched openings with multiple keystones and impost band. In the centre, 3 doorways with wrought iron grilles and gates. Beyond, single glazing bar windows and beyond again, single doorways with half-glazed doors with fanlights. To left, late C18 addition forming Mayor's Secretary's office. Red brick with ashlar lintels and slate roof. 4 storeys; single window range of glazing bar sashes, and a round arched entry with keystone. Interior has an outstanding ballroom with paired pilasters and domed apsidal ends, screened by pairs of giant Corinthian columns. Coved compartmented ceiling by Kilminster of Derby. Central enriched marble fireplace on each side wall. Front has 4 doors in decorated surrounds, and rear 2 doors. Rear has central window with fanlight, flanked by single busts on console brackets. Central council chamber has metope and triglyph frieze, ceiling bosses and door and window architraves with cornices. Mayor's Parlour and picture room have moulded cornices, elaborate doorcases and marble and wood fireplaces. Oval stairwell has dogleg stair with winders and ramped and scrolled mahogany handrail. Below the ballroom, an 8 x 3 bay market hall with Doric arcades and engaged columns in the aisles. Round arched side openings. On the north side, former gaol, mid C19, brick, with slate roof. Single storey, with 3 windows and 4 doors, one of them blocked, all with segmental heads. The Town hall is described as "a fine example of its type and period" (Pevsner) and is a good example of the work of John Carr'.

The building range known today as 'The Buttermarket' is connected to Newark Town Hall. The fabric of the former covered market is keyed into the masonry of the Town Hall, and by that definition, is 'fixed' to the principal listed building. There is a long standing historic relationship between the two. The former Victorian market hall can be considered ancillary to the historic functions of the Town Hall.

The Town Hall was designated Grade I (List UID 1196430) in 1950. The law makes it clear that any building or structure physically attached to a listed building, or if detached, having formed

part of the land since before 1948, is also listed (section 1(5) of the Planning (LBCA) Act 1990). In addition to current Historic England advice, the tests set out under the old PPG15 provide a useful framework by which to clarify the extent of curtilage listing (as reiterated in the Courts). Ownership at the time of listing, historic association, subservience and physical relationship are key in that assessment.

It is felt that the former covered market (this being the main building within the Buttermarket complex) meets the curtilage tests entirely, and should therefore be treated as part of the Town Hall listing. Nevertheless, the covered market structure has undergone significant restoration in the later-20<sup>th</sup> century, introducing a row of shops and mezzanine floor. This 1989 phase remodelled and altered areas outside of the covered market between Chain Lane and Middle Gate, furthermore, and much of it is not 'special'. This includes the upper floor area known as the 'old bar', and at ground floor, the west side of the Exchange parade (within Tambo). The recent renovations to form the Tambo Lounge revealed extensive 1980s phase steel work, concrete and blockwork. The upper floor has some exposed timber rafters and purlins, but nothing particularly special in terms of historic fabric. There is a modern glazed roof covering over the walkway which also dates to the 1980s.

However, there is some external architectural interest. The building range along Chain Lane has been extensively reconstructed, but otherwise appears to be the historic service range to the former Inn on Middle Gate (23 Middle Gate). Some of the masonry is 1980s stretcher bond, but areas on Chain Lane at higher level include traditional dentillation and some English Garden Wall with off-centre stretcher bond, suggesting 19<sup>th</sup> century masonry. The annexation of this unit from 23 Middle Gate prior to 1992 (when that building was designated) ensures that this building range cannot be characterised as listed curtilage to that property.

Ownership and physical connection of this building element to the Town Hall in the modern era is not necessarily sufficient to make it curtilage listed to that listed building either (albeit the extent of openness within the Tambo unit at ground floor out of the original building wall line of the covered market ensures that this is a complicated consideration). The line of units on the east side of the Exchange (including Hobsons) appear to contain some historic fabric and some level of connection through to the cells (this area is marked stables on historic conveyance plans), and perhaps might be more obviously determined as curtilage (as an extension of the Town Hall ground floor).

The proposal before us affects the covered market. For the reasons set out above, the former covered market is considered to be curtilage listed. The insertion of a doorway within the historic masonry of the original structure is considered to effect special interest in this case, engaging the provisions of section 7 of the Act.

#### Consultations

**Newark Town Council** - No objection.

**Historic England** - did not wish to offer any comments, but wanted to be consulted again if the scheme was materially changed.

## **NSDC, Conservation -**

### Significance of heritage asset

On 3 July 1882, the Borough Council resolved to erect a covered market on the site of the shambles, between the Buttermarket and Middlegate. Four plans were examined, those of C Bell (London) (£2,000) and Mr Lees of Nottingham (£2,048) having iron and glass roofs. Mr Bell's plan was adopted. The foundation stone was laid in October 1883 and the market was opened in October 1884. The plans for internal fittings were prepared by George Sheppard, Borough Surveyor, who also made the only known contemporary drawing of the New Market, published in 1886.

In celebration of the opening, the Newark Advertiser wrote thus: 'The area was formerly covered by the shambles but the shops were very old and dilapidated... various difficulties arose owing to the property dealt with belonging to three distinct bodies, the Corporation, and the Trustees of Bell's and Phillipott's Charities, and also owing to the question of ancient rights of light. The iron roof is supported by elegant but powerful iron pillars standing on stone corbels. The interior is of white brick and the floor is of concrete. The roof is of wood, boarded and the exterior slated in. A long range of windows on the north side admits plenty of light while at night the building will be illuminated by two large Bray's lamps of seven lights each, and four gas lights round each pillar. Each of the lock-up shops is also fitted with gas burners. The exterior of the building is of red brick. The circular window at the Middlegate end is filled with coloured glass. There are 17 lockup stalls let at £5-4-0 p.a. apiece exclusive of gas. In the centre are 25 stalls rented at £3-18-0 p.a. each. All have been let.' The memorial stones were originally on either side of the entrance, with a drinking fountain in the central wall.

The New Market Hall does not seem to have been a commercial success. In 1896 a local paper wrote that: 'The large and commodious New Market Hall, built for business which never came, offers at once seclusion... and a perfect quietude and atmosphere of repose, around which... the town's trade and commerce runs without disturbing the solitary interior.'

Historic photographs record that a campaign of 'restoration' was undertaken in 1936 but it is unclear how extensive this was. Further works were undertaken in 1950 including 'alterations to main entrance and provision of male cloakroom and toilets' and in 1959 the main entrance was altered.

By the 1970s the interiors had 'deteriorated markedly' as a result of many phases of repair. In 1982 the Town Council acquired the freehold from the District Council. The restoration of the Town Hall was led by the Town Council and funded by a commercial partnership by which, in 1988, Lovell Enterprise (Newark) Ltd acquired the 1884 New Market from NSDC and leased the ground floor of the Town Hall itself, intending to create a single retail complex. The interventions included the introduction of a mezzanine floor and stairs within the shell of the New Market, the creation of new retail units at ground and first floor levels, and new connections to the buildings to the north and to Chain Lane. The intention was that the building should subsequently be self-financing. The roof of the Market Hall was replaced. The work was carried out by the developer and his architect to the Town Council's recommendations with Guy St John Taylor [of Newark] acting as consultants.

The New Market is not listed in its own right, although it is physically connected to the Town Hall and is considered to form part of the Town Hall's curtilage (thus part of the listed building, as explained in the legal section above)). Its architect, Charles Bell FRIBA 1846–99 was prolific but not distinguished. He is best known for his Methodist Chapels and schools. His design for the New Market was straightforward. Beyond the somewhat chapel-like elevation to Middlegate, it is essentially utilitarian. The primary construction details are of good quality—for example the white brick facing of the interior. Only the west façade aspires to polite architecture; it makes an attractive contribution to the streetscape in Middlegate, in which it is the principal 'event' in long views from north and south.

A number of Bell's buildings are listed, although not his only other known (and surviving) market building in Darwen, Lancashire (it is rather more elaborate than Newark). The principal significance of the New Market is its street elevation and while the Market Hall is characteristic of its date and is at least potentially, an attractive space, its original design is utilitarian and it has been greatly altered internally. Nevertheless, the building contributes positively to the character and appearance of the CA and forms a key element in the setting of the listed town hall.

Useful photos and images of the building interior are included within both the Heritage Impact Assessment and the Council's Conservation Officer's background report, which can be found in full on the online planning file.

#### Assessment of proposal

The original Buttermarket (covered market) masonry walls would have been continuous buff bricks at this juncture. The glazed tile infill of the opening appears to have been installed after the 1980s phase, but it is not clear from the planning history exactly when this happened. The approved 1980s plans do however show an opening, connecting the 'old bar' area.

The significance of the former covered market is predominantly understood in its external architecture, but also in its large open plan interior and outer shell fabric, including the buff brick masonry walls with red brick detailing. Whilst the internal significance was substantially affected by late-20th century renovations, recent improvements by the Council have included removal of the modern shops at first floor and large central staircase, allowing the large open interior to be more legible.

The former 'bar' area on the other side of the wall is only of limited interest. It is understood that the long term use of this space will be of an office or communal hub type use. This will potentially be subject to a separate application.

The glazed tile infill, which is modern fabric, is not significant. Indeed, the tiles present a negative contrast to the historic buff and decorative red brick corbelling when seen from the old market hall side. Removal of the modern fabric would therefore not be harmful to the special interest of the listed building.

The new doors initially proposed comprised a pair of simple glazed dark grey aluminium side hung doors. However, as confirmed by the applicant via email on the 20<sup>th</sup> December, the

joinery has been revised to be timber, with a fixed side light and single side hung door. This is welcomed. Timber will better reflect the historic materials of the covered market. The revised design remains simple, and is appropriate in this context. The overall impact on the listed building is very modest.

The applicant has agreed that any remedial works to masonry around the doorway will comprise traditional lime mortar only. It is necessary to condition this as there is no specification included within the proposed plans.

#### Other material considerations

The Town Council raised no objection to the proposal. As the adjacent landowner, and a key partner in the management of the town centre, the Town Council's opinion is important in this context.

Historic England did not wish to comment on the proposal. Whilst this cannot be interpreted as support for the proposal, it is felt that their lack of concern is due to the modest nature of the proposal and confidence in the Council's in-house Conservation advice.

Although reversibility alone is not sufficient justification to warrant alterations to the building fabric, it is acknowledged that the proposal is easily reversed. Given the lack of significance in the material to be removed, some weight can be given to this issue.

There are no other material considerations in this case.

**No representations have been received from third/interested parties.**

#### Comments of the Business Manager

The conclusions set out above are concurred and it is considered that the proposed works would cause no harm to the special interest of the Town Hall, a Grade I listed building. The proposal is therefore considered to be consistent with the objective of preservation required under section 16(2) of the Act. The scheme is also considered to accord with heritage policies and advice contained within the Council's LDF DPDs (notably CP14 and DM9), and section 16 of the NPPF.

The proposal would cause no harm to Newark CA or the setting of any other heritage asset.

The proposal is needed to improve access within the Buttermarket, helping to support the reuse of the remaining vacant parts of the building. The proposal is part of a phased project aiming to bring activity and life back to the Buttermarket, contributing to wider social and economic aims that will benefit the local community.

The proposals have sought to sustain the heritage values of the site through good design with minimal disruption to the historic fabric of the building. If granted, conditions are needed to agree the revised joinery details as well as to control any remedial works to the masonry

surround. This would ensure that the works respect the special interest of the listed building and otherwise take the form envisaged by officers in reaching this view.

### **RECOMMENDATION**

**That Listed Building Consent is granted subject to the conditions below;**

#### **Conditions**

01

The works to which this consent relates shall be begun no later than three years from the date of this consent.

Reason: In accordance with section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

02

The works hereby given consent shall be carried out only in accordance with the details and specifications shown on the amended drawing 2255 (22) 310 A submitted with the agent's email received on the 21st December 2021.

Reason: To ensure that the works take the agreed form envisaged by the Local Planning Authority when determining the application and to preserve the special interest of the listed building.

03

Mortar for the purposes of re-pointing shall be carried out using hydraulic lime or lime putty. The sand mix, colour, texture and pointing finish shall match as closely as possible the historic pointing found elsewhere on the building.

Reason: To preserve the special architectural and historic interest of the listed building.

#### **Notes to Applicant**

01

The application as submitted is acceptable. In granting consent without unnecessary delay the District Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2015 (as amended).

02

The Listed Building Consent is granted in strict accordance with the approved plans and specifications contained in the application. It should however be noted that:

- a) Any variation from the approved plans and specifications following commencement of the works, irrespective of the degree of variation, will constitute unauthorised works, would be a criminal offence and would be liable for enforcement action.
- b) You or your agent or any other person responsible for implementing this consent should inform the Local Planning Authority immediately of any proposed variation from the approved plans and ask to be advised as to the best method to resolve the matter.

03

**REASONS FOR APPROVAL IN ACCORDANCE WITH THE TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) (ENGLAND) (AMENDMENT) ORDER 2015**

The Courts have accepted that Section 54A of the Town and Country Planning Act 1990 does not apply to decisions on applications for Listed Building Consents since in those cases there is no statutory requirement to have regard to the provisions of the development plan. However, Local Planning Authorities are required to be mindful of other material planning considerations in determining such matters, such as the National Planning Policy Framework (Revised July 2021).

04

Any damage caused by or during the course of the carrying out of the works hereby permitted should be made good within 3 months after they are complete.

**BACKGROUND PAPERS**

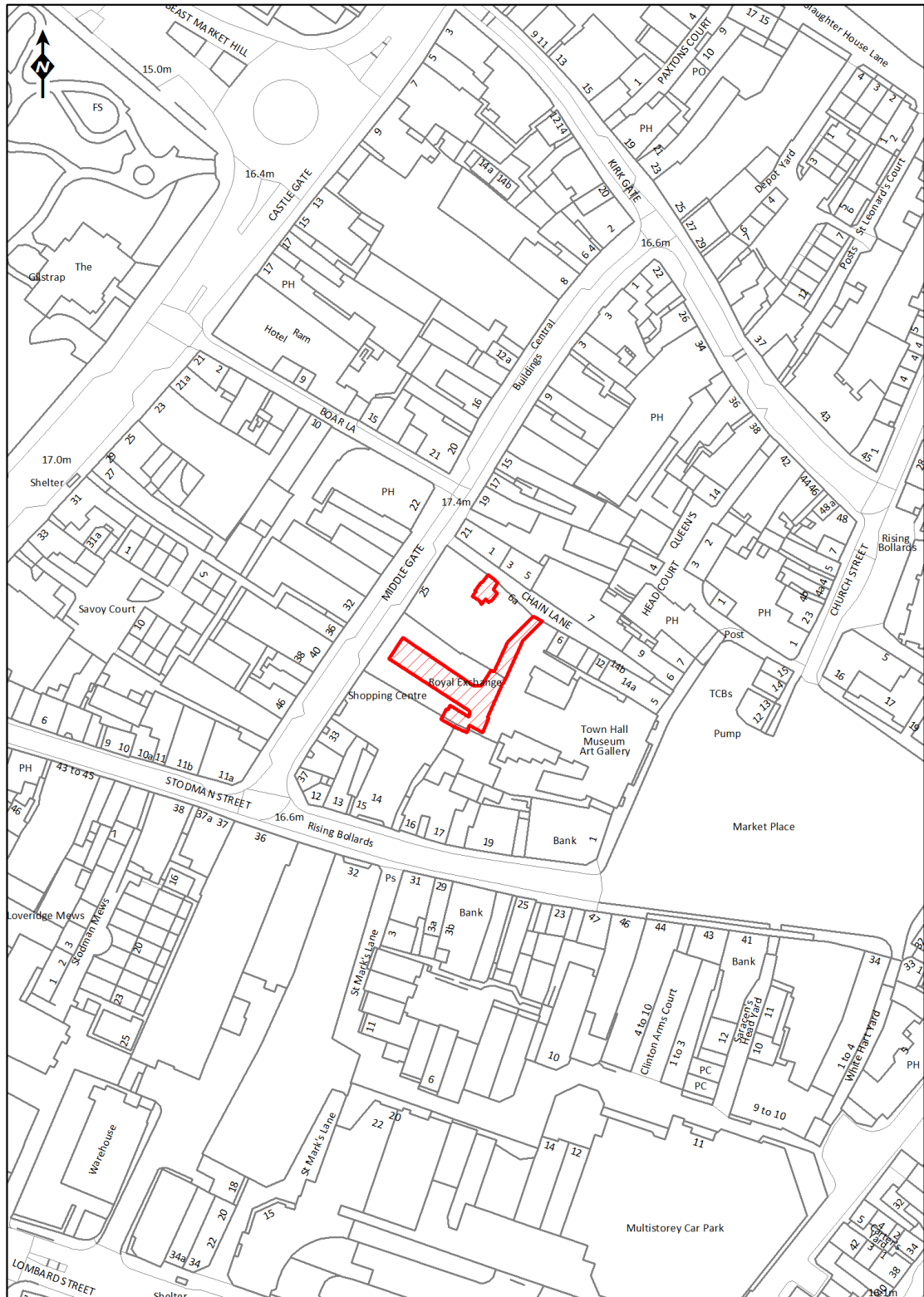
Application case file.

For further information, please contact Oliver Scott on extension 5847.

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

**Lisa Hughes**  
**Business Manager – Planning Development**

Committee Plan - 21/02462/LBC



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## **PLANNING COMMITTEE – 18 JANUARY 2022**

Application No:	21/02470/LBC		
Proposal:	Provision of a general access staircase within the Buttermarket atrium leading from ground floor to the first floor mezzanine level.		
Location:	The Buttermarket, 27 Middle Gate, Newark-on-Trent, NG24 1AL		
Applicant:	Newark and Sherwood District Council – Mr Pete Preece		
Agent:	Jackson Design Associates - Mr Alex Brown		
Registered:	22 <sup>nd</sup> November 2021	Target Date: 17 <sup>th</sup> January 2022	
	Extension of Time Agreed Until 21 January 2022		
Website Link:	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/advancedSearchResults.do?action=firstPage">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/advancedSearchResults.do?action=firstPage</a>		

**This application is being presented to the Planning Committee in accordance with the Scheme of Delegation, as the applicant is Newark and Sherwood District Council.**

### The Site

The application site comprises the building known as the 'Buttermarket' in Newark Town Centre. This building fronts Middle Gate, with a side access to Chain Lane. It is connected to Newark Town Hall.

In accordance with Section 1 (5) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act'), the building complex known as the Buttermarket is considered to form part of the Grade I Town Hall listing, which adjoins to the east of the application site.

The Buttermarket is otherwise surrounded by important period buildings within a highly sensitive location at the heart of Newark Conservation Area (CA). In terms of the Council's Local Development Framework, the site lies within the area defined as Newark Town Centre and Primary Shopping Area, and also within Newark's Historic Core.

The main building within the Buttermarket complex comprises a distinctive former Victorian covered market, built 1883-84. It has an attractive gabled façade to Middle Gate, and is constructed in red brick externally with lead, glazing and slate roofs. Ancillary areas to the rear of 23 and 25 Middle Gate include an area at first floor known as the 'old bar' area. For ease of reference, the Buttermarket is considered to be the entirety of the building complex comprising the former covered market (which currently includes Tambo and Iguazu), and the Exchange (including Hobsons Shoes), as well as vacant upper floor space behind 23 and 25 Middle Gate (Specsavers and Gracegentle). Reference within this report to the former covered market will relate specifically to the main building element only which includes the central atrium and mezzanine.

The Buttermarket complex is an important thoroughfare between Middle Gate, Chain Lane and the Market Place (via the Town Hall). The Council has invested significantly in the renovation and repurposing of this building complex.

#### Relevant Planning History

19/01410/FUL & 19/01411/LBC - Alterations and conversion of units 4, 9, 10 and 11 into a single unit including demolition of internal partitions and centralising of incoming services along with all required strip out; new openings into mall area; new floor levels within unit(s); tanking and damp proofing works to basement and creation of extract ducting through the building; Block up window and door to Chain Lane and re-design of shopfront to Middlegate. Approved, all conditions discharged fully.

20/00210/LBCLDC - Application for a Certificate of Lawfulness for proposed works to include the strip out and removal of former additions (not part of the original building fabric) at first floor. Certificate issued.

20/00322/LBCLDC - Certificate of lawfulness for proposed works to Listed Building to include combining 3no former units to create 1no single unit, the internal alterations include the removal of former additions to the building (not part of the original building fabric). Certificate issued.

21/02468/LBCLDC – Fit out and refurbishments of 'old pub' area, refurbishments of Atrium floor and ceiling finishes at first floor and refurbishment of ground floor staff toilets. Certificate issued.

21/02462/LBC - Removal of existing in-filled wall within the Buttermarket First Floor Atrium and provision of new access doors. Pending decision on this Committee Agenda; officer recommendation for approval.

#### The Proposal

The proposal seeks consent for a new staircase within the main atrium area, connecting the ground floor with the first floor. The new staircase will be located at the eastern end of the main atrium, immediately adjacent to the existing lifts.

A concurrent application to re-open a blocked doorway through the wall between the first floor atrium and former bar area has also been submitted (ref 21/02462/LBC) and is being considered on this Committee Agenda. It is understood that this proposal, as well as that of the new staircase, form part of the Council's wider project to renovate and repurpose the Buttermarket.

Plans and documents considered within this application:

- Application form
- Site location plan
- Proposed stair plans, section and details – dwg no. 2255 (24) 401
- Proposed area of works plan – dwg no. 2255 (22) 311

- Heritage Impact Assessment

### Departure/Public Advertisement Procedure

Occupiers of 4 properties have been individually notified by letter, a site notice has been displayed at the site and an advertisement placed in the local press.

### Legal and Policy Framework

The Courts have accepted that Section 54A of the Town and Country Planning Act 1990 does not apply to decisions on applications for Listed Building Consents, since in those cases there is no statutory requirement to have regard to the provisions of the development plan. However, Local Planning Authorities are required to be mindful of other material planning considerations, including:

- National Planning Policy Framework (NPPF) 2021
- National Planning Practice Guidance (NPPG) on line resource
- Historic England's Good Practice Advice Note 2 and 3 – Managing Significance in Decision Taking in the Historic Environment and The Setting of Heritage Assets
- Historic England Advice Note 2 – Making Changes to Heritage Assets

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

The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 16 of the National Planning Policy Framework (NPPF – revised July 2021). When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, for example. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. In determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness. LPAs should also look for opportunities to better reveal the significance of designated heritage assets when considering new development within their setting (paragraph 206).

Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3). Historic England Advice Note 2 (2016) states: "The junction between new work and the existing fabric needs particular attention, both for its impact on the significance of the existing asset and the

impact on the contribution of its setting. Where possible it is preferable for new work to be reversible, so that changes can be undone without harm to historic fabric. However, reversibility alone does not justify alteration; If alteration is justified on other grounds then reversible alteration is preferable to non-reversible. New openings need to be considered in the context of the architectural and historic significance of that part of the asset and of the asset as a whole. Where new work or additions make elements with significance redundant, such as doors or decorative features, there is likely to be less impact on the asset's aesthetic, historic or evidential value if they are left in place" (paragraph 43).

### **Is the Buttermarket listed?**

There is no mention of the Victorian covered market in the list entry.

The listing description for Newark Town Hall advises: 'Town Hall and former gaol. 1774-6, with late C18 and mid C19 additions. By John Carr of York. Restored 1989-91 by Guy St John Taylor Associates and James Brotherhood Associates. Mansfield white sandstone ashlar and brick with slate roof. Plinth, frieze, dentillated cornice, open balustrade with urns at the corners. Windows are glazing bar sashes. 3 storeys; 7 window range. Projecting 3-bay centre has a giant tetrastyle Doric portico with balustrade, and pediment containing the Town Arms, topped with a central figure of Justice renewed c1983. At the angles of the pediment, pedestals with a lion to left and a unicorn to right. Within the portico, 3 tall windows, the central one pedimented and the flanking ones corniced. Above them, 3 smaller windows. Outer first floor windows have cornices and pseudo-balustrades. Smaller second floor windows have moulded architraves. Rusticated ground floor has round arched openings with multiple keystones and impost band. In the centre, 3 doorways with wrought iron grilles and gates. Beyond, single glazing bar windows and beyond again, single doorways with half-glazed doors with fanlights. To left, late C18 addition forming Mayor's Secretary's office. Red brick with ashlar lintels and slate roof. 4 storeys; single window range of glazing bar sashes, and a round arched entry with keystone. Interior has an outstanding ballroom with paired pilasters and domed apsidal ends, screened by pairs of giant Corinthian columns. Coved compartmented ceiling by Kilminster of Derby. Central enriched marble fireplace on each side wall. Front has 4 doors in decorated surrounds, and rear 2 doors. Rear has central window with fanlight, flanked by single busts on console brackets. Central council chamber has metope and triglyph frieze, ceiling bosses and door and window architraves with cornices. Mayor's Parlour and picture room have moulded cornices, elaborate doorcases and marble and wood fireplaces. Oval stairwell has dogleg stair with winders and ramped and scrolled mahogany handrail. Below the ballroom, an 8 x 3 bay market hall with Doric arcades and engaged columns in the aisles. Round arched side openings. On the north side, former gaol, mid C19, brick, with slate roof. Single storey, with 3 windows and 4 doors, one of them blocked, all with segmental heads. The Town hall is described as "a fine example of its type and period" (Pevsner) and is a good example of the work of John Carr'.

The building range known today as 'The Buttermarket' is connected to Newark Town Hall. The fabric of the former covered market is keyed into the masonry of the Town Hall, and by that definition, is 'fixed' to the principal listed building. There is a long standing historic relationship between the two. The former Victorian market hall can be considered ancillary to the historic functions of the Town Hall.

The Town Hall was designated Grade I (List UID 1196430) in 1950. The law makes it clear that any building or structure physically attached to a listed building, or if detached, having formed part of the land since before 1948, is also listed (section 1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990). In addition to current Historic England advice, the tests set out under the old PPG15 provide a useful framework by which to clarify the extent of curtilage listing (as reiterated in the Courts). Ownership at the time of listing, historic association, subservience and physical relationship are key in that assessment.

It is felt that the former covered market (this being the main building within the Buttermarket complex) meets the curtilage tests entirely, and should therefore be treated as part of the Town Hall listing. Nevertheless, the covered market structure has undergone significant restoration in the later-20th century, introducing a row of shops and mezzanine floor. This 1989 phase remodelled and altered areas outside of the covered market between Chain Lane and Middle Gate, furthermore, and much of it is not 'special'. This includes the upper floor area known as the 'old bar', and at ground floor, the west side of the Exchange parade (within Tambo). The recent renovations to form the Tambo Lounge revealed extensive 1980s phase steel work, concrete and blockwork. The upper floor has some exposed timber rafters and purlins, but nothing particularly special in terms of historic fabric. There is a modern glazed roof covering over the walkway which also dates to the 1980s.

However, there is some external architectural interest. The building range along Chain Lane has been extensively reconstructed, but otherwise appears to be the historic service range to the former Inn on Middle Gate (23 Middle Gate). Some of the masonry is 1980s stretcher bond, but areas on Chain Lane at higher level include traditional dentillation and some English Garden Wall with off-centre stretcher bond, suggesting 19th century masonry. The annexation of this unit from 23 Middle Gate prior to 1992 (when that building was designated) ensures that this building range cannot be characterised as listed curtilage to that property.

Ownership and physical connection of this building element to the Town Hall in the modern era is not necessarily sufficient to make it curtilage listed to that listed building either (albeit the extent of openness within the Tambo unit at ground floor out of the original building wall line of the covered market ensures that this is a complicated consideration). The line of units on the east side of the Exchange (including Hobsons) appear to contain some historic fabric and some level of connection through to the cells (this area is marked stables on historic conveyance plans), and perhaps might be more obviously determined as curtilage (as an extension of the Town Hall ground floor).

The proposal currently before Members only affects the covered market. For the reasons set out above, the former covered market is considered to be curtilage listed. The installation of a structure within this building, fixed to ground and first floor mezzanine, is considered to effect special interest in this case, engaging the provisions of section 7 of the Act.

### Consultations

**Newark Town Council** - No objection.

**Historic England** - did not wish to offer any comments, but wanted to be consulted again if the scheme was materially changed.

#### **NSDC, Conservation -**

##### Significance of heritage asset

On 3 July 1882, the Borough Council resolved to erect a covered market on the site of the shambles, between the Buttermarket and Middlegate. Four plans were examined, those of C Bell (London) (£2,000) and Mr Lees of Nottingham (£2,048) having iron and glass roofs. Mr Bell's plan was adopted. The foundation stone was laid in October 1883 and the market was opened in October 1884. The plans for internal fittings were prepared by George Sheppard, Borough Surveyor, who also made the only known contemporary drawing of the New Market, published in 1886.

In celebration of the opening, the Newark Advertiser wrote thus: 'The area was formerly covered by the shambles but the shops were very old and dilapidated... various difficulties arose owing to the property dealt with belonging to three distinct bodies, the Corporation, and the Trustees of Bell's and Phillipott's Charities, and also owing to the question of ancient rights of light. The iron roof is supported by elegant but powerful iron pillars standing on stone corbels. The interior is of white brick and the floor is of concrete. The roof is of wood, boarded and the exterior slated in. A long range of windows on the north side admits plenty of light while at night the building will be illuminated by two large Bray's lamps of seven lights each, and four gas lights round each pillar. Each of the lock-up shops is also fitted with gas burners. The exterior of the building is of red brick. The circular window at the Middlegate end is filled with coloured glass. There are 17 lockup stalls let at £5-4-0 p.a. apiece exclusive of gas. In the centre are 25 stalls rented at £3-18-0 p.a. each. All have been let.' The memorial stones were originally on either side of the entrance, with a drinking fountain in the central wall.

The New Market Hall does not seem to have been a commercial success. In 1896 a local paper wrote that: 'The large and commodious New Market Hall, built for business which never came, offers at once seclusion... and a perfect quietude and atmosphere of repose, around which... the town's trade and commerce runs without disturbing the solitary interior.'

Historic photographs record that a campaign of 'restoration' was undertaken in 1936 but it is unclear how extensive this was. Further works were undertaken in 1950 including 'alterations to main entrance and provision of male cloakroom and toilets' and in 1959 the main entrance was altered.

By the 1970s the interiors had 'deteriorated markedly' as a result of many phases of repair. In 1982 the Town Council acquired the freehold from the District Council. The restoration of the Town Hall was led by the Town Council and funded by a commercial partnership by which, in 1988, Lovell Enterprise (Newark) Ltd acquired the 1884 New Market from NSDC and leased the ground floor of the Town Hall itself, intending to create a single retail complex. The interventions included the introduction of a mezzanine floor and stairs within the shell of the New Market, the creation of new retail units at ground and first floor levels, and new connections to the buildings to the north and to Chain Lane. The intention was that the building should subsequently be self-financing. The roof of the Market Hall was replaced. The

work was carried out by the developer and his architect to the Town Council's recommendations with Guy St John Taylor [of Newark] acting as consultants.

The New Market is not listed in its own right, although it is physically connected to the Town Hall and is considered to form part of the Town Hall's curtilage (thus part of the listed building, as explained in the section above)). Its architect, Charles Bell FRIBA 1846–99 was prolific but not distinguished. He is best known for his Methodist Chapels and schools. His design for the New Market was straightforward. Beyond the somewhat chapel-like elevation to Middlegate, it is essentially utilitarian. The primary construction details are of good quality- for example the white brick facing of the interior. Only the west façade aspires to polite architecture; it makes an attractive contribution to the streetscape in Middlegate, in which it is the principal 'event' in long views from north and south.

A number of Bell's buildings are listed, although not his only other known (and surviving) market building in Darwen, Lancashire (it is rather more elaborate than Newark). The principal significance of the New Market is its street elevation and while the Market Hall is characteristic of its date and is at least potentially, an attractive space, its original design is utilitarian and it has been greatly altered internally. Nevertheless, the building contributes positively to the character and appearance of the CA and forms a key element in the setting of the listed town hall.

Useful photos and images of the building interior are included within both the Heritage Impact Assessment and the Council's Conservation Officer's background report, which can be found in full on the online planning file.

### Assessment of proposal

The existing mezzanine within the main atrium dates to the late 1980s. A central staircase was added at that time. This staircase was arranged centrally within the main covered market area, with risers on both sides leading to a central landing and risers leading to both sides of the atrium (in which small shops were located). This staircase was a significant piece of engineering, taking up a large area within the former covered market. Whilst the design of this staircase took its references from the ornate neo-Victorian decorative balustrading inherent in the 1980s remodelling, its removal, along with the loss of the shop units has considerably improved the legibility of the former covered market.

Nevertheless, access to the upper floor is critical in the Council's plans to repurpose the old bar area and maintain access to the administrative areas from the atrium. Whilst there is an existing fire escape staircase to Chain Lane, and lifts within the atrium area, a second staircase is needed to provide a safe primary access.

The applicant has sought to reduce the engineered scale of the previous staircase, preferring a simple metal construction with only a single staircase. The staircase will be positioned to the side of the atrium with a dog-leg adjacent to the lifts at the eastern end of the atrium. This will help reduce physical impact on the openness of the former covered market. Although the dog leg of the staircase will fall within the open area adjacent to the important arched

openings into the Town Hall, it is recognised that the position proposed is the optimum viable option and that disruption in sight lines along the linear building line has been minimised.

When compared to the 1980s solution, this is a significant improvement. These matters were extensively discussed with the Council's Conservation Team prior to the submission, and various approaches were considered. The final submission was considered to be the optimum solution.

Breaking through the existing mezzanine balustrades is not harmful as this is 1980s fabric and of only limited interest.

The proposed new staircase design has slim elegant lines. The use of simple balustrade posts and glazed panels will further help reduce physical impact. However, limited detail is given on the precise sections and finishes of the metalwork and timber handrail, or indeed the specifications of the glass panels or fixings, and riser details. For this reason, it is necessary to propose a pre-commencement condition requiring further information. This has been agreed with the applicant.

#### Other material considerations

The Town Council raised no objection to the proposal. As the adjacent landowner, and a key partner in the management of the town centre, the Town Council's opinion is important in this context.

Historic England did not wish to comment on the proposal. Whilst this cannot be interpreted as support for the proposal, it is felt that their lack of concern is due to the modest nature of the proposal and confidence in the Council's in-house Conservation advice.

Safety and accessibility are relevant considerations in this case. The upper floor mezzanine is an approved alteration from the 1980s, with a staircase, and therefore the LPA has already established the principle of access via the atrium. Fire escape is an important consideration, and providing a second staircase (to compliment the access to Chain Lane via the old bar area) will be important in delivering a safe environment for first floor users in the future.

The wider Council strategy has sought to improve the appearance of this building complex, including repurposing areas of the building with positive and sustainable new uses. The new restaurant and retail units for example that now takes up the ground floor of the Buttermarket have added vibrant uses to the building. The next phase of works to the first floor will help continue this positive approach, helping provide a sustainable future for the Buttermarket. The proposal is therefore considered to be a public benefit within the meaning of paragraph 20 of the Planning Practice Guidance (heritage section).

Whilst no fundamental harm to the significance of the listed building has been found with the proposal (in the context of paragraphs 200-202 of the NPPF), it is felt that the applicant's reasons for proposing the scheme carry clear and convincing reasons, including helping sustain the heritage values of the Town Hall (by reusing the heritage asset) and providing safe access to the upper floors.



There are no other material considerations in this case.

**No representations have been received from third/interested parties.**

Comments of the Business Manager

The conclusions set out above are concurred and it is considered that the proposed works would cause no harm to the special interest of the Town Hall, a Grade I listed building. The proposal is therefore considered to be consistent with the objective of preservation required under section 16(2) of the Act. The scheme is also considered to accord with section 16 of the NPPF.

The proposal would cause no harm to Newark CA or the setting of any other heritage asset.

The proposal is needed to provide safe and appropriate access to the first floor of the Buttermarket, helping to support the reuse of the remaining vacant parts of the building. The proposal is part of a phased project aiming to bring activity and life back to the Buttermarket, contributing to wider social and economic aims that will benefit the local community.

The proposals have sought to balance the sensitive heritage values of the site through good design with optimum location and minimal disruption to the openness of the atrium. If granted, a condition is needed to ensure that the design and appearance of the new staircase takes the form envisaged by officers in reaching this view.

**RECOMMENDATION**

**That Listed Building Consent is granted subject to the conditions below;**

Conditions

01

The works to which this consent relates shall be begun no later than three years from the date of this consent.

Reason: In accordance with section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

02

Prior to the installation of the new staircase shown on drawing 2255 (24) 401, further details and drawings in respect of the following shall be approved in writing by the Local Planning Authority:

- Section drawing at no less than 1:10 scale of the handrail and balustrade;

- Specification of all materials, including the glazed panels;
- Details of all fixtures and fittings, and their finish;
- Details of the finish of all exposed metalwork and the timber handrail; and
- Further details on the specification and finish of the treatment of risers, strings and nosings.

The work shall be carried out in full in accordance with such approved details.

Reason: To ensure that the works take the agreed form envisaged by the District Planning Authority when determining the application and thus result in a satisfactory form of works.

#### Notes to Applicant

01

The application as submitted is acceptable. In granting consent without unnecessary delay the District Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2015 (as amended).

02

The Listed Building Consent is granted in strict accordance with the approved plans and specifications contained in the application. It should however be noted that:

- a) Any variation from the approved plans and specifications following commencement of the works, irrespective of the degree of variation, will constitute unauthorised works, would be a criminal offence and would be liable for enforcement action.
- b) You or your agent or any other person responsible for implementing this consent should inform the Local Planning Authority immediately of any proposed variation from the approved plans and ask to be advised as to the best method to resolve the matter.

03

#### REASONS FOR APPROVAL IN ACCORDANCE WITH THE TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) (ENGLAND) (AMENDMENT) ORDER 2015

The Courts have accepted that Section 54A of the Town and Country Planning Act 1990 does not apply to decisions on applications for Listed Building Consents since in those cases there is no statutory requirement to have regard to the provisions of the development plan. However, Local Planning Authorities are required to be mindful of other material planning considerations in determining such matters, such as the National Planning Policy Framework (Revised July 2021).

04

Any damage caused by or during the course of the carrying out of the works hereby permitted should be made good within 3 months after they are complete.

**BACKGROUND PAPERS**

Application case file.

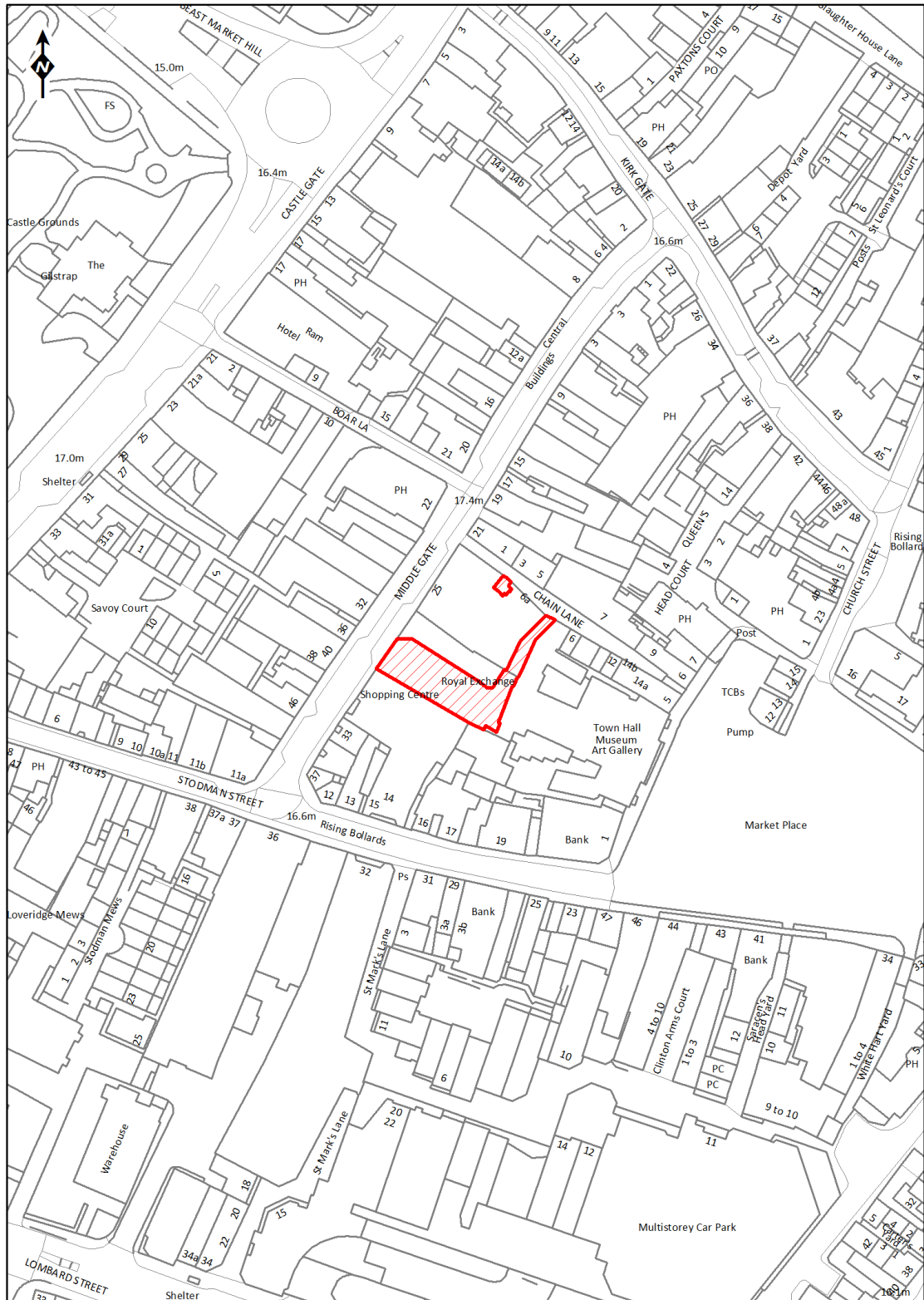
For further information, please contact Oliver Scott on extension 5847.

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

**Lisa Hughes**

**Business Manager – Planning Development**

# Committee Plan - 21/02470/LBC



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## PLANNING COMMITTEE – 18 JANUARY 2022

<b>Application No:</b>	<b>21/02410/FUL</b>		
<b>Proposal:</b>	<b>Change of Use of Community Hall to One Dwelling including the erection of an extension and external alterations</b>		
<b>Location:</b>	<b>Community Hall, Easthorpe, Southwell, NG25 0HZ</b>		
<b>Applicant:</b>	<b>Easthorpe Common Lands Foundation</b>		
<b>Registered:</b>	<b>15.11.2021</b>	<b>Target Date:</b>	<b>10.01.2022</b>
<b>Application File:</b>	<a href="#">21/02410/FUL   Change of Use of Community Hall to One Dwelling including the erection of an extension and external alterations   Community Hall Easthorpe Southwell NG25 0HZ (newark-sherwooddc.gov.uk)</a>		

**The application is presented to Planning Committee in accordance with the Council's Scheme of Delegation as the Applicant has links with a District Councillor and Member of the Planning Committee.**

### The Site

The application site comprises a community hall which adjoins no. 62 Easthorpe. The site faces onto Bramley Close which is a more modern housing development but the application building and the building to which it adjoins are traditional red brick and pantile buildings that are reflective of the local historic vernacular for Southwell. The community hall is accessed off Bramley Close where there is a parking area laid with hardstanding to the front of the building. There is no land to the rear of the building. To the NE is a public footpath and to the NW lies Easthorpe Road. The area is residential in character, albeit further NE is Southwell's Industrial area, however the site is still read within the residential context of Easthorpe/Bramley Close.

The application site comprises the historic Easthorpe Old School Hall (the 'Community Hall') which adjoins 64 Easthorpe, both of which are identified on the Notts Historic Environment Record (HER) as Local Interest buildings. The Community Hall is outside of Southwell Conservation Area (CA), but is not too far from the north-east boundary of the Easthorpe character area of the CA. The Easthorpe character area has numerous Grade II listed buildings which sit on the main road. Due to its age, architectural appearance and social history, Easthorpe Old School Hall contributes positively to the setting of the CA and is considered to be a heritage asset in-line with the Council's emerging Criteria for identifying Non-designated Heritage Assets.

Significance of heritage asset(s): Easthorpe Old School Hall is constructed in local red brick with a clay pantile roof and coped gables. Originally a barn, it was converted to a school in the early 19<sup>th</sup> century, being home to Easthorpe Endowed School from 1827 to the 1940s. Evidence of barn elements can be understood in the masonry, such as the infilled doorway and the first floor hatch. It has a later addition to the east, also brick-built with a pantile roof. There is a modern porch of no significance. Most recently, the building has been used as a community centre. It is attached to 64 Easthorpe, a cottage that appears to predate the barn.

### Relevant Planning History

*No relevant planning history.*

### The Proposal

Permission is sought for the change of use of the community hall to one residential dwelling.

The building would provide an open plan kitchen/dining/living room with a separate W/C, Bedroom/Snug and ensuite bathroom at ground floor with two bedrooms with ensuites at first floor.

The following external alterations are proposed:

Front (S) Elevation: installation of 2 no. roof lights, retention of existing openings and installation of bi-folding doors at ground floor on the eastern side of the elevation.

Side (E) Elevation: replacement of the existing single storey portion of the building with an extension at two storey with the ridge and eaves height set down slightly from the main body of the building (with architectural detailing to match the building). One window is shown on the gable end at ground floor with a blind window at first floor.

Rear (N) Elevation: retention of existing openings and installation of 3 no. roof lights.

The proposed site plan shows the property would be served by two off-street parking spaces with a garden area to the front, enclosed by a low level brick wall to match the existing walls. Bin storage would also be provided to the side of the dwelling off the proposed terrace. A low height wall with a hedgerow behind is shown enclosing the front garden area and the existing tree at the front of the site is shown to be retained.

Documents submitted with this application:

- Site Location Plan – Ref. 1974 P 00 A
- Ground and Roof Existing – Ref. 1974 P 01
- Elevation South Existing – Ref. 1974 P 02
- Elevation East Existing – Ref. 1974 P 03
- Elevation North Existing – Ref. 1974 P 04
- Site Plan Proposed – Ref. 1974 P 05 A
- Ground Floor Proposed – Ref. 1974 P 06
- First Floor and Roof Proposed – Ref. 1974 P 07
- Elevation North and South Proposed – Ref. 1974 P 08
- Elevation East Proposed – Ref. 1974 P 09
- Justification For Change of Use Statement
- Protected Species Appraisal
- Tree and Hedgerow Appraisal

### Public Advertisement Procedure

Occupiers of 10 neighbouring properties have been notified by letter.

## Planning Policy Framework

### The Development Plan

*Southwell Neighbourhood Plan (made Oct 2016)*

Policy SD1 - Delivering Sustainable Development

Policy DH1 – Sense of Place

DH3 – Historic Environment

TA3 – Highways Impact

CF1 – Identified Assets

HE1 – Housing Type and Density

*NSDC Amended Core Strategy, adopted 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 12: Biodiversity and Green Infrastructure

Core Policy 14: Historic Environment

*Newark and Sherwood Allocation and Development Management DPD, adopted 2013*

Policy DM5 – Design

Policy DM7 - Biodiversity and Green Infrastructure

Policy DM9 – Protecting and Enhancing the Historic Environment

Policy DM11 - Retail and Town Centre Uses

Policy DM12 – Presumption in Favour of Sustainable Development

### Other material planning considerations

National Planning Policy Framework 2021

National Planning Practice Guidance suite, on-line resource, March 2014

NSDC Residential cycle and car parking standards and design guide SPD, 2021

### Consultations

**Southwell Town Council** – No objection.

**Southwell Civic Society** – Object – “We object to this change of use application which will result in the loss of what has been and potentially could be a well-used community asset. It is the only public meeting place at the Easthorpe end of town and is of a size much better suited than most venues for small informal groups such as committee meetings and amateur dramatic rehearsals.

Use has declined because of its current poor state and lack of advertising. It obviously needs modernisation and improvement but grant money for such work is now more readily available for charities than it was some thirty or so years ago when the late Nancy Harrison, a lifetime champion of the Hall, obtained public funding. Presumably the expenditure in 2019 of £24000 on repair and renewals at the Hall and adjoining cottage must have included some exceptional items and is very unlikely to be annually recurring to anything like the same extent. The trust itself could and should be able to make a contribution from the sale proceeds of the cottage and by reviewing

the income stream from its other land holdings.

Parking has never been easy but users should be encouraged to walk or cycle to the venue. Once lost this public asset will never be replaced.”

**NSDC, Conservation** – No objection subject to conditions relating to brick sample panel, technical details on joinery, rooflights and other external accretions. A basic level one recording of the building is also suggested to be controlled by condition.

**NCC Rights of Way** – No comments received.

**NCC Highways** – No objection.

**The Ramblers** – No comments received.

**Comments have been received from ONE interested party that can be summarised as follows:**

**Object**

- This historical importance of the building should be borne in mind when deciding on any proposed development which seeks to significantly alter the appearance of the building.
- The change of use from hall to residential should be refused in principle because it is contrary to Objectives 3 and 5 of the Southwell Neighbourhood Plan (in the following, “Plan”), and in particular because it is contrary to Policy CF1 of the Plan.
- If the Application were permitted, it would have a negative impact on the town’s unique character, and would reduce the quality of life for people living and working in Southwell, and in particular those living in Easthorpe. The grounds for our objection against the change of use are set out in further detail below with regard to policy CF1.
- The Applicant has not clearly demonstrated that there is sufficient provision of Halls in the area, and as such, the change of use should be rejected.
- Concerns raised over:
  - o loss of privacy and overlooking;
  - o overshadowing;
  - o disturbance through noise;
  - o overbearing; and
  - o out of character with the neighbourhood.

**Comments of the Business Manager**

The NPPG acknowledges that Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area, thus providing a powerful set of tools for local people to ensure that they get the right types of development for their community where the ambition of the neighbourhood is aligned with the strategic needs and priorities of the wider local area.

Following public consultation and independent examination, at its council meeting on 11 October 2016 Newark and Sherwood District Council adopted the Southwell Neighbourhood Plan. The Neighbourhood Plan now forms part of the development plan for the district and its policies are a material consideration alongside other policies in the development plan and carry weight in the determination of planning applications in Southwell. In this instance the most relevant policies in the Neighbourhood Plan are listed above and are considered against the relevant aspects of the proposal in the assessment below.



### *Principle of Development*

The site lies within the defined built up area of Southwell, which is identified by SP1 of the Core Strategy as a 'service centre' and therefore the principle of housing is accepted, subject to consideration of the loss of the Community Hall as a community facility, the design of the conversion, impact upon amenity, and highway impacts, amongst other issues. It is fully appreciated that the stance of the Neighbourhood Plan shows an encouragement for the provision of smaller homes for young people and families including through the emphasis of bungalow accommodation. It is equally acknowledged that Policy So/HN/1 of the Allocations and Development Management DPD seeks to ensure that the majority of *new* housing within Southwell will be one or two bedroom units in line with the identified housing need. However, the policy which dictates Housing Type and Density – Policy HE1 of the SNP relates to developments of 11 dwellings or more and therefore is not directly applicable to the current proposal which would represent a conversion scheme creating one additional single dwelling.

### *Loss of Community Facility*

Spatial Policy 8 of the Amended Core Strategy seeks to protect existing community facilities. At a local level, the District Council recognises the important role that new and existing leisure and community facilities play in meeting the community's needs and contributing to improved health and wellbeing. As the building was last in use as a Community Hall this constitutes a community facility, and therefore Spatial Policy 8 is applicable. SP8 states that the loss of existing community 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.

Policy CF1 of the Southwell Neighbourhood Plan would also be relevant which states that Development proposals that would result in the loss of community facilities such as Community Centres and Halls will be resisted unless it can be shown that they are poorly used, not viable or adequate provision is made elsewhere.

It is understood that the site has ceased operating as a Community Hall since Easter 2020 and that in the recent past the use of the community hall has declined given its small size. The supporting statement submitted explains that the cost of repairs to the hall are increasing which are becoming unfeasible. The supporting statement explains that the halls "small size, dated facilities, inadequate parking and the ready availability of better-suited alternatives" has resulted in a decline of bookings with only one regular booking in Feb 2020 (paying £20 per week which is less than the running costs for utilities and insurance (without provision for maintenance or updating of the facility)). The decision was taken to close the Hall in Easter 2020 (taken prior to the impact of the Covid-19 pandemic).

The supporting statement explains the application is advanced on the basis of meeting the requirements of the second bullet point of SP8 set out above – that there is sufficient provision of such facilities within the area to justify the loss. The supporting text to SP8 does not expand upon the level of information required to satisfy the requirements of the above bullet points, it is

therefore a case that a judgement needs to be made about the impact the loss this facility would have on the existing community and whether there is adequate alternative provision.

The supporting statement explains that in the immediate vicinity there is a function room within the Hearty Goodfellow (4 minute walk/300m to the west) that has a similar capacity as this community hall and provides modern facilities. It is also understood that previous users of this hall have transferred their bookings to the WI Hall off Queen Street (15 min. walk/1.1km to the west) which is a slightly larger venue with kitchen facilities. Furthermore, rooms of varying sizes are available for hire in Southwell Minster (9 min. walk/800m to the west) – ranging from the State Chamber in the Archbishops' Palace, with a capacity of 110, through two rooms in Trebeck Hall with capacities of 60 and 25, a room in Minster Chambers with a capacity of 70 and three rooms in Sacrista Prebend with advertised capacities of 25, 15 and 12. Southwell Methodist Church also has a number of rooms available (11 min. walk/800 m to the west) as well as Southwell Town Council offering their council chamber and committee room for hire (11 min. walk/800 m to the west). I also understand that a number of pubs in the vicinity offer their rooms for hire.

I have consulted with colleagues in the Planning Policy team to assist with the assessment of the details submitted against the requirements of SP8 and they have advised that in this specific case (for the loss of a community hall) the above facilities cited offer comparable service provision, with similar facilities within an appropriate walking distance for this location. Whilst some of these premises offer different levels of facilities they do nevertheless provide a choice of places for local community groups to gather in close proximity to the site and on this basis it is considered that the requirements of policy SP8 and CF1 have been met to justify the loss of this community facility.

#### *Impact upon the Character of the Area*

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

Whilst not lying within the Southwell Conservation Area the community hall and adjacent cottage are considered to be local interest buildings and as such Annex 2 of the National Planning Policy Framework (NPPF) is relevant which states that Local Interest buildings are non-designated heritage assets. The impact of a proposal on the significance of a non-designated heritage asset is a material consideration, as stated under paragraph 203 of the NPPF. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 8.c).

The proposal would see the addition of a two storey/first floor extension on the eastern elevation of the building. Plans show the extension would be flush with the front and rear elevations but would have a slightly set down ridge and eaves height (using architectural details to match the existing building). This ensures that the extension reads as a subservient addition to the building and respects the building's existing modest proportions and mirroring its existing linear form. Other external alterations are explained within The Proposal section above but mainly relate to retaining the existing features of the building and inserting roof lights. Given the historic interest

of the building the Council's Conservation Officer has provided detailed comments which can be found in full on the online planning file. The CO explains that they have no objection to the development.

The proposed residential use is considered to be compatible with the fabric of the building. The extension is sensitively designed, and not unduly prominent. The approach to fenestration helps sustain the architectural values of the property, and the number of rooflights is suitably restrained.

Conservation has raised no concerns with a residential change of use during pre-application discussions and in response to comments received from local residents they have advised that this building was not designed as a community building, and has served as such only in very recent years. Moreover, the proposal is considered to put forward a sensitive approach to the external treatment of the building which would help preserve its architectural interest.

Paragraph 203 of the NPPF requires a balanced judgement when determining impact on the significance of a non-designated heritage asset. For the reasons set out above, the CO concludes that the proposal would cause no harm to the heritage asset in this case. They also conclude that there would be no harm to the setting of any other heritage asset, including the CA.

Subject to conditions the Conservation Officer has raised no objection to the development and with which I concur. I am therefore satisfied that the proposal would comply with the objectives of the abovementioned heritage policies and guidance in this regard.

#### *Neighbour Amenity*

Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in amenity upon neighbouring development. The NPPF seeks to secure a high standard of amenity for all existing and future occupants of land and buildings.

The Community Hall adjoins no. 64 Easthorpe to the west and no. 1 Bramley Close lies detached to the east. The conversion of this building to a residential dwelling is unlikely to result in any in principle detrimental impact on neighbouring residential amenity as the site is within a residential area.

The replacement of the existing single storey portion of the building on the eastern side with a two storey extension would bring two-storey built form closer to the common boundary with no. 1 Bramley Close, however the footprint at ground floor level would remain the same. Given there would be no window at first floor in this gable end it is not considered that this extension would result in any adverse overlooking impact on the occupiers of this neighbouring property. In terms of overbearing and overshadowing, given the orientation and relative positioning it is considered unlikely that any unacceptable overshadowing would occur. Similarly, given the separation from the side elevation of the existing dwelling at No 1 there is unlikely to be an overbearing impact on this occupier as a result of the proposal.

In respect to the amenity provision for the proposed occupiers, the Community Hall as an independent dwelling would be afforded a reasonable area of front garden commensurate to serve the dwelling – this space is shown enclosed by the existing low level wall which would have a hedgerow installed behind it to improve privacy for future occupiers. This space would be overlooked by a first floor window on the side elevation on no. 1 Bramley Close and no. 14 across the highway, however any future occupiers would be aware of this situation prior to purchase/occupation and it is not considered that this would result in an unacceptable living environment that would be fatal to the scheme.

It is also noted that the two bedrooms at first floor would be solely served by roof lights that would be at a low level internally. Whilst this is not ideal, it is not considered that this would be sufficient in its own right to warrant withholding permission.

Overall it is therefore considered that the proposal complies with policy DM5 of the DPD in this regard.

### *Highways Safety*

Spatial Policy 7 of the Core Strategy seeks to ensure that there is effective parking provision for new development. Existing parking for the site is available on-site to the front of the building, accessed off Bramley Close. The submitted site plan shows two off street car parking spaces for the dwelling which would be a 2/3-bed property.

The Council has recently adopted a Parking and Design SPD for new residential developments which identifies minimum parking standards (for both car and cycle parking) and expected design standards for parking spaces to support Spatial Policy 7 in the ACS. To accord with Spatial Policy 7 (bullet 5) of the Amended Core Strategy and to implement Paragraph 110 of the NPPF, the SPD explains that the Council will seek to encourage minimum car parking standards for new residential development and that the figures set should be viewed as a recommended minimum as the starting point.

In accordance with this SPD a two bed dwelling should have two off street parking spaces each and a three bed should have three in this location. The SPD does set out that in some circumstances, where appropriate (such as change of use proposals in sustainable locations or with site specific constraints), consideration would be given to car parking provision below the recommended standards set out above and in this case the addition of one residential unit here served by two parking spaces (particularly when compared with the likely traffic that could be generated from the existing community hall) is unlikely to result in such pressure on the local highway network that would be sufficient to warrant the refusal of this application. Furthermore, it is noted that the Highways Authority have commented rising no objection to the proposal in this regard. As such the proposal is considered to accord with SP7 of the Core Strategy.

It is noted that the Highways Authority have however commented about the parking provision for the adjacent property, no 64, which is in the same ownership as the application site. The Highways Authority suggest that the occupiers of this property park on the access to the community hall and therefore that this proposal would result in a loss of parking provision for this dwelling, however it has been confirmed with the applicant that this is not the case. There is no current functional/operational relationship between No 64 and the application site, the former of which is occupied as a separate private residential dwelling with no on-site parking provision, and therefore relies on on-street parking facilities. It is therefore not considered that a lack of parking for no. 64 has any bearing on the application at hand.

### *Impact on Ecology and Trees*

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

A Phase I ecology survey has been submitted to accompany this application which concludes that there was no evidence found of the presence of bats or nesting birds. There were no suitable access points or external features identified on the building that would be suitable to support roosting bats or birds.

An Arboricultural Report has also been submitted which concludes that in order to construct the extension, a short length of privet hedgerow along the SE boundary would require removal. However the report goes on to conclude that this is not considered likely to have any negative ecological effect on the site as a whole and is not considered to pose a constraint to the proposed works. Furthermore, the submitted drawings indicate that there would be no encroachment into the large beech tree's root area (in the SE corner of the site) from any construction works. The survey concludes that the presence of the tree is not considered to pose a material constraint to the proposed works within the site and no mitigation is considered necessary in this instance.

Whilst the removal of the existing hedgerow is not ideal, the hedgerow is not protected and could be removed without prior consent. Furthermore, it is noted that a new boundary wall with a hedgerow behind it would enclose the front boundary which could provide some on site ecological enhancement. Precise details of this can be controlled by condition. Overall it is considered that the proposal complies with CP12 and DM7 in this regard.

#### *Other matters*

In terms of Community Infrastructure Levy (CIL), the site is located within Housing Very High Zone 4 of the approved Charging Schedule for the Council's Community Infrastructure Levy. As such residential development in this area is rated at £100m<sup>2</sup> for CIL purposes. The proposed development would result in 55.01m<sup>2</sup> additional floor space. A discount of existing floor space for calculating CIL is permitted where the floor space of the building has been 'in use'. An 'In use building' is defined as a building which contains a part of an existing building that has been in lawful use for a continuous period of 6 months within the past three years before the grant of the planning permission. The application building has been in lawful use for 6 continuous months of the 36 previous months and as such this existing floor space can be offset against the CIL charge. CIL is therefore only chargeable on the additional 55.01m<sup>2</sup> and would be £5,601.94.

#### *Conclusion*

Given the above, the application has demonstrated that the proposal meets one of the required points of policy SP8 (and consequently CF1) to adequately justify the loss of the community facility. It is also considered that there would be no impact on the amenity of neighbouring properties as a result of this proposal and it has been concluded that the proposed development would preserve the character and appearance of the area and the building as a NDHA which complies with the advice contained within Section 16 of the NPPF and Core Policy 14 and Policy DM9 of the Council's LDF DPD. There would be no detrimental impact on the highways safety or network in accordance with SP7 and DM5, nor would there be any unacceptable ecological impact as a result of the proposal. Accordingly, it is recommended that planning permission be granted.

#### **RECOMMENDATION**

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

#### **Conditions**

##### **01**

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

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

## **02**

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

- Site Location Plan – Ref. 1974 P 00 A
- Site Plan Proposed – Ref. 1974 P 05 A
- Ground Floor Proposed – Ref. 1974 P 06
- First Floor and Roof Proposed – Ref. 1974 P 07
- Elevation North and South Proposed – Ref. 1974 P 08
- Elevation East Proposed – Ref. 1974 P 09

Reason: So as to define this permission.

## **03**

Before any construction occurs above damp proof course (DPC) level, details and samples of the materials identified below shall be submitted to and agreed in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details.

- Bricks (sample panel including details on brick, bond, mortar specification and pointing technique)
- Roof Covering

Reason: In order to preserve or enhance the character and appearance of the area and non-designated heritage asset.

## **04**

No development shall be commenced in respect of the features identified below, until details of the design, specification, fixing and finish in the form of drawings and sections at a scale of not less than 1:10 have been submitted to and approved in writing by the local planning authority. Development shall thereafter be undertaken and retained for the lifetime of the development in accordance with the approved details.

- External windows including roof windows, doors and their immediate surroundings, including details of glazing and glazing bars.
- Verges and eaves (including fascia)
- Extractor vents
- Flues
- Soil and vent pipes
- Meter Box and any external accretions.

Reason: In the interests of 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:

- 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;
- means of enclosure;
- car parking layouts and materials; and
- hard surfacing materials.

Reason: In the interests of visual amenity and biodiversity.

## **06**

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

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

## **07**

Development shall not commence until a programme of historic building recording and full recording report has been submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure and safeguard the recording and inspection of matters of historical importance associated with the building.

## **Notes to Applicant**

### **01**

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

The proposed development has been assessed and it is the Council's view that CIL IS PAYABLE on the development hereby approved as is detailed below. Full details about the CIL Charge including, amount and process for payment will be set out in the Regulation 65 Liability Notice which will be sent to you as soon as possible after this decision notice has been issued. If the development hereby approved is for a self-build dwelling, residential extension or residential

annex you may be able to apply for relief from CIL. Further details about CIL are available on the Council's website: [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/) or from the Planning Portal: [www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil](http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil)

02

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).

#### **BACKGROUND PAPERS**

Application case file.

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

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

**Lisa Hughes**

**Business Manager – Planning Development**



Committee Plan - 21/02410/FUL



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## **PLANNING COMMITTEE – 18 JANUARY 2022**

### **AMENDMENTS TO THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT ETC.) (ENGLAND) (AMENDMENT) (NO.3) ORDER 2021**

#### **1.0 Purpose of Report**

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

- SI 2021 No. 1464 - The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) (No. 3) Order 2021 extends permitted development rights for pubs, cafes and restaurants.

#### **2.0 Background Information**

2.1 The Government published a Statutory Instrument (SI 2021 No. 467) on 14<sup>th</sup> April 2021 providing for moveable structures within the curtilage of certain buildings including public houses, restaurants and historic visitor attractions. This relaxation was for a temporary period of time to facilitate businesses continuing to operate during the Covid-19 pandemic. These rights have now become permanent, however some are subject to other limitations whilst there has also been expansion. The relevant ones for NSDC are summarised below.

2.2 One moveable structure is permitted within the curtilage of a drinking establishment (including those with expanded food provision, public house, wine bar or commercial premise selling food and drink to the public where that food and drink is mostly taken on the premises under Part 2, Class G of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

2.3 There are a number of criteria that need to be met including the size of the building – no more than 3 metres in height or having a footprint exceeding 50% of the footprint of the building or 50m<sup>2</sup> (whichever is the lesser). The structure can also not be within 2 metres of the curtilage of land that falls within Use Class C (residential uses) of the Use Class Order. Additionally, Class G does not permit moveable structures on land that is or forms part of a scheduled monument or listed building or its curtilage.

2.4 However, Part 4, Class BB of the GPDO permits one moveable structure for pubs, restaurants etc. as described above within the curtilage of a listed building but not scheduled monument. Historic visitor attractions also fall within this Class. Again, there are a number of criteria as described under 2.3 but additionally prior approval from the local planning authority is required. The prior approval process is to establish whether the siting or method of installation is required. Additionally, the structure cannot be present for more than 120 days following the decision of the Council (as local planning authority) or 56 days after the application was received as valid if a decision has not been issued and an extension of time has not been agreed.

2.5 Due to the pandemic, permitted development rights were also introduced in 2020 allowing emergency development by either a local authority or health service body to take place without permission. This right (Part 12A of Schedule 2) has been utilised within the District e.g. with the PCR testing station previously at Castle House and now at the NCC depot. This temporary right has been extended until 31 December 2022.

### **3.0 RECOMMENDATIONS that:**

- (a) Members note the contents of this report; and
- (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**

Statutory Instrument 2021 No. 1464 -

[https://www.legislation.gov.uk/uksi/2021/1464/pdfs/uksi\\_20211464\\_en.pdf](https://www.legislation.gov.uk/uksi/2021/1464/pdfs/uksi_20211464_en.pdf)

For further information please contact Lisa Hughes on Ext 5565.

Matt Lamb

Director – Growth & Regeneration

## **Planning Committee – 18 JANUARY 2022**

### **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](mailto:planning@nsdc.info) quoting the relevant application number.

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**Appendix A: Appeals Lodged (received between 20 November 2021 and 6<sup>th</sup> January 2022)**

Appeal reference	Application number	Address	Proposal	Procedure	Appeal against
APP/B3030/D/21/328512 2	21/01528/HOUSE	Grange Farm Gainsborough Road Girton NG23 7HX	Single-storey extension to existing dwelling. Resubmission of application 20/00690/FUL.	Fast Track Appeal	Refusal of a planning application
APP/B3030/D/21/328605 1	21/01329/HOUSE	The Gables Toad Lane Epperstone NG14 6AJ	Single storey side extension and formation of first floor over garage with roof lights (Re-submission)	Fast Track Appeal	Refusal of a planning application
APP/B3030/C/21/328751 4	21/00200/ENFB	Westwood Park Main Street Thorney NG23 7DA	Without planning permission, development consisting of the erection of an agricultural storage building.	Hearing	Service of Enforcement Notice
APP/B3030/W/21/32798 88	21/01224/FUL	The Spread Eagle Public House Caunton Road Hockerton NG25 0PL	Change of use from Public House (Sui Generis) to dwelling (C3).	Written Representation	Refusal of a planning application

APP/B3030/W/21/32814 34	21/00263/FUL	Mccolls Mansfield Road Blidworth NG21 0RB	Proposed two storey dwelling and felling of 2no. trees (re-submission of 20/01200/FUL)	Written Representation	Refusal of a planning application
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APP/B3030/D/21/328717 2	21/01473/FUL	Old Church Farm Kirklington Road Eakring NG22 0DA	Refurbishment of existing outbuildings with internal alterations to provide additional living accommodation.	Written Representation	Refusal of a planning application
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## Planning Committee – 18 JANUARY 2022

### **Appendix B: Appeals Determined (20<sup>th</sup> November 2021 and 6<sup>th</sup> January 2022)**

App No.	Address	Proposal	Application decision by	Decision in line with recommendation	Appeal decision	Appeal decision date
20/00411/ENFC	2 Rose Cottage Newark Road Cauntton Newark On Trent NG23 6AE	Without planning permission, the erection of an open-sided outbuilding (referred to as a pergola) forward of the principal elevation	Not Applicable	Not Applicable	Appeal Dismissed	13th December 2021
20/02239/HOUSE	5 Lambley Road Lowdham NG14 7AZ	Demolish existing single storey side extension and construct two storey and part single storey side and rear extension	Delegated Officer	Yes	Appeal Allowed	13th December 2021
21/00545/HOUSE	9 Marriott Lane Blidworth NG21 0QF	Construction of first floor balcony to rear (resubmission 20/01201/FUL)	Delegated Officer	Yes	Appeal Allowed	30th November 2021
21/01599/FUL	Westwood Park Main Street Thorney NG23 7DA	Application to erect small scale agricultural storage building (Part Retrospective)	Delegated Officer	Yes	Appeal Withdrawn	15th December 2021

### 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-sheffield.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](mailto:planning@nsdc.info) quoting the relevant application number.

Lisa Hughes

Business Manager – Planning Development



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## Appeal Decision

Site visit made on 9 August 2021 by Darren Ellis MPlan

**Decision by Chris Preston BA (Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 December 2021**

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**Appeal Ref: APP/B3030/D/21/3274159**

**5 Lambley Road, Lowdham, NG14 7AZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs Swallow against the decision of Newark & Sherwood District Council.
  - The application Ref 20/02239/HOUSE, dated 16 November 2020, was refused by notice dated 25 February 2021.
  - The development proposed is demolish existing single storey side extension and construct two storey and part single storey side and rear extension.
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### Decision

1. The appeal is allowed and planning permission is granted to demolish existing single storey side extension and construct two storey and part single storey side and rear extension at 5 Lambley Road, Lowdham, NG14 7AZ in accordance with the terms of the application 20/02239/HOUSE, dated 16 November 2020, subject to the following conditions:
  - 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site and Block plans drawing no. 482.03 Rev A; and Site plan, floor plans and elevations as proposed drawing no. 482.02 Rev H.
  - 3) No development shall take place above slab level until details of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
  - 4) Before the windows and doors are installed into the extension hereby permitted, details of their material, design, specification, method of opening, method of fixing and finish, in the form of drawings and sections of no less than 1:20 scale, shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out only in accordance with the agreed details.
  - 5) Before any window or door heads and sills are installed, details of their design, material and construction, in the form of scale drawings and material samples/specifications, shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out only



in accordance with the agreed heads and sills details.

### **Appeal Procedure**

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### **Procedural Matter**

3. The original drawings were amended during the course of the planning application. The Council's decision was based on drawing nos. 482.02 Rev H and 482.03 Rev A. For the avoidance of doubt, my recommendation is based on these amended drawings.
4. The drawings were amended to remove a balcony above the single-storey rear extension. The description of the development on the application form included the balcony. Therefore, in the header above I have taken the description of the development from the appeal form and the decision notice, which is an accurate description of the proposal.

### **Background and Main Issue**

5. The appeal site is within the Green Belt and relevant Green Belt policies therefore apply. The National Planning Policy Framework (the Framework) identifies that new buildings within the Green Belt will be inappropriate, save for a number of exceptions, including paragraph 149(c) which relates to the extension or alteration of buildings. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved unless very special circumstances exist to justify a proposal.
6. As such, the main issue is whether the proposal would be inappropriate development in the Green Belt for the purposes of development plan policy and the Framework.

### **Reasons for the Recommendation**

7. The Framework establishes that new buildings in the Green Belt are inappropriate except in certain circumstances, including where they involve the extension of an existing building, providing that the extension would not result in a disproportionate addition over and above the size of the original building.
8. Spatial Policy 4B of the Amended Core Strategy (March 2019) (ACS) sets out where new housing development could be acceptable and states that any other development within the Green Belt that is not identified in the policy, such as the proposal before me, shall be judged according to national Green Belt policy. This approach is reflected in chapter 10 of the Council's Householder Development Supplementary Planning Document (November 2014) (SPD).
9. The Framework defines 'original building' as 'a building as it existed on 1 July 1948, or, if constructed after 1 July 1948, as it was built originally.' However, the term 'disproportionate' is not defined. The Council mentions a 'rule of thumb' threshold of a 30%-50% increase in volume, footprint and/or floor space as being disproportionate. However, given the lack of any such criteria in

the development plan, this 'rule of thumb' is a guide only and a judgement is required in any given case.

10. The Council's calculations, which have not been challenged by the appellant, show that the proposed extension would result in an increase of approximately 31.87% of the floorspace, 50.54% of the footprint, and 23.26% of the volume of the original building. As such, the increases to the floorspace and volume of the building would fall within or below the 30%-50% 'rule of thumb'. While the increase to the footprint would be above the upper limit of this threshold, the proposal would result in a reduction of the current footprint of the building.
11. Size is more than a function of floorspace, volume and footprint and includes bulk, mass, and height. The proposed extension has been designed to be subservient to the original dwelling, with a set-back from the front elevation and the ridge set down from the main roof. The first-floor addition would partially fill in space between the property and the neighbouring dwelling. However, that does not dictate that the proposal would be disproportionate in scale when assessed against the original dwelling. Overall, taking account of the percentage increases identified above and the subservient nature of the design, I am satisfied, as a matter of judgement, that the addition to the original building would not be disproportionate to the original property.
12. The Council has referred to the loss of openness that would arise as a result of the proposal, which would extend closer to No.7 at first floor level. However, the Framework does not seek to avoid all impact on openness and there is no requirement in national policy to undertake a separate assessment on the impact on openness where an extension is not disproportionate over and above the scale of the original property.
13. Consequently, the proposal would meet the exception in the Framework for an extension or alteration to a building and would not be inappropriate development within the Green Belt. For these reasons, the proposal would satisfy Paragraph 149 of the Framework, Policy 4B of the ACS and chapter 10 of the SPD.

#### *Other Considerations*

14. The appeal site is within the Lowdham Conservation area and is also within the setting of the Grade II listed building at 1 Lambley Road.
15. In this case, the Council has raised no substantive objection to the proposal in terms of its impact on these heritage assets, subject to certain conditions regarding the details of the doors, windows, brick bonding and render that would be used. The proposal would replace a single-storey side extension of no architectural merit. The replacement extension has been designed to be subservient to the main dwelling and would be finished in materials that would tie in with the existing house and surrounding properties. Although the first-floor addition would reduce the apparent gap between the dwelling and the neighbouring property to a degree, sufficient space would remain to enable the individual character of each property to be appreciated. As such, the proposal would preserve the character and appearance of the conservation area and would not detract from the setting of the listed building. Accordingly, it would meet the requirements of sections 72 (1) and 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act.

### **Conditions**

16. In addition to the standard time limit condition and a condition specifying the approved plans is necessary to provide certainty and in the interests of proper planning.
17. The submitted drawings, Design and Access Statement and application form provide details of the materials to be used, which would be in keeping with the existing building. It would therefore be unnecessary for sample panels to be provided, as requested by the Council, although it is necessary for a condition requiring full details of the external materials of the extension to be submitted and approved by the Council prior to any construction above slab level, in the interests of the character and appearance of the Conservation Area.
18. In the interests of the character and appearance of the Conservation Area, it would be necessary for a condition requiring details of the windows, including window or door heads and sills, to be submitted to and approved by the Council prior to the installation of these features.

### **Conclusion and recommendation**

19. For the reasons given above the proposal would not amount to inappropriate development in the Green Belt and would comply with relevant policies of the development plan and the Framework. Having had regard to that and all other matters raised, I recommend that the appeal should be allowed and planning permission granted subject to the conditions listed above.

*Darren Ellis*

APPEAL PLANNING OFFICER

### **Inspector's Decision**

20. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree with the recommendation and shall allow the appeal and grant planning permission subject to the conditions above.

*Chris Preston*

INSPECTOR



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## Appeal Decision

Site visit made on 18 November 2021

**by D M Young JP BSc (Hons) MPlan MRTPI MIHE**

**an Inspector appointed by the Secretary of State**

**Decision date: 30 November 2021**

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**Appeal Ref: APP/B3030/D/21/3281920**

**9 Marriot Lane, Blidworth, Notts NG21 0QF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Janet Charlton against the decision of Newark and Sherwood District Council.
  - The application Ref 21/00545/HOUSE, dated 5 March 2021, was refused by notice dated 8 July 2021.
  - The development proposed is a first-floor balcony to rear of property.
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### Decision

1. The appeal is allowed and planning permission is granted for a first-floor balcony to the rear of 9 Marriot Lane, Blidworth, Notts NG21 0QF in accordance with the terms of the application, Ref 21/00545/HOUSE, dated 5 March 2021, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

### Background

2. A previous application for a similar scheme was refused on appeal in December 2020<sup>1</sup>. A copy of that decision was supplied with the Grounds of Appeal and I have had regard to it in reaching my decision. However, it is important to recognise that the position and size of the balcony have been amended. Consequently, the current scheme is different to that considered by the previous Inspector.

### Main Issue

3. The main issue is whether the development would cause unacceptable harm to the living conditions of neighbouring occupiers.

### Reasons

4. The previous Inspector found no unacceptable loss of privacy in respect of the outdoor amenity space to 7 Marriot Lane, and I see no reason to disagree in respect of this amended scheme. The matter at hand is rather whether the relationship between the balcony and those windows in the side elevation of No 7 would be acceptable.

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<sup>1</sup> Appeal ref: APP/B3030/D/20/3263190

5. The balcony would be sited on the rear elevation of the appeal property and its outlook would essentially be towards the side, largely blank (eastern) elevation of No 7. Although the previous Inspector raised some concern with this relationship, that was based on a misunderstanding that the first-floor window served a bedroom. As clarified by the Appellant, it turns out that the window serves a non-habitable room and *"cannot be seen into or out of"*.
6. The ground-floor window serves the garage which is also classed as a non-habitable room. Accordingly, I am satisfied there would be no unacceptable overlooking of No 7 whether actual or perceived. The letter of support from the current occupiers adds credence to that conclusion. I appreciate that future prospective occupiers might see things differently. However, in that scenario, they would be free to exercise consumer choice in the matter.
7. In terms of the effect on East View, the previous Inspector stated that the balcony would *"allow more direct views into the garden of East View than are available at present"*. However, in its repositioned location the balcony would be sited further away from the shared boundary than the existing first-floor bedroom window. Moreover, I note that the design of the balcony includes an obscure glazed balustrade at its northern end. Based on the above, there would be no unacceptable loss of privacy to the occupiers of East View.
8. Accordingly, I conclude that the balcony would not result in unacceptable harm to the living conditions of neighbouring occupiers. As a result, there would be no conflict with Core Policy 9 of the Newark and Sherwood Amended Core Strategy (2019) and Policies DM5 and DM6 of the Newark and Sherwood Allocations and Development Management Development Plan Document (2013). These seek, amongst other things, to ensure development does not result in adverse impacts on the amenities of neighbouring users.
9. The Council requested a planning condition requiring the development to be constructed in materials matching the existing dwelling. However, as the design including the proposed materials, are already shown on the approved plans and detailed in the Application Form, such a condition is unnecessary. To provide certainty, I have imposed a standard time limit condition.

## **Conclusion**

10. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should succeed.

*D. M. Young*

Inspector