



*Castle House
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Tuesday, 2 August 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 P Peacock
Councillor Mrs P Rainbow
Councillor S Saddington**

**Councillor M Skinner
Councillor T Smith
Councillor I Walker
Councillor K Walker
Councillor T Wildgust
Councillor Mrs Y Woodhead**

MEETING: Planning Committee

DATE: Thursday, 11 August 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.

AGENDA

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| 4. | Minutes of the meeting held on 7 July 2022 | 5 - 8 |
| Part 1 - Items for Decision | | |
| 5. | Site Adjacent 'The Old Grain Store', Old Epperstone Road, Lowdham - 21/01830/FUL Site Visit: 10.50am – 11am | 9 - 30 |
| 6. | Thurgarton Quarters Farm, Priory Road, Thurgarton - 22/00947/FUL Site Visit: 11.20am – 11.30am | 31 - 53 |
| 7. | Chapel Farm, Chapel Lane, Epperstone - 22/00291/FUL Site Visit: 10.30am – 10.40am | 54 - 70 |
| 8. | Land at Post Office Farm, Main Street, Ossington - 22/00701/FUL | 71 - 83 |
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| There are none. | | |

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 Thursday, 7 July 2022 at 4.00 pm.

PRESENT: Councillor R Blaney (Chairman)

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

APOLOGIES FOR ABSENCE: Councillor Mrs L Dales (Vice-Chairman), Councillor J Lee (Committee Member), Councillor S Saddington (Committee Member), Councillor T Smith (Committee Member) and Councillor T Wildgust (Committee Member)

13 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

Councillor M Skinner declared a Non-Registerable Interest regarding Planning Application Item No. 7 – The Buttermarket, Middle Gate, Newark On Trent – 22/00986/LBC, as the Buttermarket was joint owned by Newark Town Council.

Councillor Mrs R Holloway declared a Non-Registerable Interest regarding Planning Application Item No. 7 – The Buttermarket, Middle Gate, Newark On Trent – 22/00986/LBC, and Application No. 11 – Appeal update on 20/01452/OUTM Development of site for distribution uses (Use Class B8) including ancillary offices and associated works including vehicular and pedestrian access, car parking and landscaping on land off A17, Coddington (Newlink), as she was the Portfolio Holder for Economic Development.

14 NOTIFICATION TO THOSE PRESENT THAT THE MEETING WILL BE RECORDED AND STREAMED ONLINE

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.

15 MINUTES OF THE MEETING HELD ON 9 JUNE 2022

AGREED that the Minutes of the meeting held on 9 June 2022 were approved as a correct record and signed by the Chairman.

16 ORDER OF BUSINESS

The Chairman informed the Committee that Agenda Item 11 – Appeal Update on 20/01452/OUTM Development of site for distribution uses (Use Class B8) including ancillary offices and associated works including vehicular and pedestrian access, car parking and landscaping on land off A17, Coddington (newlink), would be considered in part in open business as Agenda Item 7(a). The agenda would resume its stated order thereafter.

17 LAND ADJACENT ORCHARD HOUSE, THORNEY ROAD, WIGSLEY - 22/00788/RMA

The Committee considered the report of the Business Manager – Planning Development, which sought reserved matters approval for access, appearance, landscaping, layout and scale for the development of 2 dwellings. A site visit had been undertaken by Committee earlier that day.

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

A schedule of communication was tabled at the meeting which detailed correspondence received after the Agenda was published from the Local Ward Member raising concerns with the proposal and Planning Case Officer, proposing an additional condition as follows:

Suggestion of an additional condition to remove permitted development rights:

08

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

- Class A: The enlargement, improvement or other alteration of a dwellinghouse.
- Class B: The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.
- Class E: Buildings etc incidental to the enjoyment of a dwellinghouse.

Reason: To ensure that any proposed further alterations or extensions are sympathetic to the original design and layout in this sensitive location.

Members considered the application acceptable.

AGREED (unanimously) that planning permission be approved subject to conditions, for the reasons contained within the report and the additional Condition 08 as above.

18 LAND AT FAIR VALE, NORWELL - 22/00297/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought the erection of a one bed Chalet Bungalow and provision of 2no. off-street car parking spaces for neighbouring properties. A site visit had been undertaken by Committee earlier that day.

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

A schedule of communication was tabled at the meeting which detailed correspondence received after the Agenda was published from the Local Ward Member.

Members considered the report and commented that there would only marginally be a fraction of car parking lost and therefore considered the application acceptable.

AGREED (unanimously) that planning permission be approved for the reasons contained within the report.

19 THE BUTTERMARKET, MIDDLE GATE, NEWARK ON TRENT - 22/00986/S19LBC

The Committee considered the report of the Business Manager – Planning Development, which sought the variation of condition 2 attached to planning permission 21/02470/LBC to amend the proposed staircase.

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

Members considered the application acceptable.

(Councillor Mrs R Holloway did not take part in the debate or vote having declared a Non-Registrable Interest in this application).

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

20 UPDATE ON PENDING PLANNING APPEAL IN RELATION TO APPLICATION NO 20/01452/OUTM DEVELOPMENT OF SITE FOR DISTRIBUTION USES (USE CLASS B8) INCLUDING ANCILLARY OFFICES AND ASSOCIATED WORKS INCLUDING VEHICULAR AND PEDESTRIAN ACCESS, CAR PARKING AND LANDSCAPING ON LAND OFF A17, CODDINGTON

The Committee noted the report of the Business Manager – Planning Development, which provided an update following the Planning Committee’s decision to refuse application 20/01452/OUTM. The report provided an update on the pending appeal against the decision in light of new evidence received. Appended to the Report was a copy of the Planning Report (Appendix B) that came before Members and the recorded minutes (Appendix A), detailing the debate and confirming the resolution of the Planning Committee. The additional evidence comprises the draft Nottinghamshire Core & Outer HMA Logistics Study (the Study) (June 2022). This report was in draft form and therefore not publically available. Notwithstanding this, a summary of the study had been prepared by Icení (the author of the study) and was attached as Appendix C.

21 APPEALS LODGED

AGREED that the report be noted.

22 APPEALS DETERMINED

The Business Manager – Planning Development informed the Committee of an error in Appendix B, 18/00036/ENF, which should read ‘appeals against Enforcement Notice’.

AGREED that the report be noted.

23 EXCLUSION OF THE PRESS AND PUBLIC

AGREED (unanimously) that the public and press be excluded from the meeting during consideration of the following item of business to avoid the disclosure of Exempt Information under S100A(4) Local Government Act 1972, Schedule 12A, Paragraph 3 which concerns information relating to the financial or business affairs of the Council on the basis that the need to treat the information as exempt outweighs the public interest in disclosure.

The Committee was informed that in addition to the resolution just passed, the public shall be excluded from the meeting during consideration of agenda item 11 on the basis that in view of the nature of the business to be transacted, if members of the public were present during that item, confidential information would be disclosed to them in breach of the obligation of confidence in accordance with Section 100A(2) of the Local Government Act 1972.

24 APPEAL UPDATE ON 20/01452/OUTM DEVELOPMENT OF SITE FOR DISTRIBUTION USES (USE CLASS B8) INCLUDING ANCILLARY OFFICES AND ASSOCIATED WORKS INCLUDING VEHICULAR AND PEDESTRIAN ACCESS, CAR PARKING AND LANDSCAPING ON LAND OFF A17, CODDINGTON (NEWLINK)

The Committee considered the exempt report of the Business Manager – Planning Development, which provided the Planning Committee with an update, following Planning Committee’s decision to refuse application no. 20/01452/OUTM, on the pending appeal against this decision in light of new evidence received.

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

Meeting closed at 5.00 pm.

Chairman

By virtue of paragraph(s) 4 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted



Report to Planning Committee 11 August 2022

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Lisa Hughes, Business Manager – Planning Development, x 5565

| Report Summary | | | |
|---------------------------|---|-------------|---|
| Application Number | 21/01830/FUL | | |
| Proposal | Change of use of agricultural land and extension to the existing wood fuel production business, retention of earth bunds, retention of concrete retaining wall/clamp, retention of re-sited biomass boiler, wood drying kiln and roof cover over (Retrospective). | | |
| Location | Site Adjacent 'The Old Grain Store', Old Epperstone Road, Lowdham | | |
| Applicant | Messrs S & R Jackson. | Agent | Mr Derek Kitson (Derek Kitson Arch. Tech. Ltd) |
| Web Link | Messrs S & R Jackson. | | |
| Registered | 28 August 2021 | Target Date | 20 October 2021 Extension of Time: 19 August 2022 |
| Recommendation | Refusal | | |

This application is before the Planning Committee for determination, in accordance with the Council's Constitution, because a District Councillor is joint applicant with his son.

1.0 Background

The application was presented to Planning Committee on 15th February 2022, where it was initially resolved to not refuse the application in accordance with the Officer's recommendation. It was then resolved to defer the application to enable the applicant to undertake a Noise Impact Assessment and for any mitigation works to also be explored.

The noise report has been completed and the report is updated accordingly. In addition, following deferral, there has been correspondence received from a number of parties which

are discussed below. The report has been updated throughout compared to when it was previously presented. It has therefore not been amended with bold text and crossing out to minimise confusion.

2.0 The Site

The site lies to the south of Old Epperstone Road and is accessed by a small track which also serves The Old Grain Store which is currently occupied by Sharmans Agricultural Ltd and lies to the north of the site. To the south and east of the site are fields and to the west is South Sherrards Nurseries and the grounds of Element Hill Farm. Further beyond, residential development approximately 80m to the north-west of the site exists and also beyond the main highway approximately 140m to the north.

The part of the site to which this application relates forms an extension to the existing wood fuel production business site. It is washed over by the Nottingham-Derby Green Belt and its lawful use is agricultural land. There is a steel portal building located at the northern end of the existing wood fuel production business site that is used in connection with the business which, it is understood, was originally constructed for agricultural purposes. In addition to this building, at the opposite end of the extended site, there is a new building along with other relocated structures and a wood chip clamp. Earth bunds which have been formed around part of the overall site exist for which permission is sought for their retention retrospectively.

3.0 Relevant Planning History

16/01271/FUL- Planning permission granted for the use of land and building and siting of container, biomass boiler and Wood Chip Clamp in connection with wood fuel production business (retrospective, resubmission) – permission 01.03.2018

16/00490/FUL – Use of land and building and siting of container, biomass boiler and Wood Chip Clamp in connection with wood fuel production business (retrospective) (withdrawn)

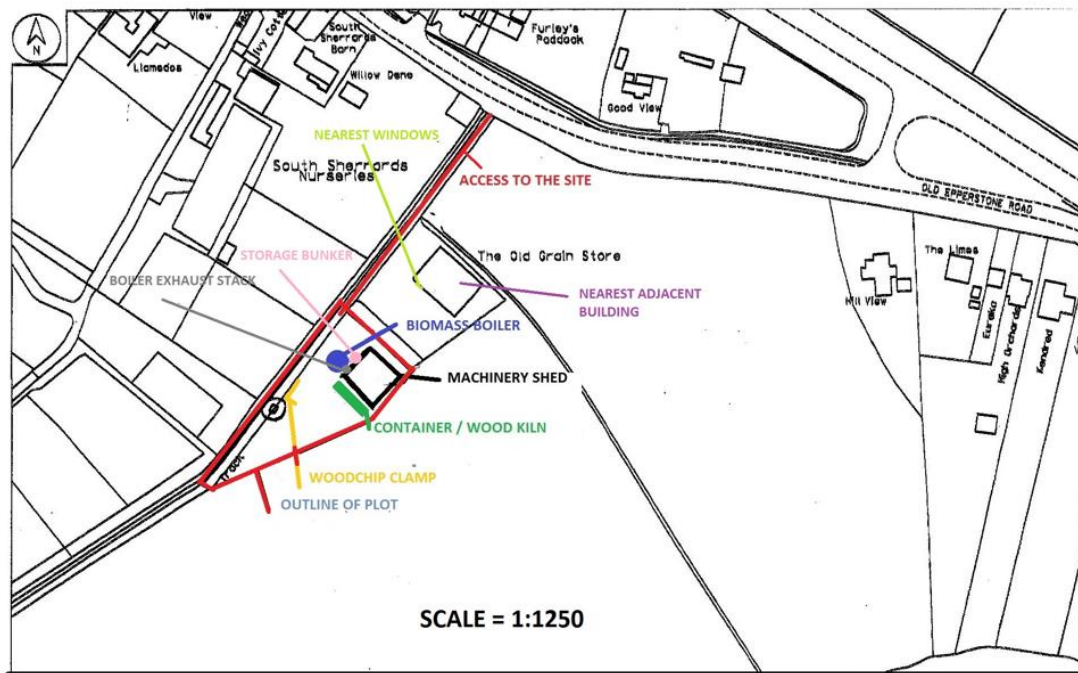
13/00496/AGR – Proposed steel frame building (prior approval not required, 14.05.2013)

4.0 The Proposal

In order to understand the proposal, it is necessary to understand the development of the site in relation to the above planning history.

Evolution of the site since 2016 and the Proposed Development:

Planning permission was granted in 2018 under reference 16/01271/FUL for the use of land and building and siting of container, biomass boiler and Wood Chip Clamp in connection with wood fuel production business. The extent of the application site and site layout at that time as per the submitted plans was as follows:



As the series of aerial photographs from 2017 until present for the site below show, the extent of the land used in association with the applicant's business has increased which is also reflected in the site location plan that accompanies this current application.



May 2012



July 2017



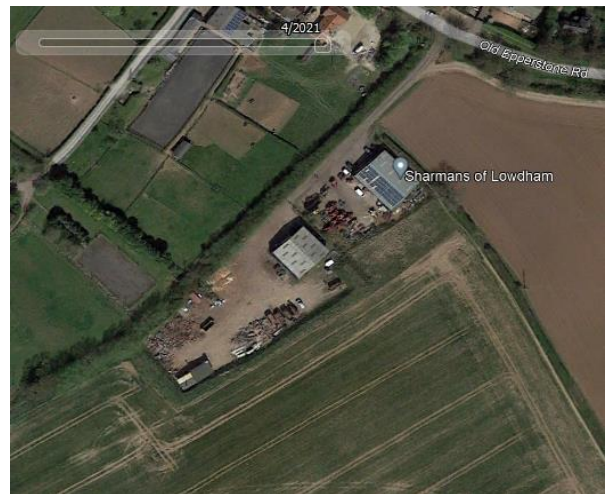
March 2019



September 2019



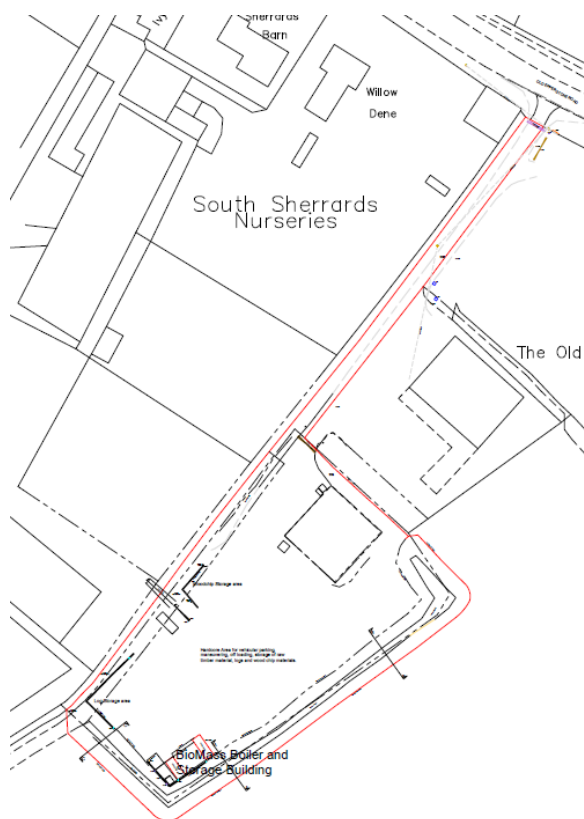
August 2020



April 2021

As the aerial photos above show, the yard area has been increased by around 63% (excluding access road - approved site area was approximately 2650m², proposed site application area is approximately 4317m²) at some point between 2017 and 2019. Earth bunds have been formed around the south and south eastern as well as the south western boundaries to contain or enclose the subject site. The submitted topographical survey show these to range in height from between 2 to almost 3 metres in places. The use of the site and the working activities that are carried out upon the site have sprawled across a wider parcel of agricultural land than that previously approved. The structures and building to which retrospective consent is sought can be seen in the south western corner of the extended site. It appears apparent from the aerial photographs above that the extended site is well utilised.

The extent of the application site as it is presently is shown on the revised site location plan.



Extract of revised Site Location Plan (NTS)

The application as initially submitted seeks consent for the 'resiting of biomass boiler and wood drying kiln and erection of roof cover structure (Retrospective)'. According to the initially submitted planning statement, *'the structure itself consists of 2 containers sited on a concrete slab. The biomass boiler and log splitter are located within the area between the 2 containers. The container adjacent to the southern boundary is an implement and equipment store and the other container is the wood drying kiln.'*

The biomass boiler, wood drying kiln and log splitter, which are all housed beneath a roof cover structure, has been operating in its current position since July 2019 according to the initially submitted application form.

During the consideration of the application and following a site visit, further information has been requested and agreement has been sought from the agent to amend the description of development to capture a number of other undertakings that have been carried out as part and parcel of the change of use that has occurred which also require the benefit of planning consent.

In addition to the above, a number of further queries were raised with regard the workings being carried out upon the site and also with regards the information on the application forms and ownership certificates. As a result revised plans, a revised planning statement and an amended application form has been submitted.

Since the above was presented to Committee, a noise report and further information has been submitted for consideration by the agent.

List of Revised Plans and documents

- Existing Floor Plan & Elevations Drawing No. 1A received 26 August 2021
- Revised Site and Block Plan Drawing no. 21-1993 Rev 2B received 9 December 2021
- Proposed Floor Plan Drawing no. 5A received 29 June 2022
- Concrete panel elevations and floor plans and typical bund cross sections Drawing no. 21-1993 Rev 3 received 9 December 2021
- Topographical Survey Drawing No. PO2094_2D_DRG1 received 9 December 2021
- Planning Supporting Statement Dated November 2021 received 9 December 2021
- Revised Planning Application Form received 9 December 2021
- Proposed Concrete Panel elevations Drawing No 6A received 29 June 2022
- Proposed Site and Block plan received 29 June 2022
- Noise Impact Assessment – Dynamic Response, June 2022 received 29 June 2022.

5.0 Departure/Public Advertisement Procedure

Occupiers of thirteen properties have been individually notified by letter. A site notice has also been displayed near to the site.

Since original notification, two further re-consultation exercises have been undertaken. The most recent in relation to the amended plans and noise report received 29 June 2022.

6.0 Planning Policy Framework

The Development Plan

Newark and Sherwood Amended Core Strategy Adopted March 2019

Spatial Policy 4B: Green Belt Development

Spatial Policy 7: Sustainable Transport

Core Policy 9: Sustainable Design

Core Policy 10: Climate Change

Core Policy 13: Landscape Character

Allocations and Development Management DPD Adopted July 2013

Policy DM5: Design

Policy DM7: Biodiversity and Green Infrastructure

Policy DM12: Presumption in Favour of Sustainable Development

Other Material Planning Considerations

National Planning Policy Framework (NPPF)

Planning Practice Guidance (online resource)

7.0 Consultations

Lowdham Parish Council – Initially did not object (comments made 3.09.21) but then made subsequent comments on 10.09.21 stating:

‘Members of the Parish Council have become aware that there are complaints about the operation of the biomass facility; that the operator may not be following the conditions in the

original grant of planning permission and that the re-siting of the facility, now the subject of the retrospective consent sought, may have made matters worse for neighbouring properties. On that basis, the parish council objects to the proposal.'

Further comments were then also made on 8 October 2021 stating, *'No comment on the Planning Issues – Abstain'*

The Parish Council wrote again as a result of the re-consultation exercise in January 2022 to confirm that they *do not object* to the proposals.

NCC Highways – Initial comments- The proposal will have no impact on the existing highway network. Therefore, we have no highway comments.

Comments on the revised information (December 2021)-

'Before previous application for the site was approved under ref. 16/01271/FUL, the applicant had confirmed that the business is in operation Monday- Friday and that a tractor sized vehicle is used daily, along with a 3.5t van. This usage was deemed acceptable to the Highway Authority, and no highway objections were raised.

Subject to no increase in the sizes of vehicles using proposed access to the there are no highways objections to this proposal.

Please note that there is a Public Footpath LowdhamFR12 located at the access off Old Epperstone Road. The applicant is reminded that the public footpath shall remain unobstructed at all times, which means no gates shall be erected across the route of the footpath. Should this application or the site operation of the site have any effect on this public footpath you should contact our Rights of Way Officer for further comments to ensure a safe and practical passage along the public footpath is safeguarded by an appropriate condition or informative.'

Trent Valley Internal Drainage Board – No comments received.

NSDC Environmental Health Officer – comments are summarised below:

December 2021 - Complaints had been received at the time of the original planning permission relating to smoke and odour which were investigated and ultimately closed as a statutory nuisance was not occurring. Further monitoring has been undertaken since the biomass boiler has been relocated to its current position with regard to smoke nuisance and also noise, summarising the current location of the biomass burner is the most suitable.

In relation to noise, EH continue to investigate noise from machinery used in connection with the production of wood chippings and wood fuel logs. Mitigation might be appropriate but EH advise an independent assessment of noise from all site machinery to identify appropriate noise mitigation measures should be carried out.

July 2022 – welcome the findings of the noise report which confirms their previous findings. Regarding the findings of the chipper, is it possible to condition this to prevent it being used on site?

Nine letters registering support of the proposal have been received. Their comments are summarised below:

- We have never had a problem with smoke or noise
- Despite initial complaints when the business first started, we have not been disturbed by the operations at that site for years.
- Enormous effort has been made to minimise the impact of the business on the area.
- Barely visible from Old Epperstone Road or the nearby footpath.
- We live on old Epperstone road and experience no problems from the old grain store
- Re-siting of the biomass boiler has certainly led to a reduction of smoke and odour to the point where we are not now aware when it is in use

Three letters of representation have also been received from local residents raising objections to the proposal. Their comments are summarised below:

- Industrial development in the Green Belt;
- Why is it referred to as a biomass boiler as it is a biomass burner;
- Neighbouring properties are suffering with smoke issues and noise disturbance from the site;
- Smoke creates an unpleasant smell and burns during anti-social hours;
- This offensive and non-agricultural industrial activity will always be a Public Nuisance to its immediate neighbours;
- The application involves a brand new building
- The site is within 20 metres of a watercourse, despite how the application form has been completed.
- Surely there are more employees?
- Concerns raised with regard smoke, noise, and other nuisances.
- Concerns raised that local people's life style and health would be adversely affected.

In addition, following deferral a number of further letters have been received with a number of points which include validity of the previous permission, air quality concerns/smoke concerns (potential breach of conditions attached to the 2016 permission) and noise concerns.

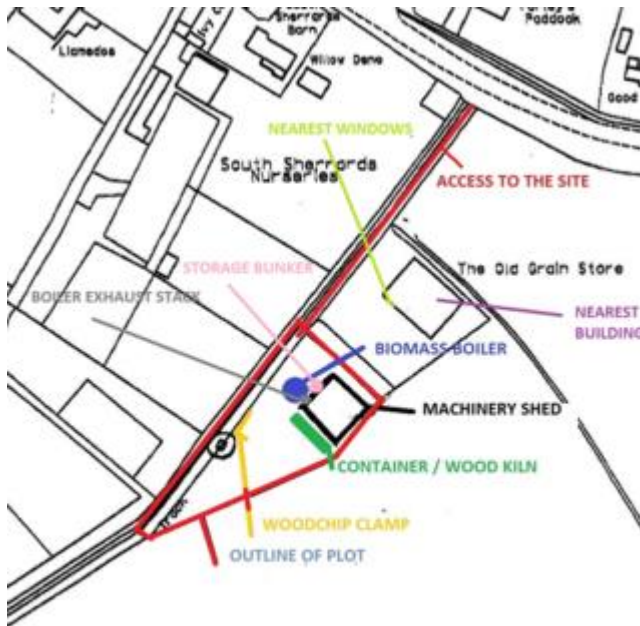
8.0 Comments of the Business Manager – Planning Development

The National Planning Policy Framework (NPPF) promotes the principle of a presumption in favour of sustainable development and recognises the duty under the Planning Acts for planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. The NPPF refers to the presumption in favour of sustainable development being at the heart of development and sees sustainable development as a golden thread running through both plan making and decision taking. This is confirmed at the development plan level under Policy DM12 of the Allocations and Development Management DPD.

Principle of Development and Green Belt Considerations

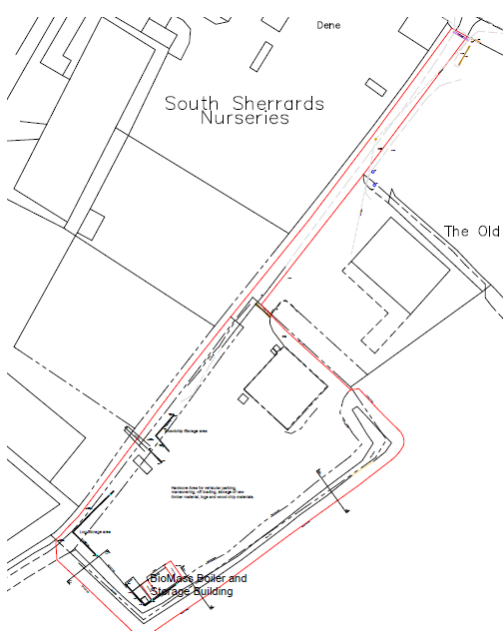
The site lies outside the defined village envelope for Lowdham and therefore lies within the Nottingham-Derby Green Belt, where relevant Green Belt policies apply. Spatial Policy 4B of the Amended Core strategy sets out where new housing development could be acceptable and states that any other development within the Green Belt that is not identified in the policy, as is the case here, shall be judged according to national Green Belt policy.

As noted within the planning history, planning permission has been granted for part of the site to be used for *“the use of land and building and siting of container, biomass boiler and Wood Chip Clamp in connection with wood fuel production business”*. This area therefore has a permission for this use and associated buildings:



SCALE = 1:1250

The Green Belt consideration therefore relates to the additional land, an increase of approximately 1200m²:



With regards to the 2018 permission (which was granted following a 2016 decision of the Planning Committee), at that time it was considered the business proposed enabled a diversification of the applicant's agricultural (farm) business ("...we process wood from our own farm and surrounding farms tidying up dead and dangerous trees...") and was therefore considered to be appropriate in terms of Green Belt policy. No conditions were attached to the 2016 decision, nor does the description of development restrict the use of this development so that it could only be used in relation to an agricultural diversification.

However, this application clearly identifies that the wider site's use is not principally related to agriculture. The applicant advises raw material timber comes from various local sources. Some from the applicant's land at Gonalsen and other farms and woodlands, some from local authorities and site clearances together with some from domestic properties and emergency highway clearance when trees are blown over. It is estimated roughly 50% of the raw timber comes through the applicant's farm business and the remainder from clients' land. No threshold, through appeals or case law, is understood to exist to define the percentage over which an alternative use results in a change of use. There will be many different dependencies in each case. However, any alternative use (or source of wood) must clearly be significantly less than 50% to enable it to be considered as an agricultural use as opposed to a change of use. Notwithstanding this, the applicant clearly considers that it has resulted in a change of use by virtue of the description provided as part of the description of development on the application form. The starting point for assessment with this proposal is therefore very different to the previous permission.

The NPPF identifies that new buildings within the Green Belt are inappropriate. Exceptions to this principle are provided, however the built development (biomass boiler, wood drying kiln with roof cover structure over and wood clamp) do not fall within any of the listed exceptions. Paragraph 147 and 148 of the NPPF state:

"inappropriate development' is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances".

There is no definition in statute or elsewhere as to what might comprise a very special circumstance. For a development, a very special circumstance might be one circumstance or a combination of circumstances. However, the bar for a matter (or matters) to represent a very special circumstance is a more demanding test than exceptional circumstances.

Paragraph 148 states:

*"[W]hen considering any planning application, local planning authorities (LPAs) should ensure that **substantial weight** is given to **any harm** to the Green Belt." 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is **clearly outweighed by other considerations.**" [author's emphasis].*

The buildings are therefore inappropriate and very special circumstances that outweigh this harm, in accordance with the above paragraphs, is required.

In addition to the buildings, there has been a change of use of the land as well as the construction of earth bunds. Paragraph 150 of the NPPF lists certain 'other forms of development' that can be considered appropriate in the Green Belt which includes both change of use as well as engineering operations. However, the NPPF states they are only considered appropriate when they do not conflict with the purposes of including the land within the Green Belt and preserves the openness.

The NPPF, paragraph 137, states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Paragraph 138 lists the purposes that Green Belt seeks to serve:

- a) to check the unrestricted sprawl of large built up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

It is only necessary to be in conflict with one of the five purposes in order to fail to comply with Green Belt policy.

The earth bunds at a height of between 2 and 3 metres in height have, by their nature reduced the site's openness. Whilst landscaping has grown over them, this does not remove, minimise or mitigate this harm. Many appeals have confirmed that soft landscaping cannot make an inappropriate development, appropriate. Additionally, their construction has resulted in encroachment into the countryside.

The earth bunds are therefore inappropriate and very special circumstances that outweigh this harm is required.

In relation to the use of the site. Paragraph 150 e) of the NPPF provides examples of uses that are acceptable. Listed are changes of use for outdoor sport or recreation, or for cemeteries and burial grounds. These uses are acceptable because they are considered to maintain the openness. Appeal and case law has confirmed that buildings associated with such uses e.g. a crematorium is inappropriate and very special circumstances must exist that outweighs that harm in order for the development to be considered acceptable.

The use of the land cannot occur without the buildings and structures being provided, they are integral to one another. It is therefore concluded that the use of the land fails to preserve its openness and conflicts with c) above.

The structures and building, earth bund as well as the change of use of land therefore constitute inappropriate development that is, by definition, harmful to the Green Belt which should not be approved except in very special circumstances. The applicant has not advanced a case to argue that 'very special circumstances' exist, nor is one considered to exist.

The proposal is therefore contrary to Spatial Policy 4B of the Core Strategy and fails to meet the requirements of Part 13, in particular paragraphs 149 and 150 along with paragraph 138 c), of the NPPF and no very special circumstances are considered to exist to overcome the harm.

Impact on the Open Countryside and the Visual Amenities of the Area

The site lies outside of Lowdham village and is surrounded by fields, some of which are relatively low-lying as well as being located close to a number of residential properties. The site is visible from the public realm, although vegetation along the boundary with Old Epperstone Road offers some screening of the site from the road.

The submitted planning statement explains by way of justification that the siting of the structures adjacent to the former grain store building were found not to be satisfactory, not only due to congestion around the main machinery building, but also due to a complaint received from a neighbouring property with regard to smoke nuisance. Subsequently, the applicant decided to relocate the structures and equipment to the furthest most location on the site in the south eastern corner. This justification advanced by the applicant is considered to not amount to very special circumstances.

Whilst it was previously found that the steel building was the most prominent structure upon the site, the workings of the site and the associated storage of machinery, vehicles, containers and wood piles when viewed as a whole has sprawled across a greater extent of land which has made it more noticeable. Whilst the earth bunds that have become overgrown by greenery around part of the site may help to mitigate some of this visual harm, the bunds themselves cause harm. The extended yard and structures/materials within it are still highly visible from the more elevated parts of surrounding fields and also visible from the public footpath that runs close by on higher land as the photograph below shows.



It is clearly apparent that the business has sprawled and evolved more so over a greater expanse of land since the earlier planning application was considered and the use of the land and activities taking place no longer form part of an agricultural business, as previously they may once allegedly have been.

The industrial nature of the use that is being carried out across an extended site which is contained by earth bunds that have been formed as engineering operations has harmed the character of the landscape.

Policy DM5 requires new development to reflect the local distinctiveness and the character of the surrounding landscape, which in this instance the site is located, according to the Landscape Character Assessment, in Mid Nottinghamshire Farmlands Policy Zone MN41: Lambley Village Farmlands.

In accordance with Core Policy 13, development should also have regard for the landscape character of the area which in this instance is considered to be in very good condition and of high sensitivity. The policy action is 'Conserve'.

As such, it is concluded that the structures upon the land that encroach into the undeveloped wider landscape harm the distinctiveness and character of the area.

The proposal therefore conflicts with the requirements of DM5 and Core Policy 13 as the development would have a harmful impact upon the character of the area.

Impact upon Residential Amenity

Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in amenity including overbearing impacts and loss of privacy upon neighbouring development. In addition, Policy DM10 of the DPD (Pollution and Hazardous Materials) identifies developments that have the potential for pollution should take account of and address their potential impacts, with any impacts balanced against the economic and wider social need for the development. Mitigation should be provided where necessary.

The site lies some distance from the nearest residential development – the closest residential dwelling is approximately 80m to the north-west of the site, however a business (Sharmans Agricultural Ltd) is run from The Old Grain Store, immediately adjacent to the site and, as such, their amenity must also be considered.

Historically, as well as more recently, there have been a number of complaints regarding smoke from the biomass boiler, which the Council's Environmental Health team have been monitoring and investigating.

The submitted planning statement explains by way of justification that the siting of the structures (biomass boiler and wood drying kiln) adjacent to the former grain store building were found to not be satisfactory, not only due to congestion around the main machinery building, but also due to a complaint received from a neighbouring property with regard to smoke nuisance. Subsequently, the applicant decided to relocate the structures and equipment to the furthest most location on the site in the south eastern corner. This end of the extended site is also where the new wood chip clamp has been erected.

In response to the notification letters, 9 letters of support have been received. However, at the time of presenting the previous report, two letter of objection had been received and smoke disturbance raised as a concern. Since deferral, further objections have been received from one party in relation to smoke and particulates.

The site has been visited on a number of occasions by Environmental Health Officers and no smoke has been witnessed being emitted from the biomass boiler chimney. Notwithstanding this, a local resident has reported and recorded numerous occasions when smoke has been

emitted from the chimney. Evidence of smoke has also been provided to the Council, albeit this was in its previous location.

The Environmental Health team have been consulted and with regard to smoke have advised (response provided prior to the previous report being presented) the following:

'Records show ... eight complaints relating to smoke/odour all of which were investigated and ultimately closed. Statutory nuisance was not able to be determined and EH worked with the applicant to reduce the smoke emissions. This was done by extending the stack and monitoring moisture levels of the fuel wood and ensuring that the appliance is operated correctly. Since this happened no further complaints were received.

Since the biomass burner was re-sited to the current ... at the back of the site, EH have received complaints from one resident regarding smoke and noise. Following multiple visits and assessment by EH officers, statutory nuisance in relation to the smoke was not able to be substantiated and the complainant notified. The complainant has stated that the situation has improved greatly more recently and has since agreed that the smoke is no longer the difficulty.

In relation to smoke emissions,...the current location of the biomass burner is the most suitable location on this site due to it being the furthest distance from the majority of domestic residences. With the predominant wind direction being South Westerly, emissions from it are able to reach appropriate height to achieve adequate dispersion of exhaust gasses in order that statutory nuisance is avoided.

The above is subject to the biomass burner being continued to be operated as previously agreed and in line with conditions relating to the original 16/00490/FUL ... in relation to the burner. Furthermore, whilst operating as agreed, it is possible that from time to time, and depending on weather conditions, occasional and localised smoke / smoke smell events from the site might occur and reach existing residential property.'

With regards to the response from Environmental Health (EH), the boiler falls below Environmental Permitting Regulations and thus a license is not required or approval from EH for the boiler. With regards to a statutory nuisance, EH Officers have used their professional knowledge and experience to determine a nuisance has not occurred and would not occur subject to complying with appropriate conditions and in accordance with the equipment's guidelines. A statutory nuisance would only arise, in accordance with Section 79 of the Environmental Protection Act 1990 if smoke emitted is deemed to be prejudicial to health or causing a nuisance. Notwithstanding this, it is still feasible that amenity issues (harm) could arise/be present.

The conditions that were attached to the 2018 permission do not 'bite' because of the relocation of the boiler outside of the original application site. However, the applicant has made available recordings that have been taken of the moisture content of the wood. These show a selection of dates between January and July this year of between 10 and 20%. EH Officers have advised that more smoke would arise with the greater amount of moisture in the wood. The moisture recording at the time the equipment was serviced (shown on the certificate) was 23% (for both force dried and mixed wood), all of which tie in with what was

viewed by Officers on site. Additionally, the certification to benefit from the Renewable Heat Incentive also requires the wood to meet these moisture limits.

As noted within the neighbour responses, the equipment was moved due to a complaint from a neighbour regarding the impacts from smoke and odour. Whilst the relocation has resolved the majority of harm for this neighbour, the latest response indicates that there are still occasions when the operation can be smelt, although smoke is not a problem. However, the relocation has resulted in complaints from a different neighbour.

The NPPF, paragraph 188 identifies decisions should be assessed on whether the proposal is an acceptable use of land, rather than trying to control emissions where these are subject to separate pollution control regimes. In this case the development is below environmental permitting levels (thus not subject to separate pollution control) and therefore consideration can (and should) be given to impacts, noting that consideration was given to such impacts with the previous application resulting in a number of conditions being attached. This approach is reflected within Policy DM10 with mitigation required to be provided where necessary. As detailed above, complaints regarding smoke have been received and EHO colleagues have visited the site on a number of occasions (unannounced) to view this but have not been able to, at those times, identify harm. More recently, however, the focus of complaints has been in relation to particulates. Information has been provided by a neighbour regarding particulate readings on a number of occasions since late 2021.

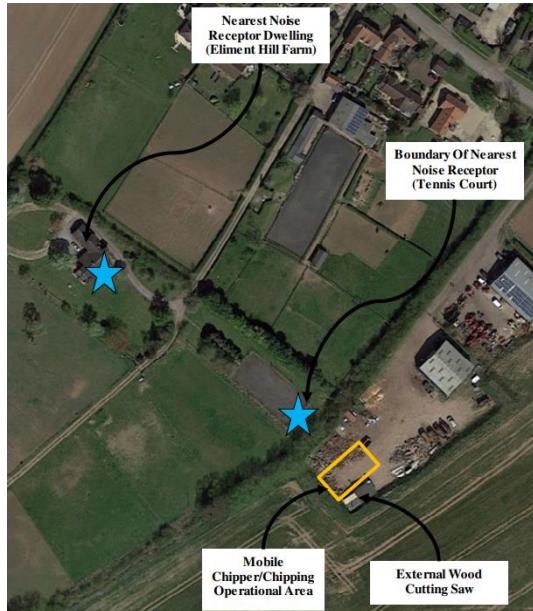
From the information provided, it appears, on the face of it, that these instances are relatively rare. However, it is not known how frequently readings are undertaken and whether if, other readings are taken, all others show acceptable levels. Additionally, it is not known the accuracy of any equipment used.

Environmental Health advise that statutory emission limits relating to combustion of wood fuel do exist, provided by the Local Authority Pollution Prevention and Control (LAPPC) regime for appliances rated at 20-50MW and larger. However, the [Glen Farrow GF210] biomass boiler, used by the applicant, falls well outside this regime because of its small size - rated at just 210kW. Accordingly, there is no requirement to impose those limits under that regime.

Smaller combustion appliances can be regulated for smoke, grit and dust under the Clean Air Act, but this legislation does not serve to mitigate fine particulate matter emissions i.e. PM2.5 which is the focus of concern. Additionally, the rate at which fuel can be burned in the appliance does not exceed the threshold specified by the Clean Air Act. With regards to the overarching air quality regime (Local Air Quality Management), this places a general obligation on all local authorities to regularly review and assess air quality in their areas, and to determine whether or not national air quality objectives are likely to be achieved. Where a new point source is introduced, such as a biomass boiler, it is possible to determine potential impact on air quality (in the context of LAQM) using the DEFRA's Biomass Emissions Screening Tool. EH have used this tool and determined it is unlikely that LAQM objectives would be exceeded, and that a full air quality assessment was not required.

In addition, the GF210 design has been independently tested for emissions and has an 'emissions certificate' under the Government's Renewable Heat Initiative (RHI) scheme. Whilst particulates have been shown to be recorded at unsatisfactory levels by the neighbour,

it would appear through other legislation [to planning] that measures are in place to prevent harm from smoke and particulates for larger capacity machinery. It would therefore indicate that these thresholds are in place as the starting point at which controls are needed to prevent detrimental impact on health. All of these considerations, along with consideration to the number of occasions that recordings have been provided, on balance the impact on amenity from particulates is acceptable.



In terms of other forms of disturbance, concern has been raised about noise emanating from equipment being used at the site and the Committee's previous consideration of the application was to defer the application for a noise survey to be undertaken. This survey, discussed later, highlights mitigation is required and also that noise from the wood chipper is such that it is causing a nuisance. However, mitigation for the chipper is prohibitively expensive and therefore the applicant is no longer going to use it on site. It is also noted from the report, paragraph 5.12 that an acoustic barrier would be needed at 3.75 metres which would further add built form into this Green Belt location. The wood chipper is portable and therefore timber can be chipped at source, at a client's property. It would be reasonable to impose a condition, should permission be granted preventing the wood chipper from being operated on site at any time.

In terms of other noise generating machines and working activities, a log splitting device (saw) is located between the biomass boiler and wood kiln that is housed under the roof cover in the south western corner of the site. This has been seen and heard operating by Environmental Health colleagues.

The noise survey has assessed the impact of the sawing equipment upon the nearest noise receptor (Element Hill Farm) at the façade to the dwelling and also at this property's tennis court.

Without any mitigation to the sawing equipment, the survey details there would be between an adverse and significant adverse impact at the residential façade. However, with an absorptive acoustic barrier in front of the saw bay at an approximate height of 2.8 metres, the report details the noise levels will be reduced to approximately 36 db $L_{Aeq}(1 \text{ hour})$.

The barrier, as shown on amended plans (drawing number 6A) whilst of some height, in the context of Green Belt considerations, would be positioned within the overhang of the building's roof.

It would be necessary in order to ensure that amenity is protected in relation to noise, that any sawing is undertaken only when the barrier is closed. Should planning permission be granted, a condition to this effect would be required.

In terms of visibility of the proposal from neighbouring residential properties, there is a high hedge separating the site from Sherrards Nurseries and Element Hill House. This screens the extended site from the neighbouring properties to the north-west, but only when the trees are in leaf. Nonetheless, given the distance between the site and these neighbouring properties, the proposal is unlikely to have any adverse impacts in respect of overshadowing, overlooking or overbearing impacts.

The closest building beyond the site is occupied by Sharmans Agricultural Ltd to the north east and views are obscured by the intervening Old Grain Store building which is occupied by the applicant. The extended site is unlikely to have any adverse impacts in respect of overshadowing, overlooking or overbearing impacts also.

Impact upon Highway Safety

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

The Highways Authority raise no highway objections provide there are no increase in the sizes of vehicles using the present site access arrangements. The applicant has confirmed that this is the case and it is concluded that the proposal will not have an undue impact upon highway safety.

Other Matters

The proposal includes the resiting of a biomass boiler which as per the application submission is a GlenFarrow GF210 Biomass Boiler, with 210 kW peak output capacity at 70% efficiency. The boiler works on a positive air pressure with the combustion chamber. Air is controlled to the fire via variable speed fans. The boiler is not an exempt appliance and needs to be operated in accordance with the Clean Air Act 1993. It also benefits from the renewable heat incentive and, as such, is required to be serviced annually. The Applicant's agent has submitted details of a recent service undertaken which confirms the equipment is operating as it should.

The public consultation responses received raised an issue with the watercourse which runs to the western edge of the site. Trent Valley Internal Drainage Board have been consulted

and have not submitted any comments, however they raised no objection to the previous proposal and consequently it is not considered this matter requires any further consideration.

A request by a neighbour has been made to the Planning Casework Unit (PCU) asking for the application to be called-in for the Secretary of State's consideration. The Town and Country Planning (Consultation) (England) Direction 2021 requires local planning authorities to refer an application to the Secretary of State for consideration as to whether it should be called-in under certain circumstances. In relation to Green Belt development, the Direction details:

"...development which consists of or includes inappropriate development on land allocated as Green Belt in the development plan and which consists of or includes-
(a) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
(b) any other development which, by reason of its scale or nature or location, would have a significant impact on the openness of the Green Belt"

In this case, following the request, the PCU have been very clear that if the resolution is one of approval, that the Council is not able to make the decision without referral.

9.0 Implications

In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

10.0 Conclusion

Planning permission has previously been granted under reference 16/01271/FUL for the use of land and building and siting of container, biomass boiler and wood chip clamp in connection with wood fuel production business.

The site has been extended into agricultural land which constitutes a change of use of land and various structures have been constructed or relocated upon the extended site which form part and parcel of the change of use that has occurred. In addition to the construction of a building, earth bunds have also been formed around some of the extended site boundaries which require the benefit of planning permission as they are engineering operations.

Whilst the fuel production business is already in situ, the appropriateness of what has been carried out, and is the subject of this retrospective proposal, still needs to be carefully considered.

The site falls within the Green Belt and the NPPF sets out that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances (paragraph 147). Paragraph 148 states when considering any planning application, LPAs should ensure that substantial weight is given to any harm to the Green Belt.

'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. The bar for 'very special circumstances' is a more demanding test than exceptional circumstances.

Paragraphs 149 set out the limited types of 'new buildings' that can be regarded as appropriate and paragraph 150 list certain 'other forms' of not inappropriate development with the caveat that such other forms of development preserve Green Belt openness and do not conflict with the purpose of including land within it.

The re-sited structures and roof canopy building constructed in the southern corner of the extended site do not fall within any of the listed exceptions set out in paragraph 149 as discussed earlier.

The scheme reduces and causes harm to the openness of the Green Belt, one of the essential characteristics of Green Belt land which the planning policy seeks to protect. The proposal is also contrary to one of the purposes of the Green Belt which is to assist in safeguarding the countryside from encroachment [purpose c), listed in paragraph 138].

The applicant has not advanced a case to argue that 'very special circumstances' exist, nor are any considered to exist. The proposal as a whole is therefore contrary to Spatial Policy 4B of NSDC's Core Strategy and fails to meet the requirements of Part 13, in particular paragraphs 149 and 150 along with paragraph 138 c) of the NPPF.

Furthermore, the structures encroach into the undeveloped wider landscape, harming the distinctiveness and character of the wider countryside. It is therefore concluded that the proposal conflicts with the requirements of Policy DM5 of the Development Plan Document and Core Policy 13 of the Amended Core Strategy as the development would have a harmful impact upon the character of the area.

In relation to smoke and air quality, the development falls below Environmental Permitting legislation and therefore a permit is not required. The boiler falls below and outside of thresholds within the Clean Air Act and limits within the Local Authority Pollution Prevention and Control regime. A license is required each year to benefit from the Renewable Heat Incentive. Whilst some harm from readings has been indicated by a neighbouring party, it would appear that thresholds within separate legislation are therefore to prevent a detrimental impact on health. On balance, therefore, any impacts from smoke and air quality are considered acceptable.

Lastly, whilst noise has been raised as a complaint. The submitted noise report details that with mitigation for the saw, when it is in operation, that noise levels will be such that harm does not arise. However, with regards to the wood chipper, this will no longer be operated on site due to mitigation required not being viable and sustainable.

On the basis of the above, it is concluded that the proposal fails to comply with the Core Strategy and Part 13 of the NPPF in terms of its impact upon the Green Belt and therefore the application is recommended for refusal.

11.0 Reason for Refusal

01

Spatial Policy 4B of Newark and Sherwood District Council's Core Strategy 2019 states that other development in the Green Belt not identified in this policy will be judged according to national Green Belt policy. Policy DM5 requires new development to reflect the local distinctiveness and the character of the surrounding landscape. Core Policy 13 states that development should have regard for the landscape character of the area.

The development, by definition is inappropriate failing to comply with any of the exceptions set out within Part 13 (Green Belt) of the National Planning Policy Framework. Inappropriate development will only be justified when very special circumstances outweighing the harm by inappropriate development exist.

The industrial nature of the use that is being carried out across an extended site and the structures upon it, along with the uncharacteristic earth bunds that have been formed as engineering operations that contain the site have, in the opinion of the Local Planning Authority, cumulatively and undeniably harmed the distinctive character of the landscape and fails to preserve the openness of the Green Belt.

In the opinion of the Local Planning Authority the proposal is contrary to the purposes of including land within the Green Belt, namely [purpose c), listed in paragraph 138 which is to assist in safeguarding the countryside from encroachment] and very special circumstances to outweigh the harm are not considered to exist. In addition, the proposal as a whole is also contrary to Spatial Policy 4B of NSDC's Core Strategy and fails to meet the requirements of Part 13, in particular paragraphs 149 and 150 along with paragraph 138 c) of the NPPF. The development also conflicts with the requirements of DM5 and Core Policy 13 as the development would have a harmful impact upon the landscape character of the area.

Informatives

01

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

02

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. However, the District Planning

Authority has attempted to work positively and proactively to minimise the number of outstanding issues as far as possible.

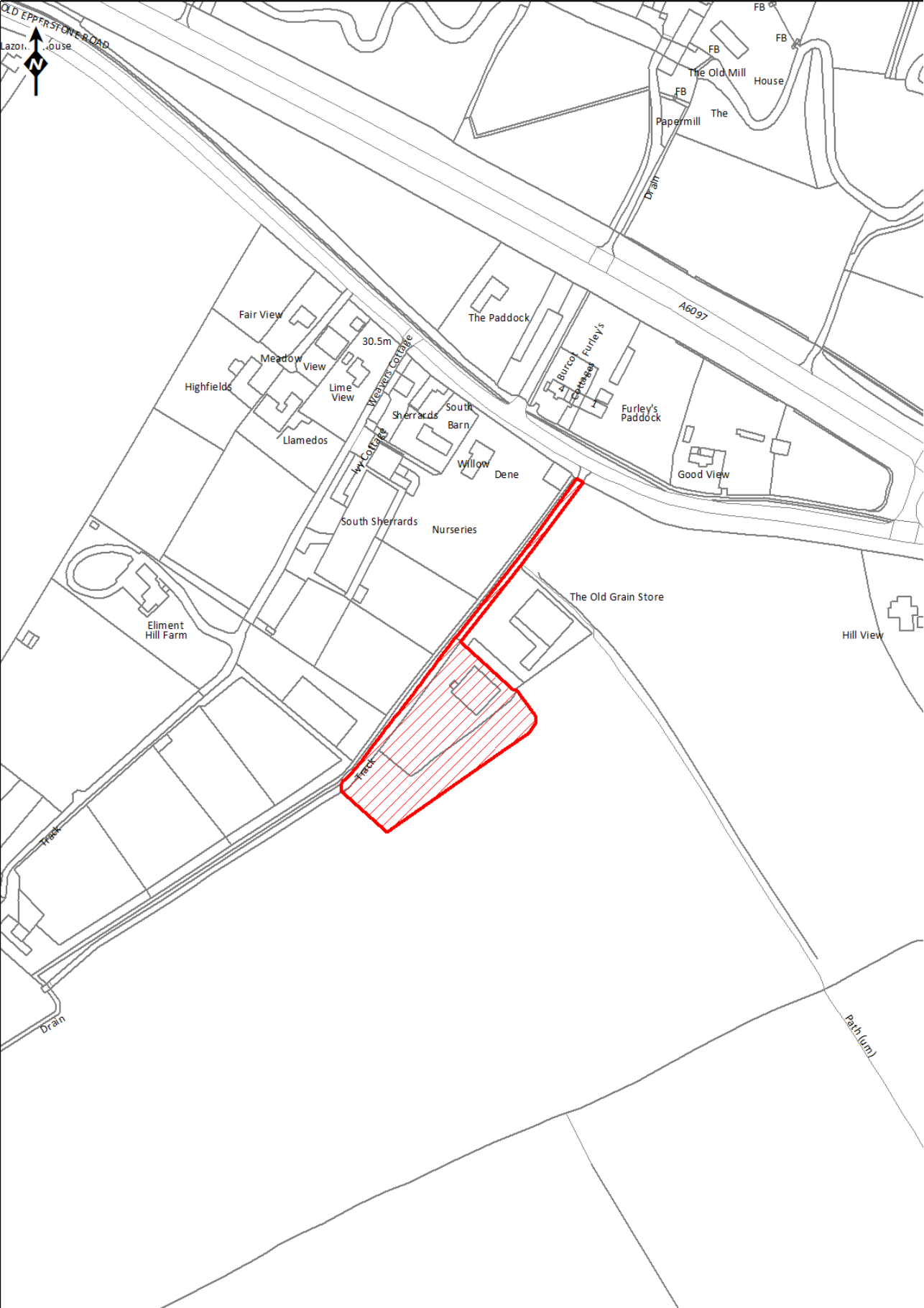
03

List of refused plans and documents:

- Existing Floor Plan & Elevations Drawing No. 1A received 26 August 2021
- Revised Site and Block Plan Drawing no. 21-1993 Rev 2B received 9 December 2021
- Proposed Floor Plan Drawing no. 5A received 29 June 2022
- Concrete panel elevations and floor plans and typical bund cross sections Drawing no. 21-1993 Rev 3 received 9 December 2021
- Topographical Survey Drawing No. PO2094_2D_DRG1 received 9 December 2021
- Planning Supporting Statement Dated November 2021 received 9 December 2021
- Revised Planning Application Form received 9 December 2021
- Proposed Concrete Panel elevations Drawing No 6A received 29 June 2022
- Proposed Site and Block plan received 29 June 2022
- Noise Impact Assessment – Dynamic Response, June 2022 received 29 June 2022.

BACKGROUND PAPERS

Application case file.



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Report to Planning Committee 11 August 2022
 Business Manager Lead: Lisa Hughes – Planning Development
 Lead Officer: Honor Whitfield, Planner, ext. 5827

| Report Summary | | | |
|---------------------------|--|--------------------------|--|
| Application Number | 22/00947/FUL | | |
| Proposal | Conversion of an existing stable building to one dwelling and the redevelopment of the remaining site with the construction of 4 dwellings | | |
| Location | Thurgarton Quarters Farm, Priory Road, Thurgarton, NG25 0RW | | |
| Applicant | Mr Roger Moroney | Agent | IBA Planning Limited - Mr Nick Baseley |
| Web Link | 22/00947/FUL Conversion of an existing stable building to one dwelling and the redevelopment of the remaining site with the construction of 4no. dwellings Thurgarton Quarters Farm Priory Road Thurgarton Nottinghamshire NG25 0RW (newark-sherwooddc.gov.uk) | | |
| Registered | 16.05.2022 | Target Date | 11.07.2022 |
| | | Extension of Time | 12.08.2022 |
| Recommendation | That planning permission is for refused for the reason set out at Section 10.0 of this report. | | |

1.0 The Site

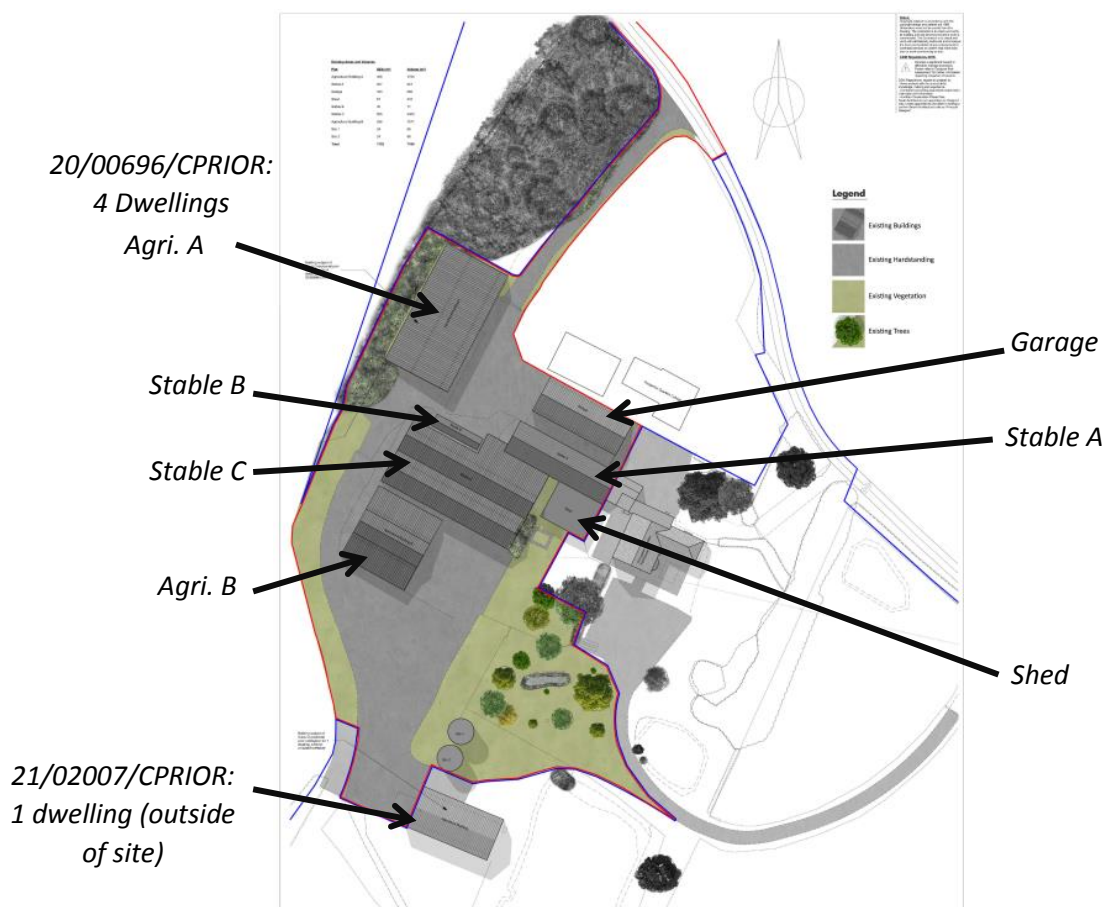
The application site relates to a collection of agricultural buildings accessed via a long private road off of Oxton Road which runs between Southwell in the east and Oxton in the west. The site is to the south of Hollybeck Nurseries Garden Centre in the middle of the open countryside with other farms nearby. To the west is an agricultural field, the boundary with which is treated with a post and wire fence past a row of conifer trees.

Within the site there are two large modern agricultural buildings (annotated Agricultural Buildings A & B on the Existing Site Plan), a large modern stable building (Stable C), a low profile stable building (Stable B) and a traditional red brick stable (Stable A, which is

recognised as a building of local interest on the historic environment record). A modern garage building and a shed are also present on site in addition to and areas of hardstanding. The main farmhouse associated with the agricultural unit is located to the east of the site and a property known as Thurgarton Quarters Cottage lies to the north (both outside the application site). A further Agricultural building and two Silos lie outside of the application site to the south.

The red line boundary includes the private access road leading from Oxtan Road, which at its northern end is designated as the Southwell Bridleway No 71 which then becomes Thurgarton Birdleway No 1 when it crosses the parish boundary just south of the garden centre.

The site lies within Flood Zone 1 of the Environment Agency’s Flood Risk Maps. The site is not within a Conservation Area.



2.0 Relevant Planning History

21/02007/CPRIOR – Notification of prior approval for a proposed change of use of agricultural building to Class C3 dwelling house - Prior Approval Required and granted 18.11.2021

20/00696/CPRIOR - Change of use of agricultural unit to 4no. new dwellings – Prior Approval Required and granted 08.06.2020



Approved Layout Plan for Conversion of Agricultural Building A

18/02126/CPRIOR - Notification of prior approval for a proposed change of use of agricultural building to Class C3 dwelling house – Permitted 07.01.2019

3.0 The Proposal

The application seeks planning permission for the conversion of Stable A to one dwelling (3-bed), the demolition of the remaining buildings on site and erection of 4 new dwellings (3, 4 & 5-bed).

Plot 1 (3-bed): the first plot on entry into the site, positioned on a NE-SW alignment on the western side of the site. Comprises an open plan kitchen/dining room, utility, lounge, garage and bedroom with en-suite at ground floor and two bedrooms and a bathroom at first floor. Constructed in red brick and pantile with areas of feature glazing and replica farm-building details including timber panelling. Parking spaces would be provided to the front of the dwelling and residential curtilage proposed to the west.

Plot 2 (5-bed): positioned on a NE-SW alignment on the western side of the site to the south of Plot 1. Comprises an open plan kitchen/snug/dining room, utility/boot room, office, wc and separate lounge at ground floor and five bedrooms (one with a dressing room and en-suite, another with an en-suite) and a bathroom at first floor with a separate detached two bay garage to the east. Constructed in red brick and pantiles with areas of timber cladding, extensive glazing on the east and west elevations. Parking spaces would be provided to the front of the dwelling and residential curtilage proposed to the west.

Plot 3 (4-bed): positioned on an E-W alignment to the southern end of the site with Plot 2 to the NW and Plot 4 to the E. Comprises a two bay garage, four bedrooms (one with dressing room and en-suite and another with an en-suite), a snug, main bathroom and utility at ground floor with an open plan kitchen/dining room/snug, separate lounge, store/pantry, wc and terrace at first floor. Designed as a replica Dutch barn, constructed out of black cladding and roof sheeting. Parking spaces provided to the front of the dwelling on plot and residential curtilage proposed to the south/west.

Plot 4 (4-bed): positioned on a NE-SW alignment on the eastern side of Plot 3 towards the south of the site. Comprises four bedrooms (one with dressing room and en-suite and another with an en-suite), a utility and main bathroom at ground floor with an open plan kitchen/dining room/living room, separate snug, home office, wc and balcony area at first floor. Designed as a narrow gable fronted building, constructed out of timber cladding with a metal standing seam roof with extensive glazing in the southern gable end and along the eastern elevation. A separate garage shared with Plot 5 is proposed to the NE of Plot 4 providing two parking spaces. Parking spaces also provided to the front of the dwelling on plot and residential curtilage proposed to the east/south.

Plot 5 (3-bed): Conversion of the existing stable building located on the eastern side of the site on an E-W alignment. Comprises an open plan kitchen/lounge/dining room, separate utility, boot room and three bathrooms (one with a dressing room and en-suite, another with an en-suite) and a main bathroom at ground floor. A separate garage shared with Plot 4 is proposed to the S of Plot 5 providing two parking spaces. A separate garden room is also proposed for this plot in the NE corner of the site constructed out of red brick with a metal roof covering. Parking spaces provided to the side of the dwelling on plot and residential curtilage proposed to the north.

The conversion would include the insertion of openings on the southern elevation including a large bi-folding door, pedestrian access door and a window in addition to two roof lights. Existing openings on the northern elevation would largely be reused with one window being opened up to a full height glazed panel. The opening in the western gable end would also be re-glazed.

The proposal also includes providing three car parking spaces for the building with Class Q (of the General Permitted Development Order) prior approval for conversion to residential use under 21/02007/CPRIOR along with connection to the existing access to the east of the site.

EV charging points are proposed for each dwelling.

Proposed Development

| | Footprint (sqm) | Floorspace (sqm) | Volume (cbu) | Max. Height (m) |
|--|------------------------|-------------------------|---------------------|------------------------|
| Plot 1 | 132 | 165 | 592 | 7 |
| Plot 2 | 229 | 270 | 1072 | 8.5 |
| Plot 3 | 176 | 282 | 1442 | 9 |
| Plot 4 | 169 | 256 | 1048 | 7.8 |
| Plot 5 (Conversion + Garden Room) | 235 | 208 | 1104 | 6.3 |
| Garage | 86 | 72 | 322 | 4.6 |
| TOTAL | 1027m ² | 1253m ² | 5580m ³ | |

Existing Buildings on Site

| | Footprint (sqm) | Floorspace (sqm) | Volume (cbu) | Height (m) |
|--|-------------------|-------------------|--------------------|------------|
| Agricultural Building A | 406 | 406 | 1734 | 4.8 |
| Stable A | 270 | 270 | 921 | 6.3 |
| Garage | 163 | 163 | 656 | 5.5 |
| Shed | 87 | 87 | 215 | 2.2 |
| Stable B | 30 | 30 | 71 | 2.8 |
| Stable C | 505 | 505 | 2300 | 5.8 |
| Agricultural Building B | 256 | 256 | 1071 | 5.4 |
| TOTAL | 1717 | 1717 | 6968 | |
| Agricultural Building A + Stable A (The Fall-Back Position) | 676m ² | 676m ² | 2655m ³ | |

Documents assessed as part of this application:

- Location Plan [dwg no 21.266 S03.10]
- Existing Site Plan [dwg no 21.266 S03.11]
- Existing Floor Plans and Elevations Stable A [dwg no 21.266 S03.12]
- Existing Floor Plans and Elevations Stable B [dwg no 21.266 S03.15]
- Existing Floor Plans and Elevations Stable C [dwg no 21.266 S03.16]
- Existing Floor Plans and Elevations Shed [dwg no 21.266 S03.17]
- Existing Floor Plans and Elevations Garage [dwg no 21.266 S03.14]
- Existing Floor Plans and Elevations Agricultural Building A [dwg no 21.266 S03.13]
- Existing Floor Plans and Elevations Agricultural Building B [dwg no 21.266 S03.18]
- Existing Floor Plans and Elevations Silos [dwg no 21.266 S03.19]
- Proposed Site Plan with Illustrative Landscape Masterplan [dwg no N0842(03)001D]
- Proposed Plans Plot 1 [dwg no 21.266 S03.02]
- Proposed Plans Plot 2 [dwg no 21.266 S03.03]
- Proposed Plans Plot 3 [dwg no 21.266 S03.04]
- Proposed Plans Plot 4 [dwg no 21.266 S03.05]
- Proposed Plans Plot 5 [dwg no 21.266 S03.06]
- Proposed Garage [dwg no 21.266 S03.07]
- Proposed Plot 5 Garden Room [dwg no 21.266 S03.08]
- Hard Landscaping Palette [dwg no N0842(03)010 & 011]
- Visualisation 1 [dwg no 21.266 S03.30]
- Visualisation 2 [dwg no 21.266 S03.31]
- Visualisation 3 [dwg no 21.266 S03.32]
- Visualisation 4 [dwg no 21.266 S03.33]
- Visualisation 5 [dwg no 21.266 S03.34]
- Visualisation 6 [dwg no 21.266 S03.35]
- Visualisation 7 [dwg no 21.266 S03.36]
- Aerial Comparison [dwg no 21.266 S03.37]
- Design and Access Statement
- Design Document
- Report on a Structural Inspection
- Indicative Drainage Technical Supplement
- Bat Survey Report

4.0 Departure/Public Advertisement Procedure

Occupiers of 7 neighbours 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.

5.0 Planning Policy Framework

Thurgarton Neighbourhood Plan (made May 2017)

Policy 1: New Development

Policy 2: Residential Development

Policy 3: Transport Impact of Development

Policy 6: Historic and Natural Environment

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

Spatial Policy 1: Settlement Hierarchy

Spatial Policy 3: Rural Areas

Spatial Policy 7: Sustainable Transport

Core Policy 3: Housing mix, type and density

Core Policy 9: Sustainable Design

Core Policy 10: Climate Change

Core Policy 12: Biodiversity and Green Infrastructure

Core Policy 13: Landscape Character

Core Policy 14: Historic Environment

Allocations & Development Management DPD

DM4: Renewable and Low Carbon Energy Generation

DM5: Design

DM7: Biodiversity and Green Infrastructure

DM8: Development in the Open Countryside

DM9: Protecting and Enhancing the Historic Environment

DM10 – Pollution and Hazardous Substances

DM12: Presumption in Favour of Sustainable Development

Other Material Planning Considerations

National Planning Policy Framework 2021

Planning Practice Guidance (online resource)

NSDC Landscape Character Assessment SPD 2013

NSDC Conversion of Traditional Rural Buildings SPD 2014

NSDC Residential Parking and Design Standards SPD 2021

6.0 Consultations

Thurgarton Parish Council – No objection.

NSDC Conservation Officer – No objection – Subject to a condition requiring submission of a basic level photographic record (Level One) of Stable A.

NCC Highways – No objection - Subject to conditions relating to provision of a Give Way signage scheme to alert drivers to the presence of users of the Public Bridleway and submission of an ongoing maintenance and repairs strategy for the surface of the Public Bridleway for a certain length.

Rights of Way – No objection - Subject to conditions as set out above.

Environmental Health Contaminated Land – No objection – Subject to use of the full phased contaminated land condition due to the potential for contaminants on this site.

Nottinghamshire Wildlife Trust – No comments received.

Natural England – No comments received.

Ramblers – No comments received.

Comments have been received from three interested parties that can be summarised as follows:

SUPPORT

- The proposal would improve the aesthetics/visual appearance of the existing farmyard and would be an upgrade to the local area in general.
- Careful re-development of the site would enhance the local area.
- The development would decrease the overall traffic to the site once construction is completed.
- The immediate access/entrance to the site should be improved as part of a planning condition to bring it into a good state of repair so as not to cause additional dust and noise to the adjacent residential properties.
- The site is not visible from Thurgarton Quarters Lane so will not be of a great visual impact to residents.
- The proposal will improve the quality of walking along the footpaths.

7.0 Comments of the Business Manager – Planning Development

The National Planning Policy Framework (NPPF) promotes the principle of a presumption in favour of sustainable development and recognises the duty under the Planning Acts for planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. The NPPF refers to the presumption in favour of sustainable development being at the heart of development and sees sustainable development as a golden thread running through both plan making and decision taking. This is confirmed at the development plan level under Policy DM12 of the Allocations and Development Management DPD.

The 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. Thurgarton Neighbourhood Plan was adopted in May 2017 and 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 Thurgarton. 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 Council's position is that it can demonstrate a 5 year housing supply. Therefore the Development Plan is up-to-date for the purpose of decision making.

The Adopted Development Plan for the District is the Core Strategy DPD (2019) and the Allocations and Development Management DPD (2013). The adopted Core Strategy details the settlement hierarchy which will help deliver sustainable growth and development in the District. The intentions of this hierarchy are to direct new residential development to the Sub-regional Centre, Service Centres and Principal Villages, which are well served in terms of infrastructure and services. Spatial Policy 1 (Settlement Hierarchy) of the Council's Core Strategy sets out the settlements where the Council will focus growth throughout the District. Applications for new development beyond Principal Villages as specified within Spatial Policy 2 will be considered against the 5 criteria within Spatial Policy 3. However, Spatial Policy 3 also confirms that, development not in villages or settlements, in the open countryside, will be strictly controlled and restricted to uses which require a rural setting. Direction is then given to the relevant Development Management policies in the Allocations and Development Management DPD.

Given the location of the site, clearly outside of any village, the site falls to be considered as within the Open Countryside – policy DM8 is therefore applicable. Policy DM8 reflects the NPPF in containing criteria for considering development in the open countryside, focusing on strictly controlling development to certain types. Policy DM8 states that development in the open countryside will be strictly controlled and limited to a number of exceptions. One of these exceptions (no.5) relates to the conversions of existing buildings. The policy states that *'In the interests of sustainability, consideration should be given to the conversion of existing buildings before proposing replacement development. Proposals should investigate and assess alternative uses for buildings in accordance with the aims of the Spatial Strategy and present a case for the most beneficial use. Planning permission will only be granted for conversion to residential use where it can be demonstrated that the architectural or historical merit of the buildings warrants their preservation, and they can be converted without significant re-building, alteration or extension. Detailed assessment of proposals will be made against a Supplementary Planning Document.'*

Conversion of Stable A/Plot 5

Point 5 of DM8 is applicable to the conversion of Stable A/Plot 5 which is a traditional red brick and pantile stable with attractive traditional detailing. The comments of the Conservation Officer explain that whilst the building has some historic interest and is identified on the historic environment record, its lack of group value with other historic farmstead elements is considered to diminish the value of the building meaning they do not

consider it appropriate to identify the building as a non-designated heritage asset. Nevertheless, the building is attractive in itself and does possess historic merit such that its preservation through conversion would be considered acceptable in principle. The supporting Structural Report also advises that the building is capable of conversion without significant alteration or re-building and it is noted that no extensions to the building are proposed to facilitate its conversion. Therefore, in principle, there is no objection to the conversion of this building to a dwelling subject to assessing the site specific implications and design/conversion approach.

New Dwellings (Plots 1-4)

The remainder of the proposal includes the replacement of modern farm buildings with new dwellings – as the remaining buildings do not possess any architectural or historic merit as they are modern agricultural and stable buildings, point 5 of DM8 is not applicable. With reference to new dwellings, point 3 of DM8 states that: *‘planning permission will only be granted for new dwellings where they are of exceptional quality or innovative nature of design, reflect the highest standards of architecture, significantly enhance their immediate setting and are sensitive to the defining characteristics of the local area.’*

Para.80 of the NPPF provides more details advising that the design of new dwellings in the open countryside must be of exceptional quality, in that they are:

- *truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; **and***
- *would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*

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

The proposal would result in the demolition of a cluster of agricultural buildings and replacement with new dwellings that are a mix of contemporary and more traditional designs aiming to *“reflect and reinforce the agricultural origins of the site and the defining characteristics of the local area”* (p.8 of the D&A). The submission asserts that the new dwellings will *“significantly enhance their immediate setting through the substantial reduction in the level of built form and hardstanding within the site”* (p.10 of the D&A) in addition to removing the existing leylandii hedging along the north-west boundary and better revealing the significance of Stable A through the removal of existing poor-quality buildings that surround it.

The replacement buildings would combine the use of traditional and contemporary materials such as red brick, pantile, standing seams roofs, metal cladding and timber cladding in a scale which is not too dissimilar with the existing buildings that are present on the site. The buildings have been designed to emulate traditional farm buildings with a contemporary style. With the use of high quality materials and detailing the buildings could be concluded to have a good standard of architectural design, however it is not considered that they would reflect the highest standard of architecture to warrant being concluded as truly outstanding in design. The D&A Statement does not go into detail as to why the new dwellings should be

regarded as being of outstanding quality. There is also no supporting evidence to say how their construction is outstanding or reflective of the highest architectural techniques. There is also a suggestion within the submission that the dwellings would be energy efficient, however there is no supporting evidence to demonstrate how efficient these dwellings would be or what technology they would incorporate above and beyond that would already be expected to comply with Part L of Building Regulations (which sets the performance expected of materials and new building work in order to comply with modern energy efficiency requirements for dwellings).

Reference is made in the Applicant's submission to a scheme that was approved by Members in April 2021 at Bankwood Farm (21/00379/FULM) which is in close proximity to the site in which Members concluded a similar style of new dwellings could be regarded as being outstanding. However, given this proposal would essentially be a repeat of this scheme it is difficult to see how this proposal could be concluded to be a *unique rural exemplar* as proposed by the Applicant. Overall, whilst noting the good quality of design proposed it is not considered that the scheme would be truly outstanding or reflective of the highest standards in architecture in order to help to raise standards of design more generally in rural areas.

Notwithstanding the above, para 80 also requires such schemes for new dwellings to significantly enhance their immediate setting and be sensitive to the defining characteristics of the local area.

The surrounding area is prominently rural and has been appraised by the Newark and Sherwood Landscape Character Assessment. The site falls in Policy Zone MN PZ 39 'Thurgarton Village Farmlands with Ancient Woodlands'. The Landscape Character Area (LCA) identifies the area to be gently undulating with rounded topography that allows for medium distance views frequented by wooded skylines. There is a mixture of arable fields with defined headlines leading to being considered as having a high landscape sensitivity and visibility value. This then translates into a 'conserve' action where development is expected to conserve the rural character of the landscape by concentrating new development around existing settlements and respect the local architectural style and local vernacular.

The proposed incorporation of brickwork, pantiles, stone walls and timber cladding does draw reference from local farmyard vernacular and would be sympathetic and sensitive to the surroundings, respecting the local architectural vernacular. However, by virtue of the development being some distance from any surrounding settlement the proposal would fail to accord with the conserve action recommended by the LCA.

It is noted that, save for Stable A, all of the buildings on site would be demolished. The D&A statement puts forward that the '*substantial reduction*' of built form and hardstanding within the site and replacement of existing landscaping with more native planting would '*significantly enhance*' the sites immediate setting and better reveal the significance of Stable A. It is noted that, whilst the Conservation Officer (CO) has noted that the conversion of Stable A could maximise its heritage value they have not concluded that the remaining development proposed would significantly enhance the significance of the building (which they also have concluded would not merit recognition as a NDHA in any event). Even if it could be said that the scheme would enhance the immediate setting of Stable A, it is not considered that the Applicant has demonstrated how the scheme overall would significantly enhance the

immediate setting of the site to such a degree that would meet the very high bar set by para. 80 of the NPPF. It is acknowledged that the replacement development would result in a reduction in built footprint across the site of c.40.2%, a reduction of 24.9% in built volume and an overall reduction of hard landscaping across the site. However, these agricultural buildings on site are typical for such a rural location and, whilst not all currently in a good state of repair, are not overtly harmful to the open countryside. Agricultural use and development is a characteristic of such countryside locations and in principle it is considered that the removal of these buildings and replacement with new dwellings would represent a more incongruous and alien form of development in this location by its very nature (a point which will be further discussed in the section below).

Whilst footprint, floorspace and volume of built development would decrease with the proposed scheme, as shown in the tables included in the description of the proposal the heights of the new buildings proposed would mostly exceed the height of existing buildings on site (existing average height 4.7m, proposed average height 7.2m) with the largest building proposed to be 8.5m in height compared to the existing maximum height of 6.3m. It is also proposed to remove the large screening leylandii hedgerow along the NW boundary that largely prevents views into the site such that the proposed development would become considerably more prominent in the surrounding landscape. A straight comparison of built footprint to the existing agricultural buildings on site is also considered to carry very little weight given all buildings other than Stable A do not possess any heritage value to warrant their retention through conversion and only Agricultural Building A has the benefit of a residential conversion fall-back position (which will be discussed below). Had all buildings on site benefited from a residential fall-back position it may have been more suitable to compare all existing buildings with the proposed, however this is not the case and would not be possible under Class Q of the GDPO given the limit imposed by Q.1(d) (which restricts the cumulative number of separate dwellinghouses being permitted under this Class to 5 within any established agricultural unit).

As the buildings are not located on previously development land (as agriculture is excluded from this definition), it follows that their replacement is not considered essential and their replacement with new buildings cannot therefore be considered to enhance the immediate setting in this respect. The development would radically change the character of the site to one of a more suburban nature and would be harmful to the rural character of the surrounding countryside.

In respect of the landscaping, the applicant advocates that the scheme would also enhance the area by introducing more native planting, however there is not considered to be anything overtly harmful with the existing landscaping surrounding the site.

Overall, given the high requirement advocated by DM8 and the NPPF and weight to the LCA it is not considered that the proposal would significantly enhance the immediate setting of the site. Furthermore, the development would also represent a more prominent, open to view, alien and incongruous suburban development in this open countryside setting which would be harmful to the visual amenity of the surrounding rural area.

Comparison to the Fall-back Position

It is noted from the site history that Agricultural Building A has extant prior approval for conversion to 4 dwellings under Class Q of Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GDPO) as amended (ref. 20/00696/CPRIOR). This consent would see the conversion of the building within its existing confines to 4, two-bed dwellings and the creation of residential curtilages to the rear (of an area no greater than the footprint of the building). The fact that there is extant consent for 4 dwellings on site is argued to be a fall-back position within the Applicant's D&A that should justify the building of 4 new dwellings on site.

A 'fall back' position is something that either has the benefit of planning permission (or would not require express planning permission such that it could be carried out without any further consent) which can be considered against a current proposal that has a likelihood of coming forward. It is also established in case law that permitted development rights can legitimately represent a fall-back position when considering alternative proposals for development at the same site.

It is acknowledged that the applicant has been to the expense of submitting a separate prior approval notification to this authority and that it has been confirmed that express planning permission is not required for the residential conversion of Agricultural Building A to 4 dwellings. As such, whilst the conversion of Agricultural Building A would be technically contrary to DM8 in principle, whilst 20/00696/CPRIOR remains implementable, this is considered to be a realistic fall-back position and therefore a material consideration.

Agri. Building A has a footprint and floorspace of approx. 406m², a cubic volume of approx. 1734m³ and maximum height of 4.8m. When comparing this as a fall-back position with the proposed development, whilst the overall quantum of residential units would not increase, there would clearly be a vast increase in built residential development. Comparing the conversion of Agri. Building A and Stable Building A (which has been accepted in the preceding section to accord with policy DM8 in principle) with the proposed development there would be an increase in residential footprint of 52%, an 85% increase in floor area and 110% increase in volume. The extent of land that would be changed to residential use would also be markedly increased in this scheme compared with the fall-back position resulting in a greater overall impact on the Open Countryside. Further, when comparing the existing maximum height of development on site with the proposed, the new dwellings would also be significantly higher, resulting in a greater visual impact and prominence from the surrounding countryside.

The site currently comprises an accumulation of varying sized buildings that are synonymous with an isolated farmstead set into the open countryside. Given the undulating landform and the surrounding field pattern the existing farmstead is considered to be appropriate in its setting and a contributing factor to the prevailing character of the surrounding area despite the buildings being in varying states of repair. The fall-back position would, in this instance, reinforce the prevailing character of the area by retaining the height, scale and massing of Agri. Building A and Stable Building A with limited impact. The visual alterations to the existing buildings in their conversion and formation of modest curtilages would be still read against the backdrop and in the context of the existing farmyard.

In contrast the proposed development would result in the removal of all the typical agricultural buildings that are not uncommon in the countryside are replace them with large

scale executive homes which would irreversibly alter the character from an agricultural setting to residential to the detriment of the wider area. The rationalisation of a new residential setting would be further reinforced by the large curtilage areas associated with each dwelling, which inevitably, would introduce and encroach domestic paraphernalia into the open countryside significantly above what is currently present around the application site.

Whilst a fall-back position exists and the overall quantum would be the same, this is of a completely different scale and layout to this proposal. This fall-back position relies on retaining/converting existing buildings whereas this proposal demolishes all but one of these buildings and erects new; arguably a wholly less sustainable form of development. As such, it is not considered that direct comparisons can be drawn as the fall-back position represents a much less impactful development. Whilst the Applicant advances that this fall-back position should justify the construction of 4 new dwellings and that the outstanding quality of the new dwellings and their ability to significantly enhance the immediate setting of the surrounding area should justify the new dwellings in their own right in accordance with para. 80 of the NPPF, Officers do not agree with this conclusion. Officers can see the argument that in character terms the proposal could remove some low quality agricultural buildings in an attempt to enhance the overall appearance of the site, however as previously explained, agricultural buildings are characteristic of this location and in any event, the benefit of visually enhancing the site could be realised with a development of a much smaller scale (perhaps more akin to the fall-back position – this has been discussed with the Applicant however they have chosen not to amend the scheme).

Given the level of additional residential built form proposed, scale of the development and additional impact it would have visually on the character of the open countryside it is not considered that the benefit of removing the existing low quality agricultural buildings on site or the fall-back scheme would outweigh the harm of inappropriate residential development in the open countryside in this instance. Whilst Officers are mindful that Members came to a different conclusion in determining the Bankwood Farm application (ref. 21/00379/FULM) this was due to them concluding that the scheme was sufficiently unique, contemporary and of outstanding quality such that it would not set a precedent for similar schemes for redeveloping farm buildings that has fallen into disrepair. Whilst noting the elements of good architectural design incorporated into the proposed dwellings, the scheme does not present anything architecturally outstanding or above and beyond the scheme approved at Bankwood Farm. Officers are also mindful that each application must be assessed on its own merits and that it has been concluded that the proposal at hand would fail to meet the high bar set by para.80 of the NPPF and policy DM8 (as reiterated by TNP Policies 1 and 2) such that it would be unacceptable in principle. This will carry negative weight in the planning balance.

Impact on the Character of the Area (including Heritage matters)

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. With regard to landscape character impact, CP13 explains that new development which positively addresses the implications of relevant

landscape Policy Zone that is consistent with the landscape conservation and enhancement aims for the area will be supported.

It has been concluded in the preceding section of this report that the development would not accord with the conserve aims of the LCA for Policy Zone MN PZ 39 'Thurgarton Village Farmlands with Ancient Woodlands' due to the proposal being for residential development outside of any existing settlement. It has also been concluded that whilst the amount of built development and hard landscaping would decrease with the proposed scheme, overall the footprint, floorspace, volume and massing of development would be significantly increased compared to the residential fall-back position and whilst there could be an argument that the scheme would visually improve the site through removing some low quality farm buildings these are considered to be typical of such remote countryside locations and thus not overtly harmful. The scheme would see the removal of a prominent screening hedgerow in favour of more native planting – this would further heighten the prominence of the development which would also be much taller on average than the existing development on site with greater areas for domestic use associated with these large dwellings resulting in a suburbanising impact on the character of the countryside.

Whilst in themselves the new dwellings are not considered to be unattractive and do incorporate elements of farmyard vernacular and materials that would assist in replicating farm style buildings they would nevertheless by large, modern residential properties with large curtilages that would irreversibly change the current agricultural character of the site.

Turning now to heritage matters, it is noted that the Conservation Officer in their comments has concluded that whilst Stable A is identified on the Nottinghamshire Historic Environment Record, due to the limited significance of the barn they consider it is not worthy of identification as a NDHA. As such the Council's heritage policies are not considered to be applicable. Nevertheless, Stable A does possess some historic character that could be enhanced with better roofing materials and sensitive repairs. The structural report advises that it is capable of conversion without any significant alteration or repair and the use of timber joinery and natural clay pantiles, mock cast rainwater goods and appropriate external masonry repairs with a good lime mortar mix would all help maximise the heritage value of the barn. The conversion approach would see the insertion of some new openings into the building, however these are on the more discrete elevations of the building and are of the minimum necessary to facilitate its re-use. Whilst the conversion would secure the future of this building and the repairs could maximise its heritage value it is noted that the CO has not identified any significant heritage benefit as arising from the scheme. As such the conversion of this building in a format that complies with the Council's Conversion of Traditional Rural Buildings SPD is considered to carry neutral weight.

Overall, despite the conversion of Stable A being considered acceptable in character terms, the development overall would result in a significant detrimental impact on the character of the open countryside and would fail to complement the existing landscape environment which conflicts with the aims of the NPPF and Core Policy 9 and 13 of the Core Strategy and Policy DM5 of the DPD. This will carry negative weight in the planning balance.

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. Policy DM5 also states that new development that cannot be afforded an adequate standard of amenity or creates an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy.

Existing Neighbouring Properties

Thurgarton Quarters Farmhouse and Thurgarton Quarters Cottage lie to the north and east of the application site and would be adjacent to Plot 5 (the converted Stable). Owing to the orientation of Plot 5, the lack of windows in the elevation bounding onto the Farmhouse and the scale of the garage proposed adjacent to the common boundary with this property it is not considered that there would be any adverse overlooking, overbearing or overshadowing impact on this property. Furthermore, whilst there would be windows in the northern elevation of Plot 5, these would be partially screened by the proposed garden room and boundary which would prevent any ground floor overlooking. The scale of the garden room and its positioning relative to the Cottage would also not result in any overshadowing or overbearing impact on this dwelling. Furthermore, in terms of noise resulting from the development, it is not considered that the proposal would result in any detrimental noise impact on the existing neighbouring properties over and above the existing use of the site.

Future Occupiers

The proposed dwellings have been designed and orientated to maintain a good standard of privacy and light into windows. Where side windows are proposed, these are mainly at ground floor and either face onto a blank elevation of a neighbouring property, or where windows are present they lead to non-habitable rooms. First floor balconies are proposed in the western elevation of Plot 3 and southern elevation of Plot 4, however as these would look out onto the surrounding countryside they would not affect the amenity of the adjacent Plots given the offset obstructed view.

Although the side elevation of Plot 4 would be close to the side elevation of Plot 3, the long first floor window on Plot 4 would not result in any significant loss of privacy to Plot 3 given it has no windows in its side elevation, the positioning of the window relative to the private amenity space of Plot 3 and the treatment of the window with louvre cladding.

Each property would also have a reasonable amount of private amenity space commensurate with the size of the dwelling.

As such it is considered that the proposal would accord with the aims of CP9 and DM5 in this regard and thus is neutral in the planning balance.

Impact on Highway Safety

Spatial Policy 7 of the Core Strategy amongst other things requires proposals to minimise the need for travel through measures such as travel plans or the provision or enhancement of

local services and facilities; provide safe, convenient and attractive accesses for all; be appropriate for the highway network in terms of volumes and nature of traffic generated and avoid highway improvements which harm the environment and character of the area. DM5 mirrors this.

It is quite clear the site is in a remote location with a considerable distance to any local service or transport connections. Prior approval has been granted under The Town and Country Planning (General Permitted Development) (England) Order 2015 (as Amended) for the conversion of one of the agricultural buildings to form four dwellings. Although the proposed scheme results in four substantial dwellings and the conversion of an existing stable the amount of traffic would not be too dissimilar to what could occur should the prior approval consent be implemented, in addition to the resultant traffic from the retained buildings. As such, the proposal is considered unlikely to result in a significant change in terms of vehicle movements from the existing situation.

Prior Approval for the residential use of a further agricultural building (into a single dwelling) within the same farm complex, but outside the current application boundary, has also been recently approved. The current proposal includes a new drive and parking area for this single dwelling outside the application site to the south connecting to an existing point of access into the site. The Highway Authority have raised no concerns with this element of the scheme as parking provision would remain the same.

Access to the development site would be taken via the existing private track which is a private Bridleway that runs from the Oxtton-Southwell Road (Bridleway No. 71) and becomes the Thurgarton Public Bridleway No. 1 when it crosses the parish boundary just south of Hollybeck Garden Centre. Concerns were previously raised by the Highway Authority and Rights of Way (RoW) team with regard to the access to the site, and the potential for adverse impact of additional vehicle movements on the public bridleway. As such, conditions were imposed on the Prior Approval to mitigate the impact on the safety of public bridleway which required the submission of a Give Way signage scheme and strategy for the ongoing maintenance of repair of the Bridleway (which is within the Applicant's control). The Highway Authority and RoW Officer have confirmed that subject to these conditions being imposed on any future permission they would raise no objection to the scheme.

With regard to parking provision each property would have sufficient space within its curtilage for a minimum of 3 spaces per dwelling in accordance with NSDCs Residential Cycle and Car Parking Standards and Design Guide SPD (2021) for dwellings of this size in this location.

As such, taking into account the representations and the comments from the Highway Authority and RoW officer it is considered that, subject to conditions, the development would not result in any adverse highway safety impact to warrant withholding permission on this basis, this is therefore neutral in the planning balance.

Impact on Ecology

Core Policy 12 of the Core Strategy and policy DM7 of the DPD state that new proposal should protect, promote and enhance green infrastructure. Proposals should seek to secure development that maximises the opportunities to conserve, enhance and restore

biodiversity.

Given the proposal would result in the demolition and conversion of existing buildings a bat survey has been undertaken. The report provided explains that one building (Stable A) was identified as having a confirmed bat roost, all remaining buildings were concluded to have low to negligible potential to support bats. The roost identified in Stable A is noted as being of 'moderate' conservation significance in the survey. Given the proposal is to convert Stable A, a European Protected Species (EPS) mitigation license would be required before any development takes place.

Local Planning Authorities are required to consider the likelihood of an EPS license being granted when determining a planning application and would need to have in mind the three derogation tests set out in Regulation 55 of the Habitats Regulations if required, namely:

- i. The consented operation must be for "preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment"; and
- ii. There must be "no satisfactory alternative"; and
- iii. The action authorised "will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range

In terms of the first of these tests relating to overriding public interest, due to the small-scale nature of the proposal the public benefits are limited. However, the proposal for converting Stable A does promote the opportunity to utilise and secure the future use of a building with some heritage value thus contributing towards, albeit minimally, the available housing stock within the District. If the current proposal was resisted there is potential that the building would remain underutilised and fall into further disrepair, with potential loss of this attractive stable. Given the proposal is to convert an existing building there would be no satisfactory alternative.

In order for a European Protected Species Licence to be approved by Natural England it must be demonstrated that proposals will minimise any potential impacts upon roosting bats and that the favourable conservation status of bat species is met. To ensure this is the case a series of mitigation measures are recommended within the survey which can be found at Section 5.1.2, p21. To support the Natural England Development License & Method Statement the following mitigation works are advised to be included which should avoid May-early September to ensure bats are not disturbed:

1. Provision of a temporary roost translocation site prior to any site clearance. Post-development, the temporary roost replacement boxes would be left up at the site to provide a permanent roost compensation/enhancement.
2. Careful design of any artificial lighting.
3. Retention of the bat roost within Stable A or construction of a new purpose-built bat-loft within the building or a new building on site.
4. Installation of features to facilitate bat roosting within the buildings such as bat boxes and roof designs.

Subject to the mitigation and compensation measures being secured by planning condition,

in addition to an application for a Natural England European Protected Species (EPS) development license, it is considered that the favourable conservation status of the bats could be maintained in this instance in accordance with the aims of Core Policy 12. In addition, the ecology survey gives some recommendations relating to birds which could be controlled via condition.

The D&A statement advances that the scheme incorporates landscape and biodiversity enhancements such as the replacement of the “existing poor-quality landscaping (including the line of leylandii along north-western boundary) with new native planting more suitable for this site” the biodiversity enhancement or benefit proposed has not been quantified within the submission. Whilst it is noted that the intention is to improve the vegetation cover across the site by removing hardstanding and introducing native planting the proposal would see the removal of an existing leylandii hedgerow which, whilst not afforded any protection to prevent their removal and not considered to be worthy of such protection, would nevertheless remove existing ecological features of the site unnecessarily. In the absence of any quantification of the proposed ecological enhancement in this scheme the benefit of introducing more native planting and landscaping carries only limited positive weight.

Nevertheless, it is considered overall that the proposal would accord with the aims of CP12 in respect of impact on the ecology of the site.

Other Matters

Energy Efficiency: The D&A statement advances that by their very nature the new build dwelling would result in a much reduced energy consumption compared to the dwellings that could be achieved from the Class Q conversion and remaining existing buildings. The scheme also incorporates the provision of EV charging points for future occupiers (which is noted to be in compliance with the requirements of the Council’s Parking and Design Guide SPD). Additionally, since the adoption of the Council’s Parking Guide, legislation under building regulations has been amended so that all new dwellings are required to be provided with EV charging points. This is therefore not a benefit weighing in the balance. Whilst it is not disputed that the new dwellings would be constructed to modern building regulations in relation to ensuring energy efficiency and could be more energy efficient than the 4 dwellings as approved within the conversion of Agricultural Building A it is not considered that the demolition of existing buildings and replacement with new is necessarily in the spirit of sustainability. However, it is nevertheless accepted that the buildings could be energy efficient which would be in accordance with the requirements of both local and national planning policies in this regard in any event. As such this is a factor of neutral weight in the planning balance.

Drainage: The site is located within Flood Zone 1 according to the Environment Agency’s flood risk maps and is therefore at low probability of flooding from river and coastal sources. An Indicative Drainage Technical Supplement supports the application and provides details of the proposed disposal of surface and foul water from the site. The scheme would result in a reduction in the amount of impermeable area within the site which would assist in surface water drainage and would ensure that the surface water is proactively managed which overall accords with Core Policies 9 and 10 of the Core Strategy.

Contamination: This application includes the construction of a new residential dwellings on a former farmyard. Agriculture is a potentially contaminative land-use and such land can possibly be used for a wide variety of potentially contaminative activities. There is clearly the potential for the site to have been contaminated from this former use and therefore, in the absence of a desktop study/preliminary risk assessment it is considered expedient to require an assessment by planning condition.

CIL: The application proposes the replacement and conversion of existing buildings on site with new dwellings. It is understood that all buildings on site have been in use for at least 6 months out of the last 3 years for agricultural and stabling purposes such that their GIA can be used to offset any new GIA resulting from the development. However, the proposed GIA resulting from the development would be 1253m² compared to the existing 1717m², given there would be no net additional GIA resulting from the scheme there would therefore be no CIL charge applicable.

8.0 Implications

In writing this report and in putting forward a recommendation, Officers have considered the following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

9.0 Planning Balance and Conclusion

Although it has been concluded that the proposal would be acceptable with regards to the principle of converting Stable A and heritage, residential amenity, highways safety, drainage, contamination and ecological impact, it has been concluded that there would be significant development plan conflict with regard to the suitability of the site for the nature and scale of development proposed in principle having regard to the impact on the open countryside in addition to the visual and character harm that would arise as a result of the development.

The application proposes new housing development in the open countryside. The Development Plan and the NPPF seeks to control and avoid new isolated homes in the countryside, unless there are special circumstances. Having assessed the scheme against the Development Plan it has been concluded that the scheme does not meet any of the exceptions listed within Policy DM8 as to why new housing development in the open countryside should be permitted or the provisions of para. 80 of the NPPF, which is a material consideration.

The applicant has presented a case that, amongst other factors, the proposed development would be truly outstanding, reflecting the highest standards in architecture, would help to raise the standards of design within rural areas, would significantly enhance its immediate setting and is sensitive to the defining characteristics of the local area to meet the requirements of DM8 and para. 80 of the NPPF. The Applicant also asserts that as the quantum of new development would be the same as the fall-back position of converting Agricultural Building A to 4 dwellings under a Class Q prior notification this should justify the redevelopment of the site as proposed. It is also argued that as the overall footprint and

volume of built development and extent of hardstanding on site would be reduced, that the scheme would significantly enhance the site and improve the character of the area.

However, whilst noting the good design advanced within the proposal, Officers do not consider the scheme would be truly outstanding or reflective of the highest standards in architecture in order to help to raise standards of design more generally in rural areas. Furthermore, it is not considered that the proposal would significantly enhance the immediate setting of the site. Whilst it is accepted that a fall-back position exists on the site and that (in respect of the new dwellings) the overall quantum would be the same, this is of a completely different nature, scale and layout to this proposal such that it is not considered that direct comparisons can be drawn as the fall-back position represents a much less impactful development. Officers can see the argument that in character terms the proposal could remove some low quality agricultural buildings in an attempt to enhance the overall appearance of the site, however, agricultural buildings are typical and characteristic of this location and in any event, the benefit of visually enhancing the site could be realised with a development of a much smaller scale (perhaps more akin to the fall-back position).

Given the level of additional residential built form proposed, scale of the development and additional impact it would have visually on the character of the open countryside it is not considered that the benefit of removing the existing low quality agricultural buildings on site or the alternative fall-back scheme would outweigh the harm of inappropriate residential development in the open countryside in this instance. As set out in this report, the bar of expectation is set extremely high for new residential development in the open countryside and although there are factors in favour of the development they do not outweigh the conflict with the aforementioned Development Plan Policy DM8, TNP Policies 1 and 2 and the NPPF in principle.

Furthermore, the development would represent a more prominent, open to view, alien and incongruous suburban development in this open countryside setting which would be harmful to the visual amenity of the surrounding rural area and would fail to complement the existing landscape environment which conflicts with the aims of the NPPF and Core Policy 9 and 13 of the Core Strategy and Policy DM5 of the DPD.

As such, whilst there are some benefits of the scheme that carry positive weight, the harm identified is considered to clearly outweigh this and as such it is recommended that planning permission is refused.

10.0 Reason(s) for Refusal

01

The proposed development by reason of its location would constitute a remote residential development away from the main settlement comprising the conversion of an existing building to one dwelling and the construction of 4 new dwellings in the open countryside. Spatial Policy 3 (Rural Areas) of the Newark and Sherwood Amended Core Strategy 2019 and Policy DM8 (Development in the Open Countryside) of the adopted Allocations and Development Management Development Plan Document 2013 seek to strictly control development in the countryside and limits this to a number of exceptions, none of which are

considered to have been met by the proposed new dwellings in the application at hand. The development is therefore unacceptable in principle.

The design of the new dwellings are not considered to be of exceptional quality, in that they are not truly outstanding nor reflective of the highest standards in architecture and would not help to raise the standard of design in this rural area, significantly enhance their immediate setting or be sensitive to the defining characteristics of the local area. The proposed development would irreversibly alter the character of the site from an agricultural setting to a more incongruous and alien use, comprising residential development to the detriment of the rural character of the surrounding area. It is considered that the adverse impacts of new dwellings in an open countryside location would not be outweighed by the benefits of the proposal which include, amongst other things, reducing the overall amount of built form on site or enhancing any heritage value of Stable A.

The development therefore represents an unsustainable and unacceptable form of development and is considered to be contrary to Policies 1 and 2 of the Thurgarton Neighbourhood Plan (2017), Spatial Policy 3 (Rural Areas), Core Policies 9 (Sustainable Design) and 13 (Landscape Character) of the Amended Core Strategy (2019) and Policies DM5 (Design), DM8 (Development in the Open Countryside) and DM12 (Presumption in Favour of Sustainable Development) of the Allocations and Development Management DPD (2013) as well as the Council's Supplementary Planning Document: Landscape Character Appraisal (2013) and the National Planning Policy Framework (2021), as material planning considerations.

Informatives

01

List of refused plans:

- Location Plan [dwg no 21.266 S03.10]
- Proposed Site Plan with Illustrative Landscape Masterplan [dwg no N0842(03)001D]
- Proposed Plans Plot 1 [dwg no 21.266 S03.02]
- Proposed Plans Plot 2 [dwg no 21.266 S03.03]
- Proposed Plans Plot 3 [dwg no 21.266 S03.04]
- Proposed Plans Plot 4 [dwg no 21.266 S03.05]
- Proposed Plans Plot 5 [dwg no 21.266 S03.06]
- Proposed Garage [dwg no 21.266 S03.07]
- Proposed Plot 5 Garden Room [dwg no 21.266 S03.08]
- Hard Landscaping Palette [dwg no N0842(03)010 & 011]
- Visualisation 1 [dwg no 21.266 S03.30]
- Visualisation 2 [dwg no 21.266 S03.31]
- Visualisation 3 [dwg no 21.266 S03.32]
- Visualisation 4 [dwg no 21.266 S03.33]
- Visualisation 5 [dwg no 21.266 S03.34]
- Visualisation 6 [dwg no 21.266 S03.35]
- Visualisation 7 [dwg no 21.266 S03.36]
- Aerial Comparison [dwg no 21.266 S03.37]

02

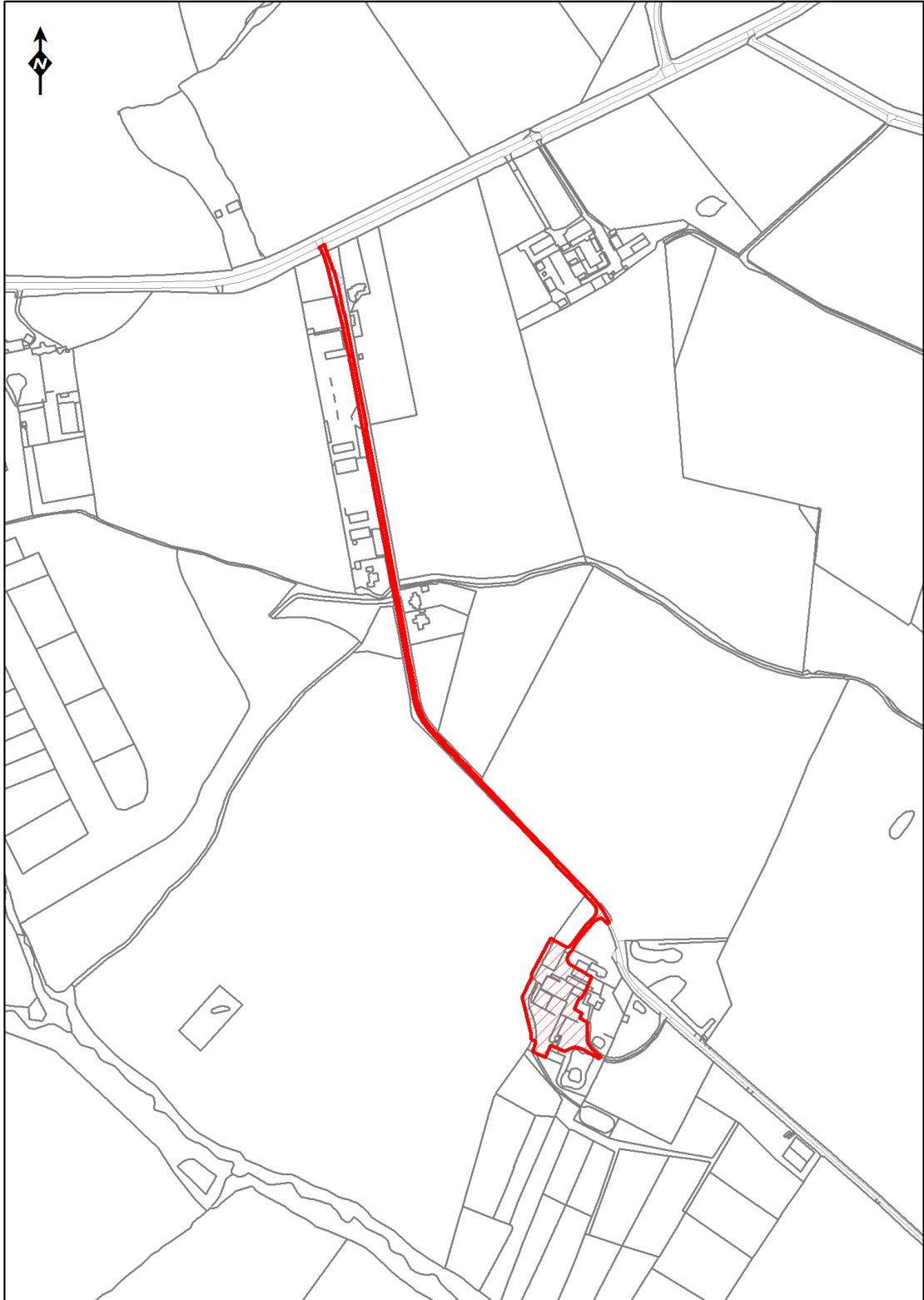
The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. Working positively and proactively with the applicants would not have afforded the opportunity to overcome these problems, giving a false sense of hope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

03

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

BACKGROUND PAPERS

Application case file.



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Report to Planning Committee 11 August 2022
 Business Manager Lead: Lisa Hughes – Planning Development
 Lead Officer: Amy Davies, Planner, Ex. 5851

| Report Summary | | | |
|---------------------------|---|--------------------------|----------------------|
| Application Number | 22/00291/FUL | | |
| Proposal | Demolition of existing dwelling and erection of replacement dwelling | | |
| Location | Chapel Farm, Chapel Lane, Epperstone, NG14 6AE | | |
| Applicant | Mr Jack Wainwright | Agent | Mr Anthony Northcote |
| Web Link | 22/00291/FUL Demolition of existing dwelling and erection of replacement dwelling Chapel Farm Chapel Lane Epperstone NG14 6AE (newark-sherwooddc.gov.uk) | | |
| Registered | 15 February 2022 | Target Date | 12 April 2022 |
| | | Extension of Time | 16 August 2022 |
| Recommendation | That planning permission is refused for the reason(s) outlined at Section 10 of this report | | |

This application is being referred to the Planning Committee at the request of the Business Manager.

1.0 The Site

The application relates to Chapel Farm, located on the west side of Chapel Lane, within the village of Epperstone and its designated conservation area. The village is washed over by the Nottingham-Derby Green Belt. The site is positioned higher than and slopes upwards from the lane in a westerly direction. Access is via a private road that runs along the southern boundary of the site and is shared with three modern detached houses to the west. The site includes the original farmhouse, which comprises single and two storey elements and is positioned gable end facing the road. Currently, there is also a static caravan with raised

terrace and separate storage unit located on the site, roughly where there used to be a barn and a 'replacement' barn/dwelling is approved.

A low-level stone wall runs along the east/front and southern side boundaries of the site, post and rail fencing along the west/rear boundary and close-boarded timber fencing along the northern side boundary. Sections of heras fencing have also been erected, understood to be in the interests of privacy/security. The lower part of the site closest to the road includes some grass, while the remainder of the site (not including buildings) is either compacted gravel/stone or overgrown with shrubs.

To the south is Poplars, which is a Grade II listed farmstead. To the west, between Chapel Farm and two of the modern detached houses to the west is a public footpath that runs along the boundary of Epperstone Conservation Area.

2.0 Relevant Planning History

21/02178/FUL - Demolition of Existing Dwelling, erection of replacement dwelling and erection of detached garage. Refused 30.11.2021 (Harm to Conservation Area & Setting of Listed Buildings, Inappropriate Development in the Green Belt and Failure to Maximise Opportunities to Conserve, Enhance and Restore Biodiversity).

20/00536/FUL - One new Residential Unit (part-retrospective). Approved 21.07.2020 (This permitted construction of a new dwelling on the same footprint as the barn that was demolished, with the same plans and elevations as approved for its conversion under planning permission reference 17/01330/FUL with a minor alteration to the south elevation. The foundations and slab of the approved dwelling have been constructed).

19/01969/FUL - Renovation/alterations to the existing farmhouse and rebuild barn to create an annexe. Withdrawn 26.02.2020

17/01330/FUL - Renovation/alterations to the existing farmhouse and barn conversion to an annexe. Approved 27.07.2018 (This has been implemented however the barn was unlawfully demolished rather than converted).

14/01991/FUL - Erection of Three New Dwellings; Rear Extension of Existing House and Conversion of Existing Barn to form Ancillary Accommodation to Existing House; Removal of Existing Trees. Approved 27.03.2015

(The barn, which has now been demolished, was to be converted as part of the above application for a larger scheme and included a much larger site outline – the three new dwellings have been constructed to the west of the site.)

3.0 The Proposal

Demolition of existing dwelling and erection of replacement dwelling

The proposed new dwelling would partially replicate the existing dwelling, although eaves and ridge heights would be higher than existing and the footprint, floor space and volume would be significantly increased.

The proposed new dwelling would measure approximately 27.5 metres by 12.1 metres and comprise of a series of single-storey and two-storey elements to partially emulate the design of the existing building (with two-storey side and rear extensions). There would be an M-plan/'double pile' roof shape along the length of the building to achieve the desired floorspace / accommodation and conservation roof lights to the rear facing roof slope above the proposed garden room.

The proposed new dwelling would comprise of a hall, store, kitchen/dining room, utility, office, living room, games room, garden room and integrated double garage to the ground floor and five bedrooms to the first floor, including a master bedroom with en-suite bathroom and dressing room, two bedrooms with en-suite shower rooms, two further bedrooms, a separate bathroom and a study. The proposed materials as stated on the proposed revised plans would be red brick, red clay pantile and timber windows and doors.

The Submission

The following plans and supporting documents have been submitted for consideration:

Received 19 July 2022

AMENDED PROPOSED SITE LAYOUT (Drawing no. 556_2021_03 REV B)
AMENDED PROPOSED GROND FLOOR (Drawing no. 556_2021_04 REV B)
AMENDED PROPOSED FIRST FLOOR (Drawing no. 556_2021_05 REV B)
AMENDED PROPOSED ELEVATIONS (Drawing no. 556 2021 06 REV B)
Supporting Statement prepared by TOWN-PLANNING.CO.UK dated 19th July 2022

Received 14 February 2022

556_2021_01 Existing Site Layout Plan
556/2021 Location Plan

NB: This plan is inaccurate as it includes several buildings that are no longer on site as they were removed/demolished before August 2021

556_2021_02 Existing Plans and Elevations

NB: This plan is inaccurate as it includes elevations of a barn that is no longer on site as it was demolished before August 2021 (date on plan)

- Planning Statement including Design & Access Statement and Heritage Impact Assessment (February 2022)
- Visual Inspection – Structural & Building Fabric Appraisal of Chapel Farm, Epperstone, NG14 6AE prepared by Robert Walker dated January 2022
- Bat Survey Report (ref: 210872) prepared by Whitcher Wildlife Ltd. Ecological Consultants dated 15 September 2021

Structural Report Commissioned by NSDC

Structural Appraisal of Chapel Farm, Chapel Lane, Epperstone, NG14 6AE for Newark Sherwood District Council (Ref: 9548) prepared by GCA Consulting dated 10 May 2022.

4.0 Departure/Public Advertisement Procedure

Occupiers of twelve 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.

5.0 Planning Policy Framework

Epperstone Neighbourhood Plan (adopted December 2019)

Policy EP 11: Design Principles

Policy EP 16: Epperstone Conservation Area

Newark and Sherwood Amended Core Strategy Development Plan Document (adopted March 2019)

Spatial Policy 1 – Settlement Hierarchy

Spatial Policy 2 – Spatial Distribution of Growth

Spatial Policy 4A – Extent of the Green Belt

Spatial Policy 4B – Green Belt Development

Spatial Policy 7 – Sustainable Transport

Core Policy 9 – Sustainable Design

Core Policy 14 – Historic Environment

Allocations and Development Management DPD (adopted 2013)

Policy DM5 – Design

Policy DM9 – Protecting and Enhancing the Historic Environment

Policy DM12 – Presumption in Favour of Sustainable Development

Other Material Considerations

National Planning Policy Framework 2021

Planning Practice Guidance

Planning (Listed Buildings and Conservation Areas) Act 1990

Residential Cycle and Car Parking Standards & Design Guide SPD June 2021

6.0 Consultations

Revised scheme (14-day re-consultation commenced 20 July 2022 and expires on 03 August 2022)

Epperstone Parish Council – No comments received at time of writing but previously indicated support for a replacement dwelling.

NSDC Conservation –

Following receipt of the Structural Appraisal of Chapel Farm prepared by GCA Consulting, Conservation conclude that the harm identified from demolition of the cottage can now be justified in a planning decision.

The revised scheme is much improved. Whilst there are elements of the design that lack authenticity, the overall impact of the design would be to preserve the character and appearance of the Conservation Area.

There are three key ways the design could be readily improved which would bring extra value to the scheme but not alter the extent of accommodation:

- Catslide roof to the single storey section closest to the road
- Minor revision to the rear window proportions
- Minor revision to the window headers

Ramblers Association – Epperstone Footpath 1 adjoins the western boundary of this application site, but is not acknowledged on the plans. The Right of Way appears to be sited some distance from where construction would take place and it is considered that the proposed development could be carried out without any impact on the footpath. However, Nottinghamshire Ramblers requests that a guidance note requiring the footpath to remain open and unobstructed is attached to any planning approval.

One representation received from local resident, which can be summarised as follows:

- Raised height of the roofline of the majority of the property with a number of windows at second floor are not acceptable
- Rooflines should stay the same height as existing to keep the openness of the plot
- Increase of 79.8% in footprint is very large
- Height increase, very large increase in footprint and many windows not in keeping with the original property and too large an increase in mass

7.0 Comments of the Business Manager – Planning Development

The National Planning Policy Framework (NPPF) promotes the principle of a presumption in favour of sustainable development and recognises the duty under the Planning Acts for planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. The NPPF refers to the presumption in favour of sustainable development being at the heart of development and sees sustainable development as a golden thread running through both plan making and decision taking. This is confirmed at the development plan level under Policy DM12 of the Allocations and Development Management DPD.

As the application concerns designated heritage assets of a listed building and the conservation area, sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') are particularly relevant. Section 16(2) requires the decision maker in considering whether to grant listed building consent for any works, to *“have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possess.”* Section 66 outlines the general duty in exercise of planning functions in respect to listed buildings stating that the decision maker *“shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”* Section 72(1) also requires the Local Planning Authority

(LPA) to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas.

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

National Planning Practice Guidance 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 12th December 2019 Newark and Sherwood District Council adopted the Epperstone 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 Epperstone. 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.

Spatial Policies 1 and 2 of the Amended Core Strategy set out the spatial hierarchy of development for the District and define Epperstone as an 'other village'. Epperstone is washed over by the Green Belt. Spatial Policy 1 states that within the Green Belt development will be considered against Spatial Policy 4B - Green Belt Development.

Principle of Development

The site is located within the Nottingham Derby Green Belt as shown on the Newark & Sherwood Local Development Framework Policies Map.

Epperstone Neighbourhood Plan acknowledges that national and local planning policy allows for some limited and carefully controlled development to take place within the Green Belt and, as such, includes no specific policy on the subject. Spatial Policy 4B 'Green Belt Development' of the DPD indicates housing development over the plan period will be focused in the Principal Villages of Blidworth and Lowdham, along with Gunthorpe and the part of Bulcote which is attached to Burton Joyce. These locations are excluded from the Green Belt and defined by Village Envelopes.

The Government attaches great importance to Green Belts, the fundamental aim of Green Belt policy being to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The Framework goes on to state that the general extent of Green Belts across the country is already established

and that Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans.

In terms of decision-taking, the NPPF defines inappropriate development as being harmful to the Green Belt and concludes that such development should not be approved except in very special circumstances. In considering proposals, substantial weight should be given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

The construction of new buildings in the Green Belt is deemed as inappropriate save for a limited number of exceptions, as listed in paragraph 149 of the NPPF 2021. Such exceptions include the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. However, with reference to 'The Proposal' outlined above and the 'Impact upon Green Belt' assessment outlined below, the proposed new dwelling would be materially larger than the one it would replace, so is not considered to meet the test for this exception.

Other exceptions include limited infilling in villages, limited affordable housing for community needs under policies set out in the Development Plan and limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings). However, the last form of allowance is dependent upon there being no greater impact on the openness of the Green Belt than the existing development; or it not causing substantial harm to openness, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need.

Spatial Policy 4B - Green Belt Development of the DPD outlines that no villages 'washed over' by the designation have been identified for limited infill. However, in all other respects, the policy defers to national Green Belt planning policy. This wording has its roots in the original NPPF and was assessed for soundness as part of the transitional arrangements that allowed the Amended Core Strategy DPD to be assessed against the original NPPF. However, as part of the recent examination of the Bulcote Neighbourhood Plan, the Local Planning Authority (LPA) suggested modifications to ensure that content within that plan properly reflected the position over limited infilling in national policy. Notwithstanding that the wording within the 2018 and 2019 Frameworks was identical on this point, the LPA took the view that the specific wording in Spatial Policy 4B on this matter was inconsistent with the 2019 Framework and so out-of-date. The Examiner concurred with the LPAs view. It is therefore considered that the wording in Spatial Policy 4B is unnecessarily strict, and out-of-date with national policy. On this basis, limited infilling in Green Belt villages could be acceptable as an exception to what would otherwise be inappropriate development.

Consequently, it is necessary to determine which category of 'limited infilling' the proposal could be considered against. The proposal does not constitute limited affordable housing for community needs as it is for a single private dwelling. Furthermore, 'limited infilling in villages' is listed separately to 'limited infilling or the partial or complete redevelopment of previously developed land', so the two are separate and distinct from each other. Based on the previously developed characteristics of the site, the proposal falls to be considered against

the latter. It must, therefore, be demonstrated that there would be no greater impact on the openness of the Green Belt than the existing development. The applicant has advanced a similar principle of development, but has compared the proposed development to that which previously occupied the site, including a barn which is no longer present (see 'Relevant Planning History' and 'Submission' sections for details). Relevant [case law](#) and [planning appeals](#) confirm that for something to be considered as a replacement, the element that it replaces must exist at the time the replacement development is considered. Relevant planning history indicates there are no extant permissions to replace former agricultural buildings other than the barn subject of planning applications reference 14/01991/FUL, 17/01330/FUL and 20/00536/FUL.

Impact on Green Belt

In order to determine whether the proposed development would have 'no greater impact on the openness of the Green Belt than the existing development', it is necessary to compare the existing and proposed dwellings. As outlined in previous sections of this report, the LPA does not consider it necessary, or indeed appropriate, to consider buildings that have already been demolished or removed from the site, including the abovementioned barn.

The following table outlines the differences between the existing and proposed dwellings.

| | | Existing Dwelling | Proposed Dwelling (including integrated garage) | % Increase |
|---|------------------------------|-------------------|---|------------|
| Foot print (<i>measured externally</i>)* | | 110m ² | 334.5m ² | 204% |
| Floor space (<i>measured internally</i>)* | | 147m ² | 590.3m ² | 302% |
| Length | | 19.5m | 27.5m | 41% |
| Depth | | 4.5m | 12.1m | 169% |
| Depth (with outshot) | | 6.8m | 12.1m | 78% |
| Height (<i>highest point measured externally</i>)* | <i>Single storey range</i> | 3.8m | 4.9m | 29% |
| | <i>2 storey side ranges</i> | 5.6m | 7.75m | 38% |
| | <i>2 storey middle range</i> | 8.8m | 10.5m | 19% |

**Measurements are approximate and derive from measuring the submitted plans electronically using the scales provided.*

The calculations presented in the table above differ from those presented in the Supporting Statement submitted with the revised application on 19 July 2022, in part, because the calculations presented in the Supporting Statement take into account the footprint and floorspace of the barn that has been demolished. However, in both scenarios the proposed new dwelling would be larger than the existing dwelling. Indeed, based on the LPAs calculations the proposed new dwelling would be significantly larger than the existing dwelling in all dimensions – twice the size in terms of footprint and three times the floor space. It would also be considerably longer and wider than the existing building

(notwithstanding individual gable widths would be of traditional size). Given the magnitude of change, it is clear the proposed new dwelling would have a much greater impact on the openness of the Green Belt than the existing dwelling, both visually and spatially. Indeed, the proposed new dwelling would be a substantially larger dwelling that would be much more visually intrusive than existing; on what is a prominent site within the village.

However, it is acknowledged that there is an extant permission to extend the existing dwelling and link it, albeit at ground floor level only, via an extension to the barn, which has since been demolished. However, it is not considered this approved scheme represents a realistic fall-back permission as it would no longer be implementable as a result of other development that has taken place. The calculations presented in the table below also show the submitted scheme would also be significantly larger than what has previously been approved.

| | Previously Approved Dwelling (i.e. existing cottage, plus extension, plus barn conversion) | Proposed Dwelling (including integrated garage) | % Increase |
|--|---|--|-------------------|
| Foot print (<i>measured externally</i>)* | 202.5m ² | 334.5m ² | 65% |
| Floor space (<i>measured internally</i>)* | 220m ² | 590.3m ² | 168% |

Furthermore, whilst it is acknowledged that there is this extant permission, it does not then directly follow that on numerical terms the combined footprint/floor space of the two extant buildings can justify one larger building. The extant permission, as well as having less floorspace and footprint is also of a lesser height whereas the proposed would create a dwelling of substantial scale and mass that would have greater impact on the openness of the Green Belt than the existing development.

The Supporting Statement submitted in support of the revised application suggests the dwelling meets the ‘limited infilling or the partial or complete redevelopment of previously developed land’ exception and therefore “it is not necessary to go on and consider very special circumstances”. Conversely, the assessment of impact outlined in the preceding paragraphs clearly illustrates that the proposal would not meet the test for the relevant para. 149 exception, as it would have a greater impact on the openness of the Green Belt. The proposed new dwelling is therefore considered inappropriate development, which, by definition, would be harmful to the Green Belt and should not be approved except in very special circumstances.

Notwithstanding the Applicant’s view that it is not necessary to demonstrate very special circumstances, the Supporting Statement submitted in support of the revised application suggests the support of the Parish Council plus other factors including an improved inter-relationship with the neighbouring rear garden of The Pantiles and the introduction of a new young family into the village could constitute the very special circumstances required to support the scheme. However, such benefits could easily be achieved via an alternative

scheme for a more modestly sized family home that, in terms of scale and mass, is more akin to the existing dwelling.

It is also acknowledged that the site is a large plot, however, historically, the domestic curtilage of the farmhouse covered a much smaller area as it did not include the historic farmyard and associated agricultural buildings since demolished. The Supporting Statement also contests that the large plot could accommodate several outbuildings under householder permitted development, however, this has not been formally demonstrated through the submission of certificates of lawful use/development, so can be given limited weight in determining this application. Evidence of the agricultural land having been used for a continual period of 10-years or more as a residential garden would need to be provided as Council information would indicate that this is not the case. Furthermore, the position and orientation of the existing dwelling would also limit the amount of development that could feasibly be achieved under householder permitted development as any development forward of the principal elevation would require planning permission in its own rights.

On balance, it is considered there are no very special circumstances that would outweigh the identified harm to the Green Belt and, as such, it is recommended planning permission be refused as the proposal is contrary to the relevant provisions of the NPPF and Spatial Policy 4B of the DPD.

Impact on Character and Heritage Assets

Policy EP 11: Design Principles of the Epperstone Neighbourhood Plan requires development proposed to respond positively to the character and historic context of existing developments within the Parish by having regard to specific design principles a)-e).

Core Policy 9 'Sustainable Design' of the Amended Core Strategy DPD requires new development proposals to, amongst other things, "*achieve a high standard of sustainable design and layout that is capable of being accessible to all and of an appropriate form and scale to its context complementing the existing built and landscape environments*". In accordance with Core Policy 9, all proposals for new development are assessed with reference to the design criteria outlined in Policy DM5 'Design of the Allocations & Development Management DPD.

Core Policy 14 'Historic Environment' of the Newark and Sherwood Core Strategy DPD (adopted March 2019) requires the continued conservation and enhancement of the character, appearance and setting of the District's heritage assets and historic environment, in line with their identified significance; and the preservation and enhancement of the special character of Conservation Areas including that character identified through Conservation Area Character Appraisals which form the basis for their management.

In accordance with Core Policy 14, development proposals should take account of the distinctive character and setting of individual conservation areas including open space and natural features and reflect this in their layout, design, form, scale, mass, use of materials and detailing (Policy DM9 'Protecting of the Historic Environment' of the Allocations & Development Management DPD). Development proposals for development affecting or within the curtilage of listed buildings will be required to demonstrate that the proposal is

compatible with the fabric and setting of the building.

The application site is located within Epperstone Conservation and the setting of Poplars, which is a Grade II listed farmstead. Consequently, special regard should be given to the desirability of preserving or enhancing the character or appearance of that area in accordance with the duty contained within Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and, for development which affects a listed building or its setting, preserving the building or its setting or any features of special architectural or historic interest which it possesses in accordance with the duty contained within Section 66(1) of the 1990 Act.

Furthermore, Chapel Farm itself is identified as a positive building within Epperstone Conservation Area Appraisal (2006) and a non-designated heritage asset, as a result of its historic and architectural interest as a typical local vernacular cottage and farmstead. In accordance with Government policy, and associated guidance from Historic England, the LPA has developed criteria for identifying non-designated heritage assets i.e. Non-Designated Heritage Assets – Criteria March 2022 (hereafter referred to as the Council's NDHA Criteria). This document, following public consultation, was adopted earlier this year and, as such, can be given weight in determining this application in accordance with paragraph 203 of the NPPF.

The proposal would result in the loss of the NDHA, and, as such, regard must be given to the scale of any harm or loss and the significance of the heritage asset, which is also identified as a positive building within the designated Conservation Area.

During the planning application process, the LPA commissioned an independent structural appraisal of Chapel Farm, which was carried out by GCA Consulting and a Conservation Accredited Engineer. The brief was to assess the structural condition of the building, consider the findings and conclusions of the Structural Report submitted in support of the application by the applicant and confirm whether the building is capable of retention and refurbishment and, if so, what the likely extent of structural interventions would be involved. The Council's Conservation Team has considered the report prepared by GCA Consulting and concluded *"Given the extent of rebuilding identified, alongside issues of potential differential settlement and risks to operatives in executing this retention scheme, weighed against the amount and significance of the fabric that could be retained, Conservation conclude that the harm identified from demolition of the cottage could now be justified in a planning decision."* This does not remove the heritage harm that would result from the loss of building but does represent the required 'clear and convincing justification' for this harm in accordance with paragraph 200 of the NPPF. Demolition of the existing dwelling is therefore accepted.

The Council's Conservation Team has reviewed the revised plans received on 19th July and are generally supportive of the scheme despite elements of the design lacking authenticity e.g. full length M-plan or 'double pile' roof, windows not directly under eaves and use of quadruple small paned casements to the rear upper floor windows. The Conservation Team has, within their comments, offered suggestions on ways to improve the design to give extra [conservation] value to the scheme without altering the extent of accommodation. The applicant has been made aware of these suggestions but has not, to date, submitted any further revised plans for consideration. Based on the Conservation response, several conditions would need to be imposed on an approved scheme, to ensure it takes the form

envisaged and is of the quality required to preserve the character and appearance of the Conservation Area and preserve the setting of the listed building.

In summary, loss of the existing building, which has been identified as a non-designated heritage asset using the Council's NDHA Criteria, has been clearly and convincingly justified. Subject to the recommended conditions, the proposed replacement dwelling would accord with the duty to preserve significance as imposed by Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and planning policies that require the continued preservation or enhancement of the character, appearance and setting of the District's heritage assets (Core Policy 14 of the DPD) and particular attention to be paid to reflecting locally distinctive styles of development (Policy EP 11 of Epperstone Neighbourhood Plan and Policies DM5 & DM9 of the DPD).

Impact on Residential Amenity

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

The closest neighbouring dwelling is Pantiles, which is sited approximately 20 metres east of the existing dwelling at Chapel Farm. The proposed new dwelling would be sited further from and south of the boundary shared with this property than the previously approved/extant scheme under planning permission 20/00536/FUL. The separation distance between Pantiles and the proposed new dwelling, compared with the approved scheme, would therefore be slightly greater given the angle of the boundary and that of the rear elevation of Pantiles. Furthermore, the element closest to the Pantiles would be single storey and, as such, would not give rise to unacceptable overshadowing or overbearing impacts. In addition, there would be one small first floor window to the east facing side elevation that would serve a landing and not directly overlook the neighbouring dwelling or its private amenity space.

Future residents of the proposed new dwelling would enjoy a large amount of private amenity space. Little to no detail has been provided on landscaping (including any planting) although this could also be secured by appropriately worded conditions, if the LPA was minded to approve the application, to ensure adequate privacy.

Overall, it is considered there would be no unacceptable loss of amenity in accordance with Policy DM5 of the DPD.

Impact on Highway Safety

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

The application has been assessed with reference to Nottinghamshire County Council Highway Authority Standing Advice. The existing access to Chapel Farm is adequate in terms of width and visibility and, subject to standard conditions regarding surfacing and drainage,

would be acceptable in terms of highway safety. In addition, there would be sufficient space for on-site parking, to ensure no displacement of vehicles onto the highway. The proposal is therefore considered acceptable in highway safety terms.

Impact on Landscaping, Trees and Ecology

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

The application is supported by a Bat Survey Report (ref: 210872) prepared by Whitcher Wildlife Ltd Ecological Consultants dated 15th September 2021. The Bat Survey Report indicates the building has a high potential for roosting bats, given the presence of suitable roosting features and bat droppings, with the surrounding area having a high value for bat foraging habitat. A dusk Emergence Survey carried out on 18 August 2021 confirmed the likely presence of bats, as did follow-up daytime and dawn swarming surveys on 27 August 2021 and 13 September 2021. Consequently, the works qualify for a Low Impact Bat Class Licence.

Natural England advises that planning permission can be granted when the proposal is likely to affect a protected species if:

- an appropriate survey was carried out by a qualified ecologist at the time of year specified in the standing advice
- a wildlife licence is likely to be granted by Natural England if one is needed
- mitigation plans are acceptable
- compensation plans are acceptable when mitigation isn't possible
- review and monitoring plans are in place, where appropriate
- all wider planning considerations are met.

In considering whether to grant planning permission, the Local Planning Authority must also consider the following 3 derogation tests:

- the activity must be for a certain purpose (for example, for scientific research or in the public interest)
- there must be no satisfactory alternative that will cause less harm to the species
- the activity must not harm the long-term conservation status of the species (new habitats may need to be created to offset any damage)

The proposal would re-develop previously developed land which would be of benefit to the local economy. There is also no satisfactory alternative that would cause less harm to the species, as it has been resolved that it would not be possible to retain and refurbish the existing building without significant intervention. Finally, any potential bat roost is likely to be of low conservation significance and any harm could and would be offset by the creation of new habitats. Consequently, it is considered the tests are met.

The Bat Survey Report includes a mitigation strategy that could be secured by an appropriately worded condition. In addition, little to no detail has been provided on landscaping (including any planting) although this could also be secured by appropriately

worded conditions, if the LPA was minded to approve the application. Consequently, subject to the recommended conditions, the proposed development would accord with relevant provisions of Core Policy 12 and Policy DM5 of the DPD, which require developments to maximise the opportunities to conserve, enhance and restore biodiversity.

Rights of Way

Public Rights of Way (PROW) are the minor highway element of the public highway network and are afforded the same level of protection and control as the major highway network (i.e. all classes of roads including motorways). They are a material consideration in the planning process and due attention should be made to the treatment and impact of and on them in the application for development.

Epperstone Footpath 1 abuts the western boundary of the site. Nottinghamshire County Council Rights of Way Team have been consulted but submitted no comments on the scheme. However, it is considered the proposed development would not impact on the footpath, which is sited a sufficient distance from where construction would take place. A guidance note requiring the footpath to remain open and unobstructed could be attached to a planning as suggested by the Ramblers Association.

8.0 Implications

In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate

9.0 Conclusion

The application relates to the demolition of an existing dwelling and erection of a new dwelling at Chapel Farm in Epperstone. Officers are satisfied there is clear and convincing justification for the loss of the existing dwelling, which has been identified as a non-designated heritage asset using the Council's NDHA Criteria, and are generally supportive of the scheme although note it could be improved to give extra conservation value / integrity.

However, the site is within the Nottingham-Derby Green Belt where development is strictly controlled in-line with national Green Belt planning policy. The proposed new dwelling would be materially larger than the existing dwelling and is therefore considered inappropriate development in the Green Belt which cannot be justified by any special circumstances i.e. there are no other considerations that would outweigh the substantial harm that would be caused to the openness of the Green Belt. The proposal is therefore considered unacceptable in principle, as it would be contrary to Spatial Policy 4B of the Amended Core Strategy DPD and Chapter 13 of the NPPF (2021). Although no harm has been identified in respect of character and heritage, residential amenity, highway safety or landscaping, trees and ecology, such absence of harm does not outweigh the in-principle objection and, as such, the development is recommended for refusal.

10.0 Reason(s) for Refusal

01

The site is located within the Nottingham-Derby Green Belt. Spatial Policy 4B of the Amended Core Strategy DPD (adopted March 2019) requires development in the Green Belt to be determined in accordance with national planning policy. In the opinion of the Local Planning Authority, the proposed new dwelling would be materially larger than the existing dwelling in all dimensions and thus have a greater and unacceptable impact on the openness of the Green Belt. The proposed development is therefore considered inappropriate development, which, by definition, would be harmful to the Green Belt and should not be approved except in very special circumstances. There are no very special circumstances considered to exist that would outweigh the identified harm to the Green Belt. The development is therefore contrary to the relevant provisions within the National Planning Policy Framework and Spatial Policy 4B as set out above.

Informatives

01

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

02

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. The District Planning Authority has attempted to work positively and proactively with the applicant to make some revisions to the proposal, however, the applicant has not responded to any correspondence and, as such, it has not been possible to overcome problems arising in relation to dealing with application.

03

Refused drawings:

Received 19 July 2022

AMENDED PROPOSED SITE LAYOUT (Drawing no. 556_2021_03 REV B)
AMENDED PROPOSED GROND FLOOR (Drawing no. 556_2021_04 REV B)
AMENDED PROPOSED FIRST FLOOR (Drawing no. 556_2021_05 REV B)
AMENDED PROPOSED ELEVATIONS (Drawing no. 556 2021 06 REV B)

Received 14 February 2022

556_2021_01 Existing Site Layout Plan

556/2021 Location Plan

NB: This plan is inaccurate as it includes several buildings that are no longer on site as they were removed/demolished before August 2021

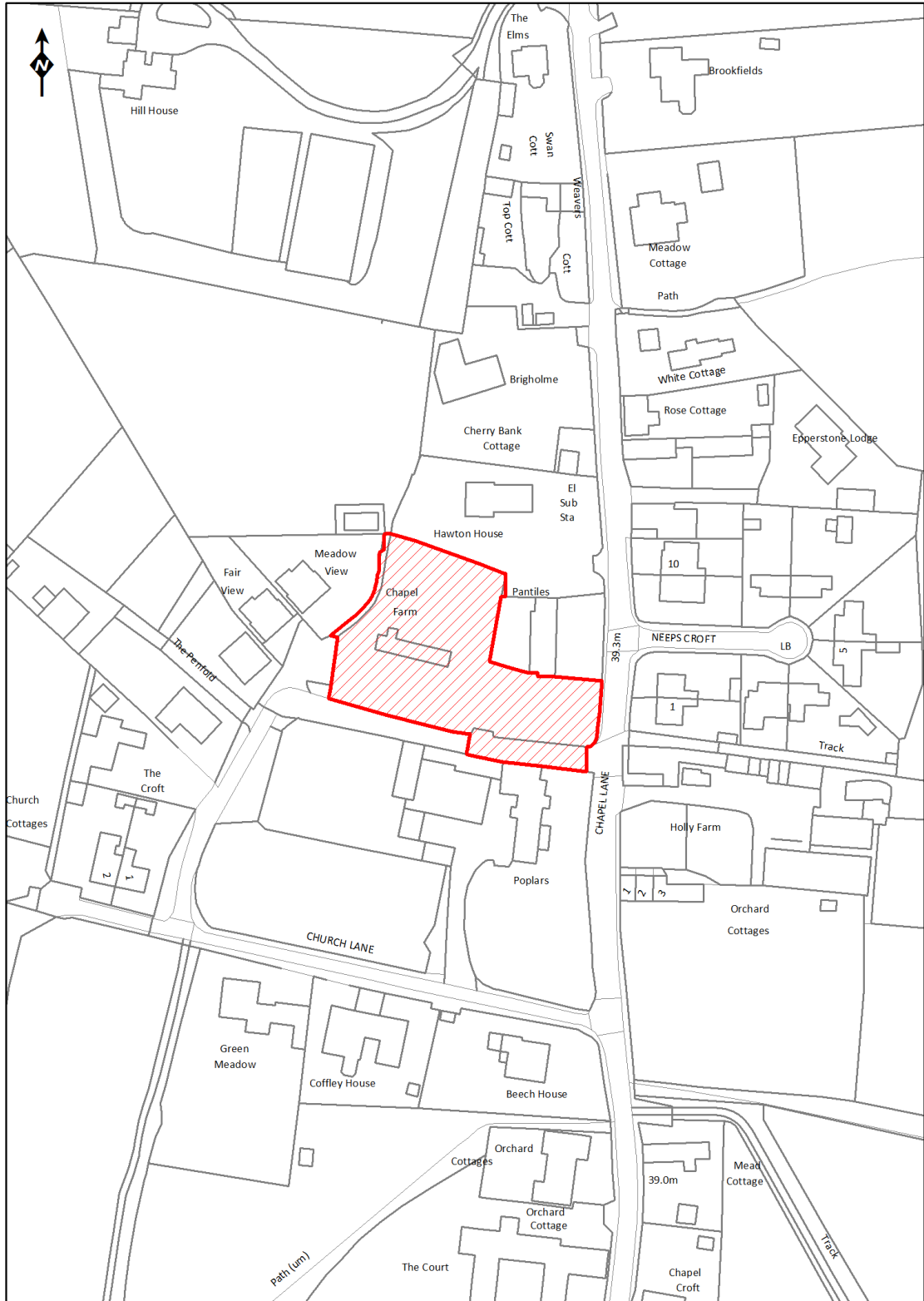
556_2021_02 Existing Plans And Elevations

NB: This plan is inaccurate as it includes elevations of a barn that is no longer on site as it was demolished before August 2021 (date on plan)

BACKGROUND PAPERS

Application case file.

Committee Plan - 22/00291/FUL



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Report to Planning Committee 11 August 2022
 Business Manager Lead: Lisa Hughes – Planning Development
 Lead Officer: Clare Walker, Senior Planner, 01636 655834

| Report Summary | | | |
|---------------------------|---|--------------------|--|
| Application Number | 22/00701/FUL | | |
| Proposal | Erection of agricultural livestock building | | |
| Location | Land at Post Office Farm, Main Street, Ossington | | |
| Applicant | C Johnson | Agent | Anthony Atkinson, Acorus Rural Property Services Ltd |
| Web Link | 22/00701/FUL Erection of an agricultural livestock building Land At Post Office Farm Main Street Ossington (newark-sherwooddc.gov.uk) | | |
| Registered | 11.04.2022 | Target Date | 01.06.2022 |
| Recommendation | Approve | | |

This application is being referred to the Planning Committee at the request of the Business Manager.

1.0 The Site

The wider site lies on the south side of Main Street at the junction with Highland Lane to the south-west of the hamlet of Ossington. Vehicular access is via a farm entrance to the west that sweeps around from Main Street.

The field in which the application site sits is bound by mature hedgerows and contains two existing open fronted agricultural sheds and water silo. One building is used half for storage and half for cattle with the second building used exclusively to house cattle. The field is grazed by cows.

Highland Cottages lie approximately 121m to the south. Highland Farm (house) lies approximately 127m to the north-east with other dwellings north of that. Meadow Cottage lies approx. 133m to the east. All of these dwellings lies outside of the application site.

Post Office farm house which is within the same control as the application site is located approximately 200m to the east.

2.0 Relevant Planning History

22/00700/OUT – Outline consent was sought for a detached dwelling for an agricultural worker. This was refused on 11.07.2022. Whilst the proposal passed the necessary functional test, it failed the financial soundness test set out in national and local planning policy.

18/02291/FUL – Erection of an agricultural livestock building. Approved 28.01.2019. Implemented.

14/00698/AGR – Erection of replacement steel portal framed agricultural barn. Prior approval not required 02.05.2014. Implemented.

11/00894/AGR – Erection of steel framed agricultural storage building. Prior approval not required 28.07.2011.

07/00350/OUT - New agricultural workers dwelling on land at Highlands Lane (site of east), refused 23.08.2007 due to 1) failure to demonstrate essential agricultural need in terms of functional and financial test and 2) adverse visual impact on mature landscape area.

3.0 The Proposal

Full planning permission is sought for an agricultural livestock building for calves and heifers to increase available space and improve management and cattle welfare.

This would comprise a steel portal framed building constructed in concrete block walls with Yorkshire timber boarding and a reinforced fibre cement roof with clear Perspex roof lights on its shallow pitch. It would measure 24.38m by 18.3m and be 4.5m to eaves rising to 6.97m at the ridge-line.

The building would be sited adjacent to the west of the two existing agricultural buildings on site.

The Submission

- Site Location and Block Plan, drawing no. AA/WLVES/JOHNSON, 200_01
- Proposed Plans and Elevations, drawing no. AA/WLVES/JOHNSON, 200_02
- Landholding plan, RLH/21/1
- Design and Access Statement, March 2022

4.0 Departure/Public Advertisement Procedure

A site notice has also been displayed near to the site given its remoteness to allow neighbours/interested parties to comment.

5.0 Planning Policy Framework

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

Spatial Policy 1 - Settlement Hierarchy
Spatial Policy 2 - Spatial Distribution of Growth
Spatial Policy 3 – Rural Areas
Spatial Policy 7 - Sustainable Transport
Core Policy 6 – Shaping our Employment Profile
Core Policy 9 -Sustainable Design
Core Policy 10 – Climate Change
Core Policy 10A – Local Drainage Designations
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
DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

National Planning Policy Framework 2021 (NPPF)
National Planning Practice Guidance (online resource) (NPPG)

6.0 Consultations

Ossington Parish Meeting – Support the proposal

NCC Highways Authority – ‘This is an application for an agricultural building on land at Post Office Farm served from an existing agricultural access off Main Street. The width of the access is acceptable, it is gated but there is sufficient space to wait off the carriageway whilst opening the gates. The access is located at the start of the 30mph zone for the village and visibility on exit from the site is acceptable in both directions being on the outside of a slight bend. It is unlikely that this proposal will result in an unacceptable risk to highway safety therefore we would not wish to raise objection to this proposal.’

Environmental Health Officer – No objections:

14.07.2022 – EHO were asked about the impact of extra cows and whether for example double the number of cows would equate to double the noise levels. Their response is below:

'Having consulted colleagues the consensus is detailed below.

The more cows that there are then the more frequent lowing would take place, therefore potentially for a longer duration. In relation to noise levels then more cows would have to low at the same time to increase the level of noise. I am not sure that the cows would all break into voice at exactly the same time and how often on average cows low and the duration throughout the day/period of the year.

I would presume that just like human vocals the level at which cows low is variable as are behavioural habits. It's is not like you can say x generators on for x time at x level to work out any increase in levels.

Background noise levels may even drown noise out or make it insignificant. It would not be expected there would be a significant difference in terms of sound energy.'

04.05.2022 - When asked about specifically about noise the EHO have responded as follows:

'I have consulted with colleagues. I looked at this application and couldn't see any nearby residences. Looking at the application it is for housing of cows and no machinery is mentioned, therefore a BS4142 is not really appropriate as a noise assessment.

My limited understanding of cows is that different breeds make more noise than others. Also cows tend to make more noise during giving birth (usually in spring) and when separated from their young. I presume the cows will be housed in the building during the colder months when it is usual to have ones windows closed.

130 metres is a fair distance away and Ossington is in the Countryside, where farming is expected and where you will hear cows lowing, sheep bleating etc.

Regarding minimising the noise an acoustic fence could be erected, however you could always ask for some noise modelling to be done.'

19.04.2022 - Not sure if site is large enough for construction hours, if not recommend informative is added to request that construction and deliveries are limited to weekdays 8am until 6pm and 8am until 1pm on Saturdays and not at all Sundays or Bank Holidays. Controls for dust during construction area also recommended.

The occupier of one neighbouring dwelling has made several representations raising the following summarized concerns/objections:

- Concern regarding noise from intensification of cattle on the site as they can be very noisy already especially when hungry or being weaned from their mothers;
- The existing cattle buildings and their uses are unauthorized as they are not used for the purposes intended;
- EHO doesn't have good understanding about cattle noise and opinion holds little credibility;
- 400m rule must be relevant to Environmental Health – this is very important to neighbours and goodwill of the farm cannot be relied upon;
- 400m distance rule means the field should not accommodate any livestock buildings as the furthest point is 375.6m from Highland Farm;

- Extra livestock will need extra land for grazing and question where is this?
- Proposal would have a detrimental effect on a mature landscape area;
- Concern there isn't sufficient land to secure/sustain agricultural use;
- Feel let down by the authority;
- Distances between the site and a number of properties have been provided with accompanying plans;
- Storage of bales presumably as screening for noise creates a potential fire hazard;
- Yard plans with guideline measurements included suggest it may contravene rules and regulations that farmers have to abide by.

7.0 Comments of the Business Manager – Planning Development

The National Planning Policy Framework (NPPF) promotes the principle of a presumption in favour of sustainable development and recognises the duty under the Planning Acts for planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. The NPPF refers to the presumption in favour of sustainable development being at the heart of development and sees sustainable development as a golden thread running through both plan making and decision taking. This is confirmed at the development plan level under Policy DM12 of the Allocations and Development Management DPD.

Important Background

In light of the comments made by a third party representation as part of this application I consider that it is worth setting out the background to the establishment of this site. An agricultural notification was lodged with the Authority in 2014 for a replacement agricultural barn (ref: 14/00698/AGR) which the Council determined that no prior approval was required for its design and siting. The application advanced its use as a storage building (specifically the application form made clear that no livestock would be housed within it) and according to the applicant's agent, it didn't initially house livestock but has subsequently been divided into two with half the building now used for storage and the other half for housing livestock. The timing of when cattle were brought into the building has been queried by a third party albeit the agent has stated this was shortly after it was erected. Irrespective of the timing of when cattle were housed within the building, there are no conditions explicitly imposed on our decision letter to state it cannot be used for cattle albeit the legislation (Schedule 2, Part 6 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)) indicates that a condition of it being permitted is that it isn't used for livestock. The condition embedded within the legislation therefore still 'bites' and the use of the building appears to be in breach of this. It should be noted that immunity cannot be gained for 10 years and so a lawful development certificate would unlikely be granted if sought.

However Members will have noted that a second building adjacent to it was later granted planning permission as a livestock building under planning permission 18/02291/FUL in 2019, which has been implemented. The merits of this were assessed and found to be acceptable. Given the lack of compliants (until now as part of this application) and the fact that the adjacent building is lawfully used for cattle, lead to me to conclude that it would not be in the public interest to take formal action against the use of the 2014 building as it is not expedient

to do so. This is in line with the advice and guidance contained within the NPPF and the NPPG.

Principle of Development

Spatial Policy 3 states that development away from the main built-up areas of villages, in the open countryside, will be strictly controlled and restricted to uses which require a rural setting such as agriculture and forestry. Policy DM8 states that for agricultural development requiring planning permission, proposals will need to explain the need for the development; and its siting and scale in relation to the use it is intended to serve.

The proposed cattle building would be sited alongside existing agricultural/livestock buildings. The applicant has set out the need for them on welfare grounds and to enable the business to grow. The Council's appointed independent agricultural consultant has looked at this (alongside the application for the adjacent new dwelling) and has advised that there is support for the livestock building in principle and I am satisfied that the development has demonstrated an appropriate need and that this is a logical place for it to be sited from a functional perspective. The principle of the development proposed is acceptable.

Impact on Visual Amenity

Core Policy 9 states that new development should achieve a high standard of sustainable design and layout that is of an appropriate form and scale to its context complementing the existing built and landscape environments. Core Policy 13 requires the landscape character of the surrounding area to be conserved. Policy DM8 of the Allocations & Development Management Plan Document (DPD) states agricultural development should have regard to the character of the surrounding landscape and be designed to reduce its impact on the surrounding area.

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

The District Council has undertaken a Landscape Character Assessment to assist decision makers in understanding the potential impact of the proposed development on the character of the landscape. The LCA provides an objective methodology for assessing the varied landscape within the District and contains information about the character, condition and sensitivity of the landscape. The LCA has recognised a series of Policy Zones across the 5 Landscape Character types represented across the District.

The relevant Landscape Policy Zone for the site is Norwell Woodhouse Village Farmlands with Ancient Woodlands (MN PZ 21). Landscape condition is defined as very good and landscape sensitivity with regards to visibility into and out of the area is moderate. Landscape actions for the area are to conserve – built features in this area should maintain use of vernacular materials, style and scale, promote measures for conserving and reinforcing the traditional character of existing farm buildings using vernacular building styles, and promote sensitive design and siting of new agricultural style buildings.

The proposed new building would be adjacent, to the west, of the existing agricultural building of a similar size (albeit slightly larger) height, design and choice of materials. (The approved 2019 cattle building measured 24.4m x12.2m x 6.2 ridge/4.3 eaves compared to this proposed building which is wider and taller at 24.38m x 18.3m x 6.97m ridge/4.5m to eaves). The building would be visible in the public realm but would be read as part of a group of similar farm buildings clustered together and so the impact on openness is restricted. The building is functional and relatively large scale. However these types of building are large by their nature and are not uncommon features within the countryside. The boundary treatments that exist would also help to screen the development and the materials proposed would match both existing buildings so as to help assimilate it into the landscape as much as possible.

Overall, the proposed building is agricultural in appearance, form and function and would not be unduly prominent from the surrounding rural area in accordance with Core Policy 13 and Policies DM5, DM8 and DM9 of the Development Plan Document.

Impact on Residential Amenity

Policy DM5 advises 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. Development proposals should have regard to their impact on the amenity or operation of surrounding land uses and where necessary mitigate for any detrimental impact.

Given the separation distance of the building from any residential properties I am satisfied that the proposed would not result in any overshadowing, overlooking or overbearing impacts. The key issues here relate to other impacts such as noise, odour and flies.

Concerning odour and flies these have not been raised as an issue that are currently a problem and largely come down to farm management. Again given separation distances, I am satisfied that an additional livestock building which is further away from residential dwellings than those existing would be unlikely to cause nuisance. This hasn't been raised as a concern either by Environmental Health Officers.

No noise assessment has been submitted with this application. I note that representations have been received from one neighbour objecting to the scheme on the grounds of noise and the intensification of what they claim is already (at times) a noisy use from cattle. The objector cites legislation as being relevant (the Town and Country General Permitted Development Order 2015) (GPDO) that states that agricultural buildings cannot be erected for livestock purposes under permitted development within 400m of a 'protected building' (which means any building occupied by people except one that is connected to the farm or another agricultural unit). This 400m is referred to by the objector as being a minimum distance that should be achieved in this case.

This is not an application submitted under the prior approval process and therefore it needs to be assessed on its merits, irrespective of the distance given within the GPDO. This is how the approved 2019 livestock building was determined (on its merits), it should be noted that no noise assessment was submitted for this scheme either.

There would be a decent degree of separation between the agricultural building and the closest residential property, a distance of over 120 metres from the edge of the application site to the nearest neighbours house. The building would be screened to some degree by the existing boundary treatment which comprises a high hedgerow.

Environment Health Officers have raised no objection in respect of noise. They do not consider it necessary to require a noise assessment. Despite this, given the neighbouring objection, further advice was sought and they have suggested that specialist farm noise modelling could be undertaken to provide more comfort to decision makers which has been requested from the applicant's agent who has expressed a reluctance to undertake this.

The agricultural consultant who advised on the adjacent dwelling has given advice verbally, noting he is not as an acoustic expert but one who has considerable experience of farm working practices). The advice is that given the distance of dwellings (including the objectors residence) away from the new building, the intensification of use of the wider site including the additional cattle planned would be unlikely to be an issue in terms of noise or smells and that this additional building won't make any material difference.

The consensus amongst professionals is that intermittent cattle noise when one lives in the open countryside are somewhat inevitable and typical of a rural location and the noise arising from cattle within the additional building would not increase significantly beyond what is already being experienced. I note this was also the view of Environmental Health Officers in 2018 when they considered the application for the second livestock building, with comments made at that time by a different professional. Noise from cattle outside cannot be controlled. It would appear that most noise would emanate when calves are separated from their mothers, which is for a few days at a time once or twice a year at most and that this would be when the cattle are housed within the building.

My understanding from both this application and that of the new dwelling (which was recently refused) is that there is an intention to increase the number of suckler cows to 50; there are currently 36 sucklers - so an increase in 14 cows. In addition to this the holding is stocked with 70 dairy cows and 114 followers/replacements. Whilst it wouldn't be appropriate to control the number of cows present, it would appear that the increase in numbers will be modest. Environmental Health Officers have advised on impacts of noise (response 14th July, provided above).

Taking into account of this, I consider that it is unlikely that the proposed livestock building would lead to levels of noise that would constitute a nuisance such that it would warrant refusal of this application.

Noting the design of the building (which would be open in part to the north) and be constructed of vertical boarding with gaps for ventilation purposes to all other elevations - it seems that there are no realistic opportunities for sound proofing the building to help prevent the transmission of noise. I do not consider it would be appropriate for the applicant to erect acoustic fencing at this site as a precaution. Firstly this could look alien in the landscape and secondly it would have to either be located as close to the source of the sound as possible or as close to the receptors as possible to have the desired effect, neither of which is practical

or achievable here. There are however existing established hedgerows in the location shown below which could assist with mitigating noise to a certain extent especially if allowed to grow higher than their existing height. Requiring these hedgerows to be retained at a minimum height would pose enforceability difficulties (conditions are required to be enforceable) so this isn't proposed to be embedded within a condition albeit the applicant has expressed their willingness to accept such a condition.

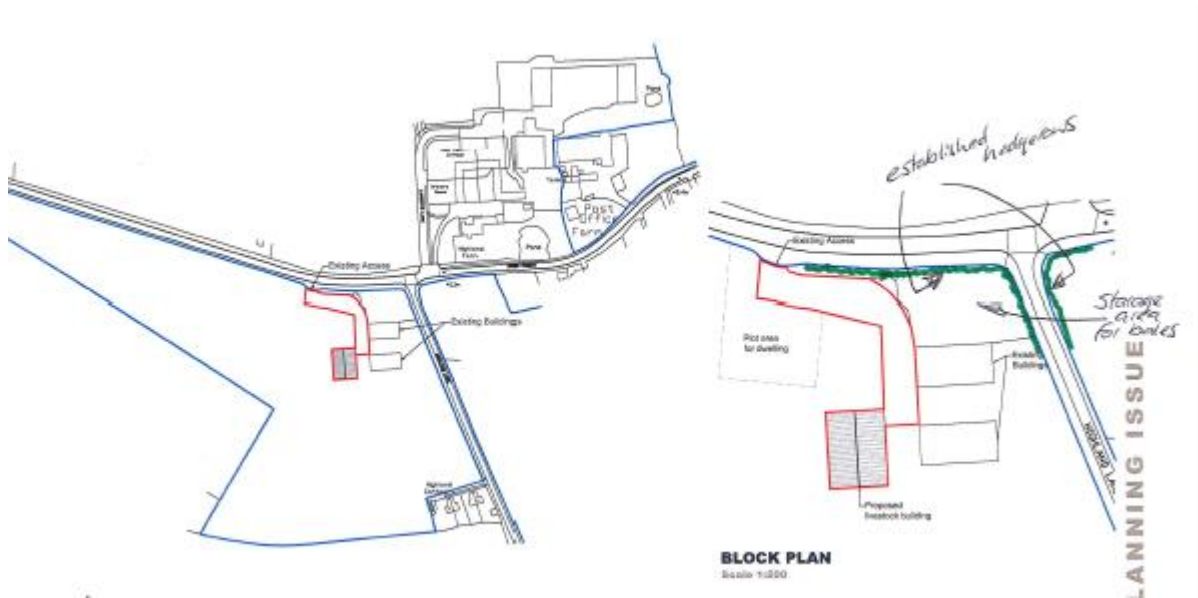


Image from google-street view 2022



It should be noted that the straw bales which are in this location may also assist with mitigating sound transmission but are transient and cannot be relied upon. Their presence on site is not development so the comment from the neighbour regarding being a fire safety hazard is beyond the scope of this application or any controls of the Council.

Members will note that the Environmental Health Officer has requested that details of measures to control dust during the construction period are submitted and agreed. This is proposed to be controlled by condition. The agent has agreed to this as a pre-commencement condition.

On the basis of the above, I am satisfied that the proposal complies with Policy DM5 of the DPD. It is considered that the proposed building and its use, taking into account existing development (and therefore cumulative impacts) that the proposal would not detrimentally impact on neighbouring amenity to a degree that it would be reasonable to withhold permission.

Impact on Highway Safety

Access would be via an existing vehicular access. The proposed agricultural building would be unlikely to generate significant additional traffic so as to adversely impact on highway safety. There are no conflicts identified in respect of SP7 or DM5.

8.0 Implications

In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

9.0 Conclusion

In conclusion the proposed new livestock building is required in connection with agriculture at Post Office Farm and is appropriate in this rural location. The proposed building would not be harmful to the setting of the countryside. Whilst the concerns of a neighbour have been duly noted with regards to noise from cattle, it is not considered that this proposal would constitute a level of further harm that would warrant a refusal of planning permission. The proposal is considered to comply with the Development Plan and there are no material considerations why planning permission should not be granted.

10.0 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 except in complete accordance with the following plans, reference numbers:

- Site Location and Block Plan, drawing no. AA/WLVES/JOHNSON, 200_01
- Proposed Plans and Elevations, drawing no. AA/WLVES/JOHNSON, 200_02
- Landholding plan, RLH/21/1

Reason: So as to define this permission and for the avoidance of doubt following the submission of amended plans.

03

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.

04

No development shall be commenced until a scheme specifying the provisions to be made to control dust emanating from the site and access and egress roads during the construction period has been submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented in full before the development is commenced and retained during construction.

Reason: In the interests of amenity in the locality.

Informatives

01

The applicant is advised that construction hours and deliveries (received and dispatched) should be limited to between the hours of 08:00 until 18:00 weekdays and 08:00 and 13:00 on Saturdays and not at all on Sundays or Bank/Public holidays in the interests of residential amenity.

02

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

The proposed development has been assessed and it is the Council's view that CIL IS NOT PAYABLE on the development given that there is not a net additional increase of residential internal floorspace as a result of the development.

03

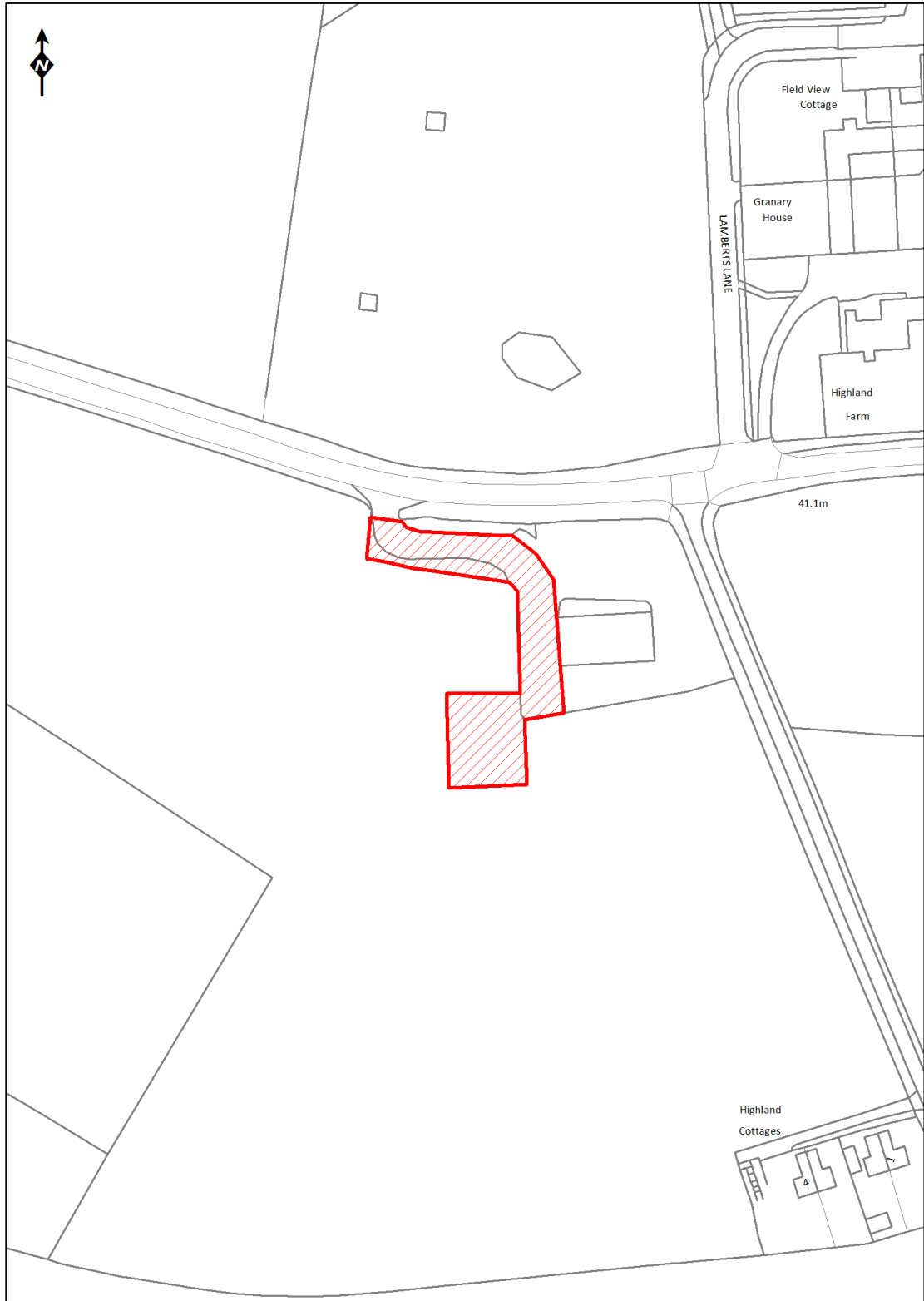
The application as submitted is acceptable. In granting permission without unnecessary delay the District Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

BACKGROUND PAPERS

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Application case file.

Committee Plan - 22/00701/FUL



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Report to Planning Committee 11 August 2022
 Business Manager Lead: Lisa Hughes – Planning Development
 Lead Officer: Laura Gardner, Senior Planner, ext. 5907

| Report Summary | | | |
|---------------------------|---|-------------|--|
| Application Number | 22/01336/FUL | | |
| Proposal | Change of use from residential garden to leisure sports facilities and change an area of leisure sports facilities to residential garden including the realignment of new boundary fencing (retrospective) | | |
| Location | Football Ground, Station Road, Collingham, NG23 7RA | | |
| Applicant | Mr Paul Ellison | Agent | Studio-G Associates LLP - Mr Ricky Maynard |
| Web Link | 22/01336/FUL Change of use from residential garden to leisure sports facilities and change an area of leisure sports facilities to residential garden including the realignment of new boundary fencing (retrospective) Football Ground Station Road Collingham Nottinghamshire NG23 7RA (newark-sherwooddc.gov.uk) | | |
| Registered | 11.07.2022 | Target Date | 05.09.2022 |
| Recommendation | Approve, subject to the conditions set out in Section 10.0 and subject the expiry of the consultation period with no further material issues not considered below being raised. | | |

This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as the Council own part of the site.

1.0 The Site

The application site is a modest portion of land (totally around 30m²) to the south eastern corner of Collingham football ground. The site is within the village envelope and accessed via Station Road which also forms a public right of way. Properties on Thornton Road form the eastern boundary of the site.

The pavilion building associated with the football club is set against the northern boundary of the football field around 70m from the site boundary.

The football ground is designated as protected by Spatial Policy 8 as a public open space as are the school playing fields immediately to the north of the site. The designated local centre abuts the western boundary of the wider football field. The Conservation Area is around 150m away to the north west of application site.

2.0 Relevant Planning History

There are numerous applications in relation to the extension / refurbishment of the clubhouse but none are considered directly relevant to the current proposal.

There is also a currently pending application on land to the north of the football field for a retrospective spectators stand (22/01403/FUL).

3.0 The Proposal

The proposal seeks retrospective permission to essentially swap part of what was playing field to residential curtilage and in turn give part of the previous residential curtilage to use as part of the playing field. The two uses have been marked out on site by a 2.9m high green metal fence (beyond which is a timber fence marking the end of the rear gardens to the properties on Thornton Close.



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

- Plans as Existing – 78CFC – SGA – XX – 00 – DR – A – 00001 Rev. P2.
- Plans as Proposed – 78CFC – SGA – XX – 00 – DR – A – 00002 Rev. P2.

4.0 Departure/Public Advertisement Procedure

Occupiers of 17 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.

5.0 Planning Policy Framework

Collingham was designated as a neighbourhood area on 12 October 2020 but there is currently no made neighbourhood plan.

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

Spatial Policy 1 - Settlement Hierarchy

Spatial Policy 8 – Protecting and Promoting Leisure and Community Facilities

Core Policy 9 -Sustainable Design

Allocations & Development Management DPD

DM1 – Development within Settlements Central to Delivering the Spatial Strategy

DM5 – Design

DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

- National Planning Policy Framework 2021
- Planning Practice Guidance (online resource)

6.0 Consultations

Collingham Parish Council – No comments received at the time of agenda print, consultation expiry 5th August 2022.

Sport England - No comments received at the time of agenda print, consultation expiry 15th August 2022.

No letters of representation have been received (site notice consultation expiry 18th August 2022).

7.0 Comments of the Business Manager – Planning Development

The National Planning Policy Framework (NPPF) promotes the principle of a presumption in favour of sustainable development and recognises the duty under the Planning Acts for planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. The NPPF refers to the presumption in favour of sustainable development being at the heart of development and sees sustainable development as a golden thread running through both plan making and decision taking. This is confirmed at the development plan level under Policy DM12 of the Allocations and Development Management DPD.

Principle of Development

The principle of the proposal can theoretically be split into two parts; the creation of residential curtilage at the expense of sporting provision and the creation of sporting provision at the expense of residential curtilage.

The site is within the village envelope of Collingham which is identified as a Principal Village in the spatial hierarchy of the Core Strategy. The change of use to residential curtilage is therefore acceptable subject to complying with other policies within the plan. However, Spatial Policy 8 is also of relevance which states that the loss of existing community and leisure facilities will not be permitted unless one of three criteria can be met, one of which is that sufficient alternative provision has been, or will be, made elsewhere which is equally accessible and of the same quality or better as the facility being lost.

The area which has been changed to residential curtilage totals around 13m² whereas the area that has become part of the sporting provision totals around 17m². There has therefore been a slight net gain of sporting facility and thus the proposal would comply with Spatial Policy 8.

The principle of the development is acceptable subject to an assessment against the remainder of the Development Plan.

Impact on Character

Policy DM5 of the ADMDPD states the local distinctiveness of the District's character in built form should be reflected in the scale, form, mass, layout, design, materials and detailing of proposals.

The majority of the development relates to a change of use which would have no discernible impact on the character of the area. The development does however include a perimeter fence of 2.9m in height. From a public vantage point, the fence is relatively discrete despite its height primarily due to its design which is fairly lightweight and open in nature. This is seen in the context of the existing timber fences, situated behind the metal fence, which are more prominent in long distance views across the playing field (which is what would be seen from the public right of way and vehicular access for example). The design of the fence under consideration is not an uncharacteristic feature for this type of land use and as such I have identified no character harm arising from the proposal.

Impact upon Residential Amenity

Policy DM5 states that proposals resulting in the loss of amenity space will require justification. As set out above, the development has resulted in a small net loss in residential amenity affecting two residential properties; 97 Braemar Road and 3 Thornton Close, which despite their different addresses form a pair of semi-detached bungalows. The northern bungalow (no. 97) has lost around 10m² of amenity space with no net gain. The southern property (no. 3) has lost around 7m² but it appears that the land which has changed to residential would be in their rear garden leading to an overall gain.

The loss of amenity space to no. 97 is marginal in the context of their remaining garden and indeed forms a small slither of space which would appear to have had limited functional use in itself. There is some justification in that the proposal appears to have 'squared' off the playing field boundary and the formalised boundary of the fence would protect the gardens from footballs.

As above, the fence erected along the boundary is relatively tall at 2.9m but given its lightweight nature this in itself is not considered to create an overbearing impact.

On balance, the benefits of a more formalised football field use and perimeter boundary would outweigh the loss of amenity space (garden) which in any case is marginal.

8.0 Implications

In writing this report and in putting forward a recommendation, Officers have considered the following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

9.0 Conclusion

The development is minor in nature seeking to essentially swap land uses. The proposal is acceptable in principle having led to a marginal gain in sporting provision and the amenity and character implications would not impose harm which would outweigh this benefit.

10.0 Conditions

01

The development shall be retained in accordance with the plan reference Plans as Proposed – 78CFC – SGA – XX – 00 – DR – A – 00002 Rev. P2.

Reason: To define the development.

Informatives

01

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

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.

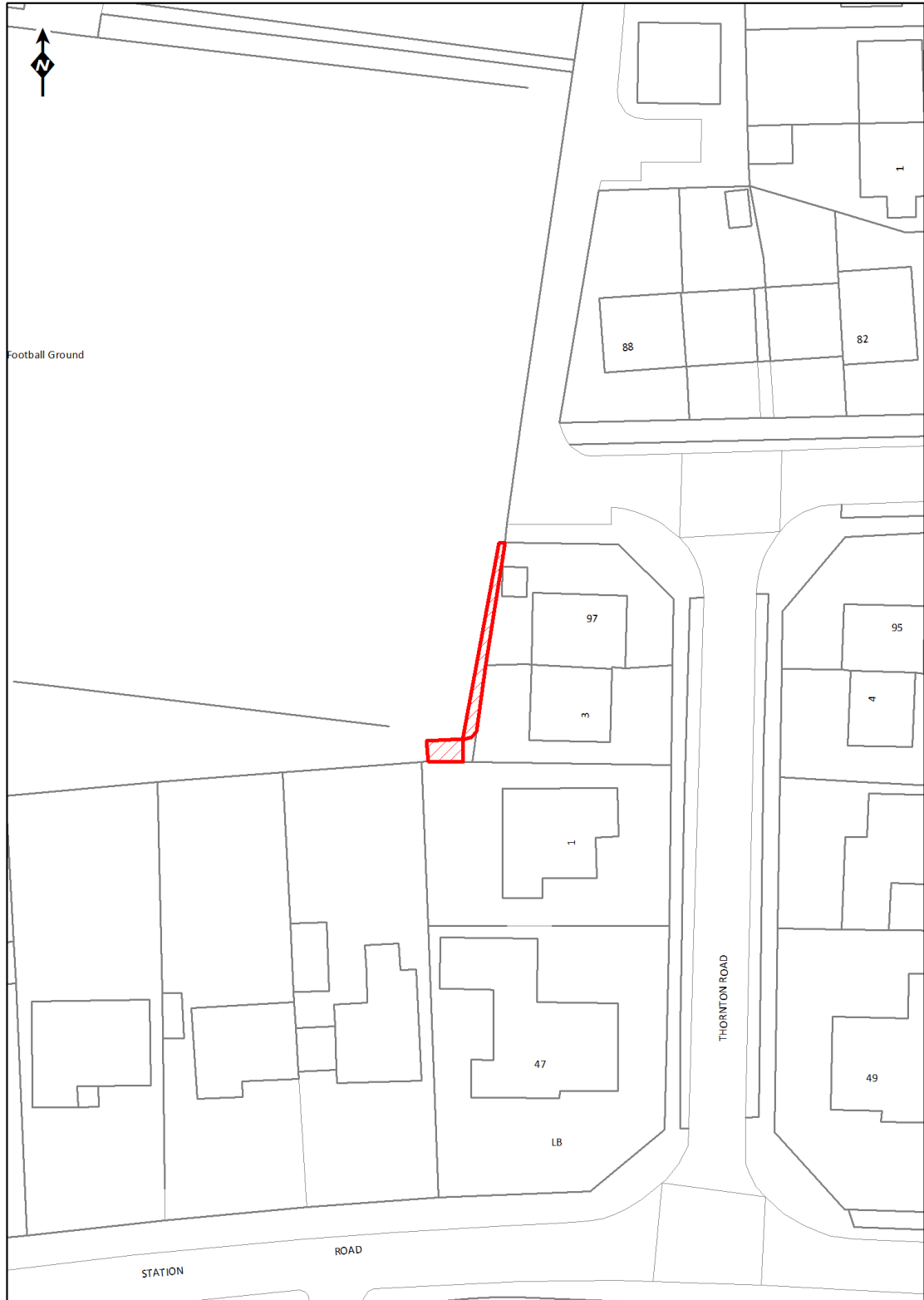
02

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).

BACKGROUND PAPERS

Application case file.

Committee Plan - 22/01336/FUL



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Report to Planning Committee 11 August 2022

Director Lead: Matt Lamb, Planning & Growth

Lead Officer: Lisa Hughes, Business Manager – Planning Development, x 5565

| Report Summary | |
|--------------------------|---|
| Report Title | Planning Committee Scheme of Delegation to Officers Amendments |
| Purpose of Report | <p><i>(a) To seek Members' approval of amendments to the Officer Scheme of Delegation in relation to Planning Development following the adoption of the Scheme of Delegation on 9 June 2022</i></p> <p><i>(b) For Members to be aware of a trial relating to applications submitted by the Council in relation to the Housing Revenue Account (HRA)</i></p> <p><i>(c) To consider possible amendments relating to applications supported by Town/Parish Councils/Meetings that are recommended for refusal by Officers.</i></p> |
| Recommendations | <p><i>That Planning Committee</i></p> <p><i>(a) adopt the amended Planning Committee Scheme of Delegation to Officers</i></p> <p><i>(b) consider adopting the Scheme with the possible amendments (reference (c) above)</i></p> <p><i>(c) note the trial in relation to HRA applications</i></p> |

1.0 Background

Members adopted the new Planning Committee Scheme of Delegation at its meeting on 9th June following the introduction of the new Governance arrangements. Since this date, it has come to light that a number of powers of entry relating to planning, listed building etc. legislation have not been included within the delegation arrangements to Officers.

In addition, there has also been concern regarding delegation in relation to applications submitted relating to developments under the HRA programme and these, unlike all other Council or Council related applications may be dealt with by Officers.

Lastly, there has been a number of applications requested to be considered by Committee when the Officer recommendation is one of refusal but the Town or Parish supports it. Under the amendments made just over 12-months ago, the ability for applications being refused to be considered by Committee was removed. This report seeks Members' opinion on whether this should be introduced and if so, criteria that might be applied.

2.0 Proposal/Options Considered and Reasons for Recommendation

Powers of Entry

Officers, in undertaking their role are generally welcomed on to sites by owners/occupiers. However, there are occasions, particularly when planning and listed building enforcement investigations and/or are being undertaken that entry is refused. In such instances, Officers may use the rights defined within legislation, if delegated, to

Under section 88 of the Listed Buildings Act 1990, any person authorised by a local authority may enter land for a number of purposes, including the preparation of Urgent Works Notices and Repairs Notices, the execution of works, to ascertain compliance with a Notice and ascertain whether or not a building is being maintained in a proper state of repair. These provisions apply to local authority officers and other individuals engaged in a professional or advisory capacity, which could include architects, engineers or Historic England staff such as members of the Heritage at Risk team if you think our presence or support would be beneficial. Section 88(5) specifically provides rights of entry for the purposes of valuation. In the case of occupied buildings, a minimum of 24 hours' written Notice must be given. If required, evidence should be produced of authority to enter and the purpose for which entry is sought should be stated. Wilful prevention of entry is a criminal offence.

gain access. Forcible access is still not permitted without a warrant from a Magistrates Court. Below is an example, from Historic England, of an authority to enter in relation to listed buildings.

This provides a useful example of when, in the case of a listed building, access might be required as well as for qualified experts employed on the Council's behalf. Such instances for planning are less common although it is recommended that such powers of entry are delegated to enable Authorised Officers to enable this in such circumstances.

Council Applications/ Housing Revenue Account (HRA) Proposals

Members will be aware that under the current Constitution and, has been the case for a number of years, applications where the Council is the applicant or has an interest in the land are presented to Planning Committee for a decision with the exception of HRA applications. Whilst the majority of schemes have been dealt with, further applications are being considered and/or submitted. It is proposed that on a trial basis, and to feed into the review of the Scheme of Delegation, applications submitted that fall under the HRA will be presented to Planning Committee under 135 i):

“Any application which raises significant issues such that in the opinion of the Authorised Officer, it would be prudent to refer the application to Planning Committee for decision.”

No change is therefore required to the Constitution, but the trial will enable an understanding of potential increase in workload for Planning Committee before Full Council consider the review of the Constitution later this year.

Applications supported by Town/Parish Councils and Recommended for Refusal by Officers

Under the Scheme of Delegation, where an application is recommended for refusal, it cannot be referred to Planning Committee by the Ward Member(s). The rationale for the change, introduced in 2021, was applicants have a right of appeal and hence they still had an avenue open to them in trying to gain permission.

Prior to this change, recommendations contrary to the Town/Parish Council response, were referred to the Ward Member(s) to ask if they considered the application should be presented. If a request was received, with planning reasons, the request would be referred to the Panel, comprising the Chairman and Vice-Chairman of Planning Committee and Business Manager – Planning Development. This, as the Committee report of the 2nd March 2021 notes, resulted in delay to decision making as well as frustration for Members. Data presented to Committee in 2021 detailed that in an approximate 12-month period, 171 applications were referred to Members from which 33 requests for the application to be presented to Committee were received. In addition, 8 requests were made following receipt of the weekly list.

Of late, there has been frustration that in accordance with the Scheme of Delegation, Officers are refusing applications where the Town or Parish Council/Meeting is in support. On the basis of the data in 2020 being reflective of current applications and responses, should the same number of requests be received, the number of items could increase by approximately 3 per month as well as an increase with HRA applications.

However, whilst the majority of Town/Parish Councils are aware of policies within the local plan and contents of the National Planning Policy Framework, they are less likely to be aware of planning case law and/or appeals that might have a bearing on the development proposed. It is therefore suggested, that if Committee wish to amend delegation arrangements, that:

- when the Officer notifies the Ward Member(s) of the recommendation, the reason for refusal is provided, together with the Town/Parish Council/Meeting response. As with recommendations of approval currently, the Ward Member(s) will have 5 working days in which to respond to the case officer;
- the Ward Member, if they wish the application to be referred to Committee for a decision, will be required to provide a planning reason/statement to justify why they consider the application should be approved i.e. how it either complies with the policy(ies) and/or how material circumstances outweigh the policy harm (noting that Section 38(6) of the Town and Country Planning Act 1990 requires decisions to be made in accordance with the plan unless material considerations indicate otherwise).

- If the latter is provided within the 5 working days, the case officer will prepare the report for Committee responding, as appropriate, to the Member's reason/statement.

The views of Planning Committee are sought on whether or not the above should be included within the Scheme of Delegation.

The amendments to the Scheme of Delegation are provided in bold text within Appendix 1.

3.0 Implications

In writing this report and in putting forward recommendations, Officers have considered the following implications; Data Protection, Digital and Cyber Security, Equality and Diversity, Financial, Human Resources, Human Rights, Legal, Safeguarding and Sustainability, and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Appendix 1 – Planning Committee Scheme of Delegation to Officers

Planning Committee Scheme of Delegation to Officers

Effective from 9th June 2022



| Version Control | Adopted |
|--|---------------|
| v.1 | 9th June 2022 |
| v.2 Addition of paragraphs 1.8 – 1.17 inclusive Amendments to paragraphs 1.28, 1.42, 1.46h), 146j) and 1.51 | xxx |
| | |

Planning Committee Scheme of Delegation to Officers

The Terms of Reference for the Council's Planning Committee require it to adopt a Scheme of Delegation to Officers, including the ability for District Councillors to reserve matters to Committee in circumstances prescribed by the Scheme; the Scheme to be reviewed as necessary and at least annually.

All of the following delegated powers relating to planning can also be exercised by the Business Manager – Planning Development, who may also delegate to other suitable qualified and/or experienced officers in accordance with an agreed Scheme of Delegation.

1. Business Manager – Planning Development shall have authority to:

- 1.1. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights under the Town and Country Planning (General Permitted Development) (England) Order 1995.
- 1.2. Respond to preliminary consultations received from Nottinghamshire County Council on applications for the diversion, creation and extinguishment of public paths.
- 1.3. Exercise of all function for the diversion, creation and extinguishment of public paths.
- 1.4. Serve notices concerning the addition to deletions from or amendment to the list of buildings for special architectural or historic interest, as required by the Department of Culture, Media and Sport.
- 1.5. Apply to the Magistrates Court for Warrant to enter land and/or buildings in accordance with powers provided in the Town and County Planning Act 1990, Planning and Compensation Act 1991 and Planning (Listed Buildings and Conservation Area Act) Act 1990.
- 1.6. To authorise entry onto land under Section 196A and Section 196B of the Town and Country Planning Act 1990.
- 1.7. To enter any land for the purposes of surveying it in connection with the functions of the Council as the local planning authority under Section 324 of the Town and Country Planning Act 1990.
- 1.8. **To enter any land for the purposes relating to planning controls for hazardous substances under Section 36 of the Planning (Hazardous Substances) Act 1990 and Section 36A in relation to warrants.**
- 1.9. **To enter onto land for the purposes of executing works required by a listed building enforcement notice under Section 42 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Section 43 (failure to comply with an enforcement notice).**
- 1.10. **To enter onto land for the purposes of surveying listed buildings on it under Section 88 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Section 88A in relation to warrants. These provisions shall apply to other individuals, employed by the**

local planning authority engaged in a professional or advisory capacity engaged to survey the listed buildings.

- 1.11. **To enter onto land to carry out works required by an enforcement notice if the owner/developer fails to do so under Section 178 of the Town and Country Planning Act 1990 and Section 196B in relation to warrants.**
- 1.12. **To enter land to carry out any steps required by a discontinuance order, a prohibition order, suspension order or supplementary suspension order and recover expenses under Section 190 of the Town and Country Planning Act 1990 and Section 196B in relation to warrants.**
- 1.13. **To enter onto land in relation to tree protection functions of local planning authorities under Section 214B of the Town and Country Planning Act 1990 and Section 214C in relation to warrants.**
- 1.14. **To enter land to execute and recover the costs of works required by a Section 215 notice under Section 219 of the Town and Country Planning Act 1990.**
- 1.15. **To enter onto land where there is reasonable grounds for suspecting that an offence under Section 160 or 161 is being, or has been, committed on or in respect to the land under Section 163 of the Planning Act 2008.**
- 1.16. **Power for the local planning authority to authorise the issue of a warrant to a person to enter land in accordance with Section 164 of the Planning Act 2008.**
- 1.17. **To enter onto land for the purposes of determining whether a chargeable development has commenced in accordance with Regulation 109(1) of the Community Infrastructure Levy Regulations 2010.**
- 1.18. **Formulate and issue decision notices following consideration by the Planning Committee in accordance with the resolution of the Planning Committee or to make minor non-material amendments to planning conditions, Section 106 legal agreements or reasons for refusal prior to issuing a decision notice, where the decision has been made by the Planning Committee, where those changes are minor and non-material and subject to the changes having no impact on the substance and terms of the planning decision in order to provide precise and robust conditions or reason(s) for refusal.**
- 1.19. **Power to approve or refuse details pursuant to a planning condition and to discharge or refuse to discharge planning conditions attached to a planning permission or any other relevant consents.**
- 1.20. **Determine all applications for non-material amendments to planning permissions or other forms of consent.**
- 1.21. **Determine all applications for Certificates of Lawfulness under Section 191 (Existing Use/Development) or Section 192 (Proposed Use/Development) of the Town and Country Planning Act 1990.**

- 1.22. Determine all applications for Certificate of Lawfulness for Proposed Works to a listed building under Section 26H and 26I of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 1.23. Determine applications for works and felling of trees covered by a Tree Preservation Order.
- 1.24. Respond to notifications for works to/the felling of trees in Conservation Areas.
- 1.25. Approve the making, varying and revoking of Tree Preservation Orders.
- 1.26. Power to review objections prior to making, varying or revocation of Tree Preservation Orders.
- 1.27. Determine hedgerow removal notices, including the serving of hedgerow retention and replacement notices with regard to important hedgerows.
- 1.28. Serve Tree Replacement Notices; to respond to appeals made in respect of Tree Replacement Notices, **enter land to execute the works and** secure the costs of works required by such notices under Section 209 of the Town and Country Planning Act 1990.
- 1.29. Issue screening and scoping opinions in respect of the need for, and content of, Environmental Assessments in accordance with the requirements of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended).
- 1.30. Serve and withdraw notices in respect of the following:

Town and Country Planning Act 1990 (TCPA) and Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCAA) as amended:

 - (i) Section 187A (TCPA) – Breach of Condition Notices;
 - (ii) Sections 183 to 187 (TCPA) – Stop Notices;
 - (iii) Sections 171A to 182 (TCPA) – Enforcement Notices in connection with Stop Notices;
 - (iv) Section 215 (TCPA) – Land adversely affecting the amenity of the neighbourhood;
 - (v) Section 172 – 173A (TCPA): Enforcement Notices following notification with the Chair and Vice Chair of the Committee and the relevant Ward Member(s);
 - (vi) Section 38(PLBCA): Listed Building Enforcement Notice following notification with the Chair and Vice Chair of the Committee and the relevant Ward Member(s);
 - (vii) Sections 171E – H (TCPA): Temporary Stop Notices;
 - (viii) Section 171C (TCPA): Planning Contravention Notices;
 - (ix) Section 187B (TCPA); 44A (LBCA) and 214A (TCPA): apply to the Court for injunctions directed at restraining actual or apprehended breaches of planning control; unauthorised work to Listed Buildings; and actual or apprehended damage to Conservation Area Trees;
 - (x) Section 48 (LBCA): Listed Building Repairs Notices;
 - (xi) Section 220 1 (TCPA) and/or Section 224 1b (TCPA) – Discontinuance Notices in accordance with Regulation 8 of the Town and Country Control of Advertisement Regulations 2007;
 - (xii) Section 54 (LBCA): Urgent works to preserve listed buildings;

- (xiii) Section 55 (LBCA): Recovery of expenses of works under s. 54;
- (xiv) Section 43 of the Anti-social Behaviour, Crime and Policing Act 2014 – issuing of advance warnings and Community Protection Notices;
- (xv) Section 3 of the Planning (Listed Building and Conservation Areas) Act 1990 -Power to serve a Building Preservation Notice;
- (xvi) Section 94 of the Town and Country Planning Act 1990: completion notice;
- (xvii) S330 of the Town and Country Planning Act 1990 (Requisition for Information);

except in the circumstances where the Business Manager – Planning Development considers it appropriate for that matter to be determined by Planning Committee.

- 1.31. Section 171BA (TCPA): the application to the court for a Planning Enforcement Order.
- 1.32. Section 171BB (TCPA): the issue of Certificates under this section confirming the date on which evidence of a breach sufficient to justify an application under Section 171BA was identified.
- 1.33. Section 172A (TCPA): the issue and withdrawal of assurances (by letter) to parties on whom an Enforcement Notice has been served concerning prosecution.
- 1.34. Section 210 4C (TCPA): the issue of Certificates confirming the date on which evidence sufficient to prosecute for non-compliance with a Tree Preservation Order came to the prosecutors knowledge.
- 1.35. Section 224 (9) (TCPA): the issue of Certificates confirming the date on which evidence sufficient to prosecute for advertisement offences came to the prosecutor’s knowledge.
- 1.36. Section 225A (TCPA): the removal of unauthorised structures used for advertisements displays.
- 1.37. Sections 225A (3-6) (TCPA): the service of removal notices in respect of unauthorised advertisement display structures.
- 1.38. Section 225A (7) (TCPA): the recovery of expenses incurred in the Council’s removal of unauthorised advertisement display structures.
- 1.39. Section 225B (TCPA): the response to appeals made in respect of Notices served under Section 225A.
- 1.40. To decide whether the Councils case at planning appeal should be by way of written representations, hearing or public inquiry and to agree the nature and extent of the case to be presented.
- 1.41. Section 225 (TCPA): to remove or obliterate placards or posters which are in contravention of the Advertisement Regulations, including:
 - (i) Section 225A (TCPA): the service of Action Notices in respect of persistent unauthorised advertisement display structures;

- (ii) Section 225C (TCPA): the undertaking of the requirements of Action Notices and the recovery of the costs incurred in doing so;
- (iii) Section 225D (TCPA): the response to appeals made against Action Notices;
- (iv) Sections 225F, G and H (TCPA): the remedy of the defacement of premises by means of the service a notice under these sections;
- (v) Sections 225F, G and H (TCPA): the undertaking of the requirements of a notice issued under these sections and the recovery of costs incurred in doing so;
- (vi) Section 225J: the remedy of the defacement of premises at the request of the owner/occupier and the recovery of reasonable costs incurred in doing so.

1.42. To instigate legal proceedings and recover costs under the following provisions:

- (i) Section 171D (TCPA): non compliance with Planning Contravention Notices;
- (ii) Section 171G (TCPA) non compliance with Temporary Stop Notices;
- (iii) Section 179 (TCPA) non compliance with Enforcement Notices;
- (iv) Section 187 (TCPA) non compliance with Stop Notices
- (v) Section 178A (TCPA) non compliance with Breach of Condition Notices;
- (vi) Section 43 (LBCA) non compliance with Listed Building Enforcement Notices;
- (vii) Section 59 (LBCA) unauthorised work to Listed Buildings;
- (viii) Section 210 (TCPA) non compliance with Tree Preservation Orders;
- (ix) Sections 211 – 212 (TCPA): non - preservation of trees in Conservation Areas;
- (x) Sections 215 and 216 (TCPA) non compliance with Section 215 (Untidy Land) Notice;
- (xi) Section 224 (TCPA) unauthorised advertisement display;
- (xii) Section 97 (Environment Act 1995) contravention of the Hedgerow Regulations;
- (xiii) Section 330 (TCPA) Requisition for Information;
- (xiv) Part 4 Chapter 1 of Anti-social Behaviour, Crime and Policing Act 2014 Community Protection Notice – Power to issue a Community Protection Notice and Fixed Penalty Notice; **and**
- (xv) Section 3 of the Planning (LBCA) Act 1990 -Power to serve a Building Preservation Notice.

1.43. Power to respond to consultation by neighbouring local planning authorities, other consultees or the Secretary of State.

1.44. Make observations on County Matter applications or applications submitted by Nottinghamshire County Council under Regulation 3 of the Town and Country Planning General Regulations 1992.

1.45. Power to assess and determine applications subject to the Conservation of Habitats and Species Regulations 2017 (as amended).

1.46. Determine all applications submitted to Newark and Sherwood District Council as required by the Town and Country Planning Act 1990 (as amended), Town and Country Planning (Control of Advertisement) Regulations 1992, and Planning (Listed Buildings and Conservation Areas) Regulations 1990, with the exception of the following:

- a) Environmental Impact Assessment - Applications where an Environmental Impact Assessment has been provided.

- b) Major Developments - All major (defined as 10 or more dwellings, where new floor space would be 1,000m² or greater or have a site area of 1 hectare or greater) applications where:
- The recommendation is contrary to the response received from the Town or Parish Council or Parish Meeting, provided that such a response is based on material planning considerations¹ relevant to that application unless the recommendation is for refusal based on a response by a Statutory Consultee (as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015; or
 - The recommendation is one of approval, contrary to the response received from a Statutory Consultee (as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- c) Major Developments (S73) - Major applications made under Section 73 of the Act where they raise new material planning impacts arising from the subject of the condition(s) being varied/removed where the previous application was dealt with by Planning Committee.
- d) Minor Developments (S73) - Proposals of 1 to 9 dwellings under Section 73 of the Act, where the application was previously dealt with by Planning Committee and the Officer recommendation is one of approval contrary to the views of the host Town or Parish Council (or Parish Meeting) and where they raise new material planning impacts arising from the subject of the condition(s) being varied/removed and the relevant Ward Member(s) has requested the application be determined by Planning Committee within 5 working days of the notification of the recommendation by Officers. The request should include:
- a statement outlining material planning reasons why the proposal needs to be considered by Committee; and
 - a list of related Development Plan policies (or part of).
- e) Parish or Town Council/Community or Voluntary Organisation Application- The application has been submitted by a community or voluntary organisation, a town or parish council and could in the opinion of the Authorised Officer, in consultation with the Chairman and Vice-Chairman of the Planning Committee, result in a significant community benefit and would otherwise be recommended for refusal.
- f) Minor Dwellings - Proposals of 1 to 9 dwellings, where the Officer recommendation is one of approval contrary to the views of the host Town or Parish Council (or Parish Meeting), and the relevant Ward Member(s) has requested the application be determined by Planning Committee within 5 working days of the notification of the recommendation by officers. The request should include:
- a statement outlining material planning reasons why the proposal needs to be considered by Committee; and
 - a list of related Development Plan policies (or part of).
- g) Referrals - Applications recommended for approval and requested be determined by Planning Committee by the relevant Ward Member in writing seeking a refusal within 21 calendar days of circulation of the weekly list, subject to:

- i. The Member having discussed the application with the case officer or Authorised Officer. The request should set out:
 - a statement outlining material planning reasons why the proposal needs to be considered by Committee; and
 - a list of related Development Plan policies (or part of) and, where applicable, national planning policies (including paragraph numbers).
- ii. Where an application is referred by a Member whose ward is not either within or immediately adjacent to the application site, the referring Member must also set out how:
 - in their opinion the application would have a material planning impact on the whole or part of their ward (or the District as a whole or part) having regard to the nature of the development, and
 - shall notify the relevant Ward Member(s) prior to the referral request and the Group Leader of the relevant group of the Member making the referral request has agreed to the referral.

Exceptions to the referral process are those applications which are subject to strict time limits for determination including, but not limited to, Works to Trees in a Conservation Area, Prior Notifications, Prior Approvals and Certificate of Lawfulness proposals.

- h) Should amendments be received including plans/documents that are subject to re-consultation/notification which result in new material planning impacts not previously notified of, the relevant Ward Member or adjoining Ward Member may refer the application to Planning Committee within the timescales given in the notification for a response and subject to all of the bullet points set out within **1.46g**).
- i) Authorised Officer Referral - Any application which raises significant issues such that in the opinion of the Authorised Officer, it would be prudent to refer the application to Planning Committee for decision.
- j) Departure - Applications where the principle of development would represent a material departure from any policy within the Development Plan **where the recommendation is for approval**.

The “Authorised Officer(s)” for the purposes of this part of the Constitution shall be the Chief Officer whose remit for the time being includes responsibility for planning, the relevant Business Manager with responsibility for the discharge of the development management function or an Officer authorised in writing by them to act on their behalf.

- 1.47. Decline to determine planning applications in accordance with the relevant provisions of the Town and Country Planning Act 1990 as amended.
- 1.48. Make representations on behalf of the Council as Local Planning Authority, on relevant applications under the Licensing Act 2003.
- 1.49. In consultation with the Planning Committee Chairman and Vice Chairman, issue a grant of permission without a Section 106 agreement first being signed, where the original Planning Committee resolution requires the prior completion of a Section 106 legal agreement or payment on Community Infrastructure Levy, but where a consultee who required the

agreement no longer considers an agreement is necessary and a planning condition can be used to cover their requirements.

- 1.50. To exercise the Council's powers with regard to the Community Infrastructure Levy Regulations 2010 (as amended).
- 1.51. Power to enter into, vary or modify agreements regulating development or use of land under s106 of the Town and Country Planning Act 1990 **and the power to enter onto a building site to investigate and enforce any requirement under the planning obligation.**
- 1.52. Power to determine applications for hazardous substances consent and related powers under the Planning (Hazardous Substances) Act 1990.
- 1.53. Power to pursue those convicted through the courts of a planning breach under The Proceeds of Crime Act 2002 (or as amended).
- 1.54. To serve a Certificate of Appropriate Alternative Development where land is proposed to be acquired by local authority under Section 65 of the Planning and Compensation Act 1991.
- 1.55. Power to make minor alterations to the Planning Application Validation Checklist.
- 1.56. To grant permission-in-principle under Part 2 of the Town and Country Planning (Permission in Principle) Order 2017 for sites on the Part 2 Brownfield Register under the Town and Country Planning (Brownfield Land Register) Regulations 2017.
- 1.57. Power to make payments or provide other benefits in cases of costs awarded against the Council in respect to planning and related appeals, maladministration and in respect of the local settlement of complaints pursuant to Section 92 of the Local Government Act 2000 in respect of matters falling within the remit of the planning function.

PLANNING COMMITTEE – 11 AUGUST 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 quoting the relevant application number.

Lisa Hughes

Business Manager – Planning Development

Appendix A: Appeals Lodged (received between 20 June and 25 July)

| Appeal reference | Application number | Address | Proposal | Procedure | Appeal against |
|----------------------------|--------------------|--|--|------------------------|--------------------------------------|
| APP/B3030/Z/22/329865 8 | 22/00391/ADV | Land Opposite 44 To 26 Fosse Road Farndon | Display of 2no. free standing pole mounted signs | Fast Track Appeal | Refusal of a planning application |
| APP/B3030/D/22/330135 2 | 21/02506/HOUSE | Pine Lodge 5 Low Street Collingham NG23 7LW | Proposed ground floor rear extension, first floor rear and side extension above existing garage, new porch, external alterations | Fast Track Appeal | Refusal of a planning application |
| APP/B3030/D/22/330162 3 | 22/00661/HOUSE | 50 Sycamore Close Rainworth NG21 0FX | First floor side and rear extension | Fast Track Appeal | Refusal of a planning application |
| APP/B3030/W/22/32973 68 | 21/02197/FUL | Land At Evergreen Barn School Lane Halam | Proposed residential development (6 dwellings) and the provision of off-street parking (12 spaces) for the sole benefit of Halam C of E Primary School (Resubmission) | Written Representation | Refusal of a planning application |

| | | | | | |
|----------------------------|--------------|---|----------------------------|------------------------|-----------------------------------|
| APP/B3030/W/22/32993 49 | 21/02660/FUL | Land Adjacent Hunters Lodge Main Street Kirton Newark On Trent NG22 9LP | Erection of 1 No. dwelling | Written Representation | Refusal of a planning application |
|----------------------------|--------------|---|----------------------------|------------------------|-----------------------------------|

| | | | | | |
|----------------------------|---------------|---|---|------------------------|-------------------------------|
| APP/B3030/C/22/330175 9 | 22/00055/ENFB | Land On the Corner of New Lane And Cross Lane Field Reference Number 7909 Blidworth | Without planning permission, development consisting of the material change of use of land from agriculture to the use for equestrian proposes and operational development consisting of the erection of a stables building (as shown within photographs 1 and 2 and identified with an X on the site plan and aerial photograph) and the installation of shipping containers (as shown within photographs 1, 2 and 3 and identified with a Y and Z on the site plan and aerial photograph). | Written Representation | Service of Enforcement Notice |
|----------------------------|---------------|---|---|------------------------|-------------------------------|

| | | | | | |
|----------------------------|--------------|--|---|------------------------|--------------------------------------|
| APP/B3030/X/22/330185 9 | 22/00368/LDC | 26 The Lawns Collingham NG23 7NT | Certificate of Lawfulness for proposed removal of existing timber & glass upper section of kitchen porch, and replace with Block- work and glass upper section including a new solid flat roof | Written Representation | Refusal of a planning application |
|----------------------------|--------------|--|---|------------------------|--------------------------------------|

PLANNING COMMITTEE – 11 AUGUST 2022

Appendix B: Appeals Determined (between 20 June 2022 and 25 July 2022)

| App No. | Address | Proposal | Application decision by | Decision in line with recommendation | Appeal decision | Appeal decision date |
|--------------|---|--|-------------------------|--------------------------------------|------------------|----------------------|
| 21/01251/FUL | 24 Lyndhurst Avenue Blidworth NG21 0RJ | Erection of one bedroom, two storey dwelling | Delegated Officer | Yes | Appeal Dismissed | 21st June 2022 |
| 21/01676/FUL | 1 Sherwood Road Rainworth NG21 0LJ | Change of use from a residential dwelling (C3) to a dental practice (E) and erect single storey rear extension to replace conservatory (Re-submission of 20/02181/FUL) | Delegated Officer | Yes | Appeal Dismissed | 18th July 2022 |
| 21/01532/FUL | Field Reference Number 2789 Wellow Road Eakring | Construction of Workshop/Store | Delegated Officer | Yes | Appeal Dismissed | 22nd July 2022 |

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 01536 650000 or email planning@nsdc.info quoting the relevant application number.

Pa Hughes
Business Manager – Planning Development



Report to Planning Committee 11 August 2022

Director Lead: Matt Lamb, Planning & Growth

Lead Officer: Lisa Hughes, Business Manager – Planning Development, x 5565

| Report Summary | |
|--------------------------|---|
| Report Title | Development Management Performance Report |
| Purpose of Report | This report relates to the performance of the Planning Development Business Unit over the three month period April to June 2022. In order for the latest quarter’s performance to be understood in context, in some areas data going back to April 2020 is provided. The performance of the Planning Enforcement team is provided as a separate report. |
| Recommendations | For noting. The services it assists in the delivery of Community Plan Objectives: <ul style="list-style-type: none"> • Deliver inclusive and sustainable economic growth • Create more and better quality homes through our roles as landlord, developer and planning authority • Enhance and protect the district’s natural environment |

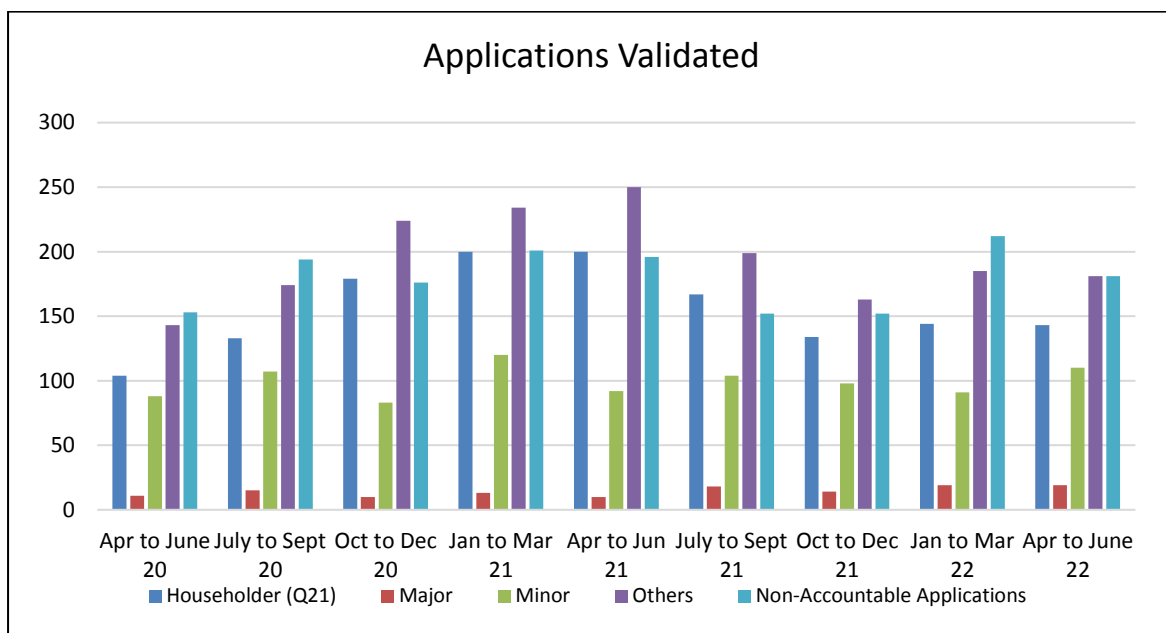
1.0 Background

1.1 The Planning Department undertakes a number of activities including process of planning applications and associated appeals, planning enforcement, conservation and listed building advice, pre-application advice as well as other service areas including land charges, street naming and numbering and management of the building control service for the Council. This report relates to the planning related functions of the service area.

2.0 Application Numbers

2.1 The graph below shows the number of applications that have been received as valid each quarter from April 2020 up until June 2022. They are presented in line with the Council’s reporting to Government. Definitions of what each application type constitutes is provided below the graph. In the first quarter of 2022/23, a total of 802

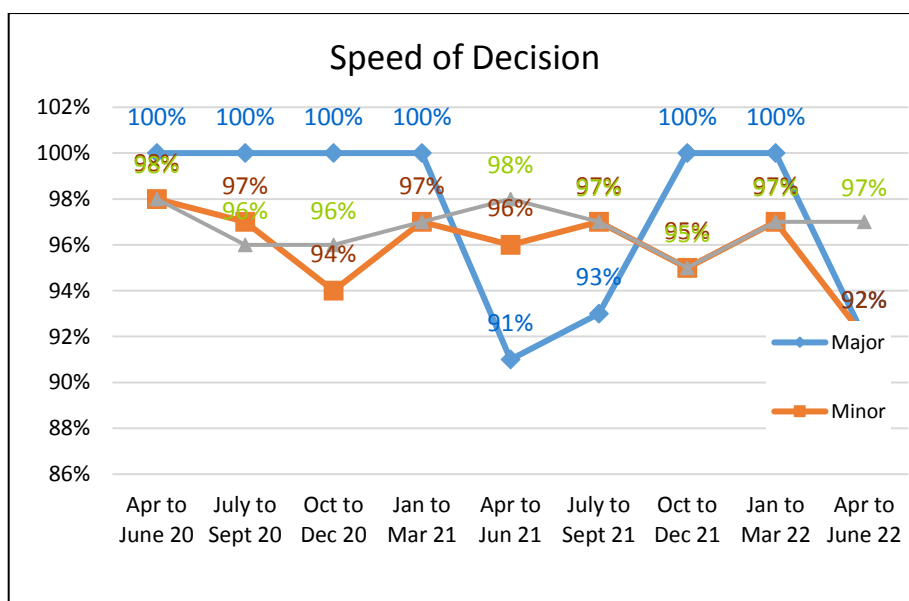
applications were received. This, compared to the same quarter in 2021/22 shows a large reduction from 942 applications or an approximate 17% decrease in application workload. 802 applications is still significantly greater than with the start of the pandemic in 2020/21 when 721 applications were received in the same quarter. The previous report identified the biggest increase in numbers were for householder applications with an 89% increase (200 applications compared to 104). However, this quarter has shown a significant reduction (by 57) for these application types. The number of majors, however, have significantly increased by 90% (from 10 to 19). Minor applications have also increased though by a much lesser amount at 19%. All other application types have reduced to varying degrees. Whilst all applications will have work associated in determining them, major applications generally require more input from Officers in their assessment due to their scale and issues that arise.



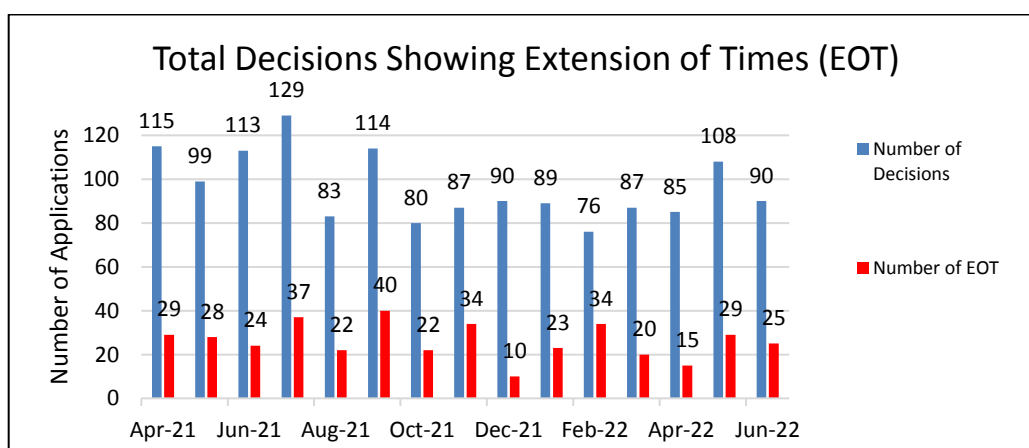
- 2.2 Major applications are those with 10 or more dwellings, sites of 1 hectare or more, or provision of 1,000m² new floor area or more.
 Minor applications include (but are not limited to) up to 9 dwellings, gypsy and traveller sites and commercial proposals not falling within the major category.
 Others include (but are not limited to) householder, advertisements and listed building applications. However, for the benefit of the above graph, householders have been extracted from the others category.
- 2.3 The 'non countable' category are those applications which are not reported to the Department for Levelling Up, Housing and Communities (DLUHC). Such applications include, but are not limited to: prior approvals, discharge of conditions, etc.
- 2.4 Non-countable and others generally comprise the highest numbers quarter on quarter, with householders shortly behind.

3.0 Performance

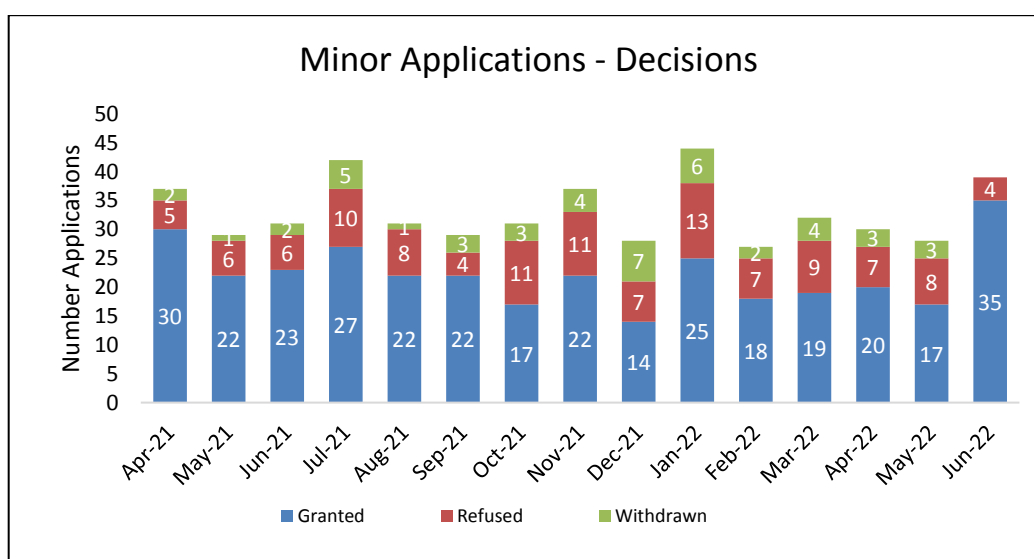
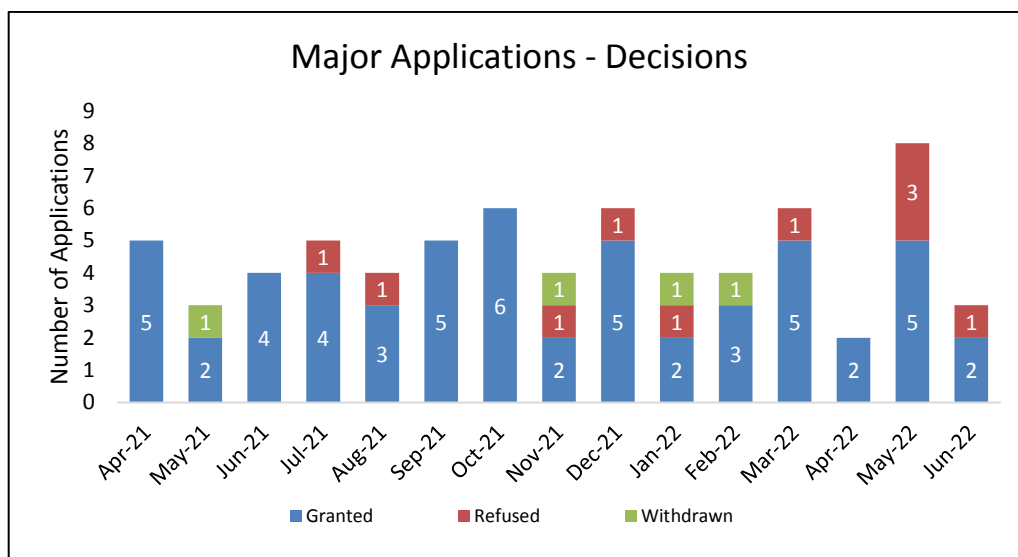
- 3.1 Government (DLUHC) monitor planning authorities on their speed of making decisions in relation to major and non-major applications. The target at national level is to determine 60% of major applications within the statutory period of 13 weeks or subject to the agreement of a time extension over a rolling two-year period. From April 2020 to end of March 2022, 98.1% of major applications have been determined within these timescales (this is the same as previously presented). Across all of the Nottinghamshire authorities, NSDC is the best performing and out of the 333 authorities across England and Wales, we are 48th in terms of overall performance, improving its place by 2 compared to last quarter's report. However, in terms of the number of major applications determined for the top 50 authorities, only 1 council has determined a greater number (110 compared to 107). For non-majors, the target set nationally is 70% over a two-year period. 96.4% of non-major applications over this same time period have been determined within these timescales and NSDC is 44th within the country (same as the previous quarter). Comparing once again to the other Nottinghamshire authorities, we are again second best performing, Broxtowe having determined 97.6% in agreed timescales. However, the number they have determined is significantly fewer at 1273 compared to 2030 (or 59% fewer) than NSDC. These targets are challenging when taking account, in accordance with the National Planning Policy Framework, to work positively and proactively with applicants in determining applications i.e. trying to find solutions as opposed to refusing a planning application that might be amended.
- 3.2 For authorities who under-perform against their national target, they will be classed as 'poorly performing' and applications for major development may be made by developers directly to the Planning Inspectorate. The Council would not receive the fees for these but would be expected to deal with all of the associated administration.
- 3.3 The following graph relates to the percentage of planning applications determined within set timescales.

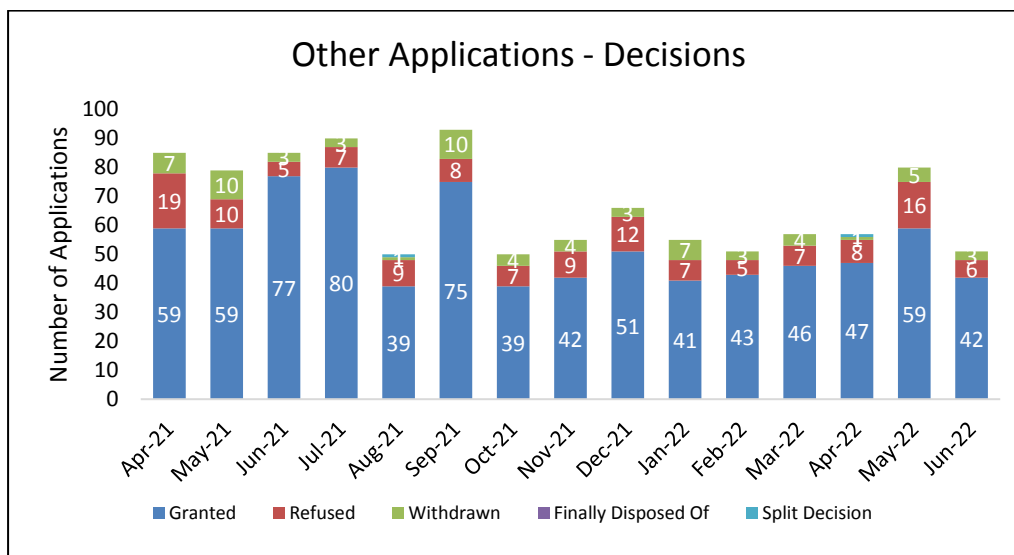


- 3.4 For major applications, performance over the previous quarter has dropped to 92%. 1 application out of 13 decisions has resulted in this change. Minors is at 92%, also having dropped slightly during the previous quarter. Other applications have remained consistent at 97%. The previous quarter has had some resourcing challenges which are reported later.
- 3.5 These targets continue to be achieved due in part to seeking time extensions for dealing with the applications beyond their [original] statutory time period from applicants. Time extensions might be sought by either party (the applicant or the Council) for a variety of reasons but might include seeking negotiations, complex and/or controversial proposals and items presented to Committee. Time extensions do not go against the authority in terms of speed of decision making when reporting. Members will be aware that the White Paper suggested that the determination timescales set out in legislation should be adhered to and were looking to potentially implement this as part of the overall planning changes. However the Levelling Up and Regeneration Bill does not provide detail regarding this. Increased fees are suggested, subject to consultation, but government state that this “... *must lead to a better service for applicants.*” At this stage it is not known what a ‘*better service*’ means or entails.
- 3.6 The graph below shows the total number of applications determined each month in blue and alongside, those in red are the number of applications where time extensions have been sought of those determined. Seeking time extensions means that case officer workloads increase overall which makes dealing with newer applications on time more challenging. The number of applications with extensions of time fluctuate quarter on quarter. However, the previous quarter saw the least number with extensions (at 24%) which corresponds with the above speed of decision making. As is always the case, Officers continually strive to deal with applications in a timely manner. However, this will always be challenging.
- 3.7 Notwithstanding this local performance target, caution needs to be given in relation to providing a quick decision. For example, it would be theoretically possible to determine all applications within statutory timescales without a request for, or agreement to, a time extension. However, this would likely mean that a significant number of applications would be refused due to the inability to negotiate leading to complaints, reputational damage and resubmission of applications which in the majority of instances would not be subject to a further planning application fee.



3.8 The number of decisions issued this quarter compared to April-June 2021.22 is fairly comparable in terms of majors and minor applications. The number of other decisions made has reduced from 229 to 179. This reflects the slight decrease in applications received over previous quarters. Of these decisions, the following graphs show the number of decisions that were granted, refused, split (i.e. part granted and part refused) and withdrawn across the major, minor and other categories. The only types of applications where a local planning authority is able to issue a split decision are for advertisement and tree applications unlike the Planning Inspectorate who is able to do this for all application types. All three graphs demonstrate that the majority of applications are granted (cumulatively approximately 80%, 67% and 75% across the major, minor and other categories respectively) between April 2021 and June 2022. Withdrawals (15 in the first quarter) are not reported as part of our overall performance to government but will still have involved a significant amount of work by the case officers. These applications are frequently resubmitted, often as a 'free go', whereby no fee is payable.





4.0 Tree Applications

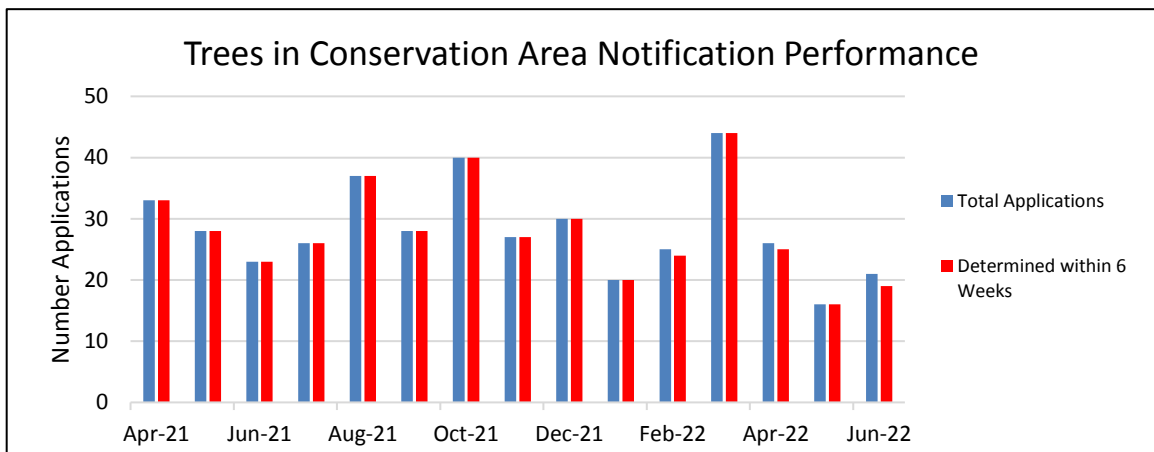
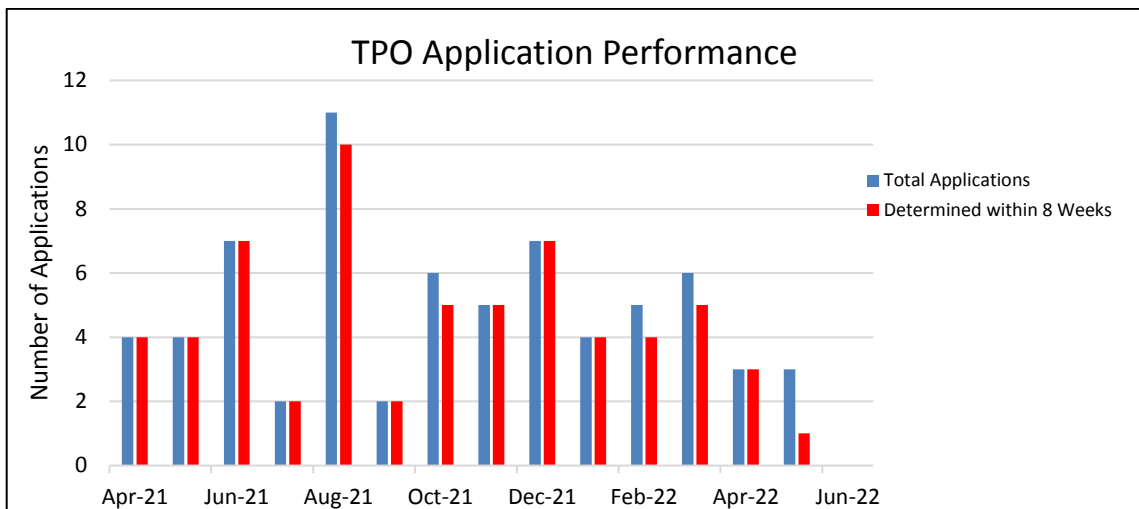
4.1 Trees are a valued amenity contribution to the character of the District. Those that are subject to a Tree Preservation Orders (TPOs) or within a Conservation Areas require consent from the Council before works are commenced. In relation to unprotected trees within a Conservation Area, the consent seeks the Council’s decision as to whether or not the tree has the necessary amenity criteria such that it should be subject to a Preservation Order. These criteria include consideration to:

- Its condition and suitability
- Its remaining longevity (in years) and suitability
- Its relative public visibility and suitability
- Other factors, such as whether it has historical value, its rarity, whether it is part of a group etc.

Where it meets these criteria, a TPO will be made. Applications for works to trees in Conservation Areas require the Council to make their determination within 6-weeks and the Order issued within this timescale. If a decision is not made by the first day of the 7th week, the applicant may undertake the works that they were seeking consent for. These applications are not subject to a planning fee.

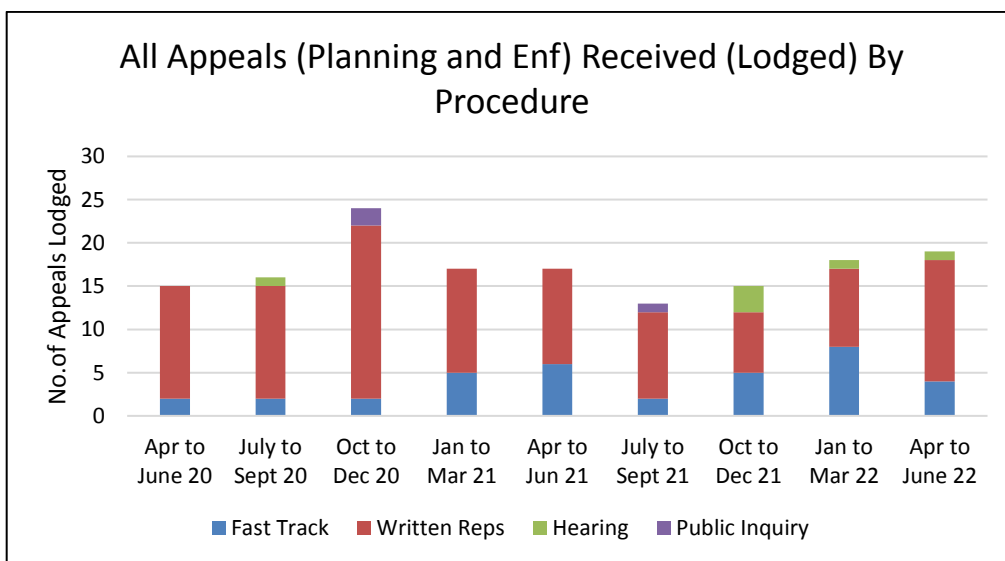
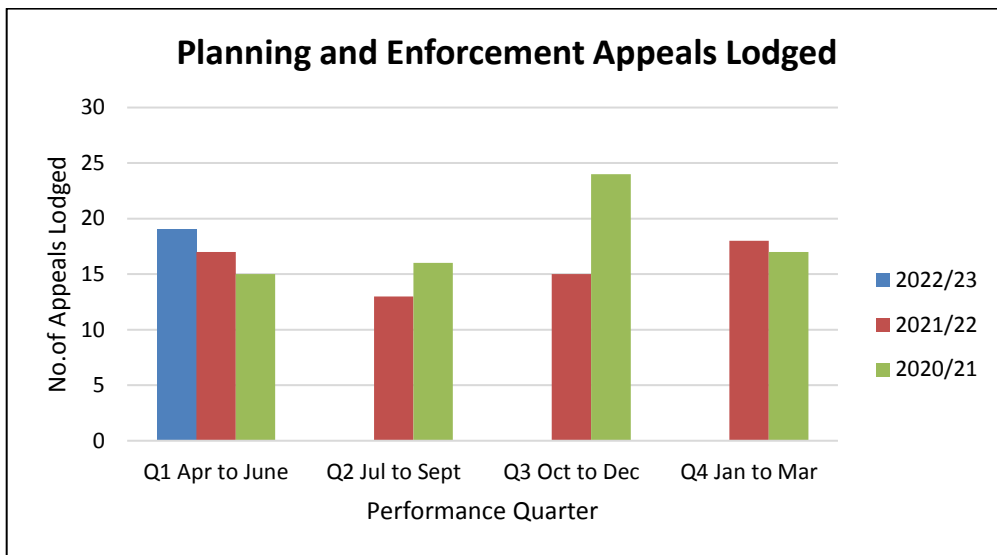
4.2 The following graphs show the number of TPO and Trees within a Conservation Area applications determined each month and whether they were determined within the statutory timescales. The number of applications received each month have no consistency making resourcing more difficult. However, following the appointment of the Tree/Landscape Officer earlier this year, it has eased the pressure on many of the Technical Planning Support staff. It should be noted however that where the Officer identifies a potential risk to a tree of value (for trees within conservation areas applications), these applications are determined within the statutory period in order that further protection for the tree can be put in place. Performance in the previous quarter has dropped compared to previous reports. This is due to one of the applications being submitted by a Senior Member of staff and thus needing to be

determined by Planning Committee. Another application was subject to negotiation with the applicant which took longer than would normally be the case.

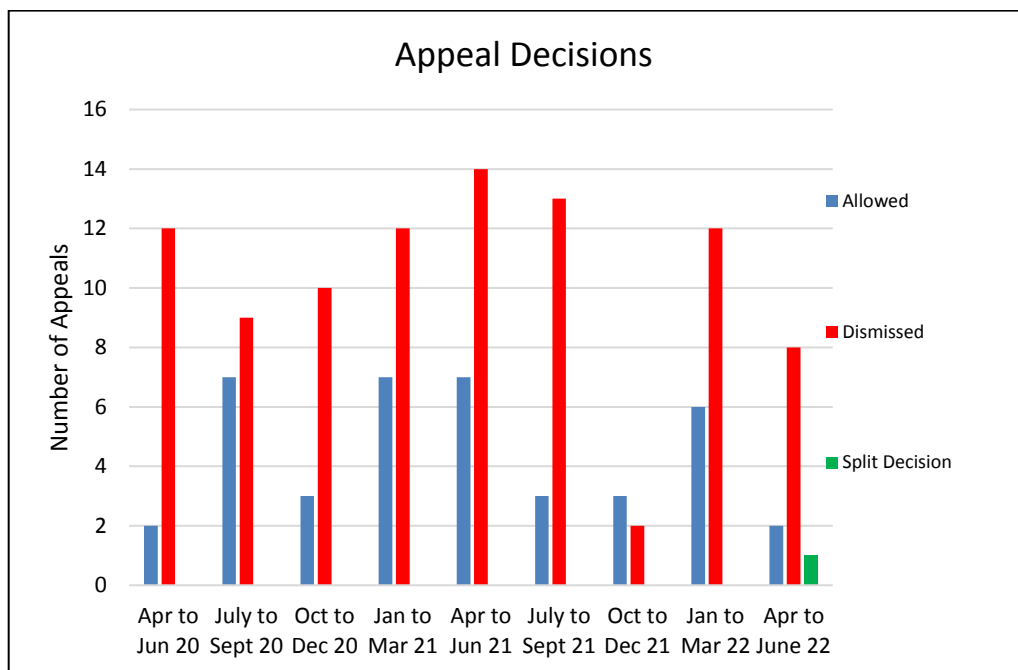


5.0 Appeals

5.1 The charts below shows the number of appeals against planning applications and enforcement notices that have been received over the last 3 years, quarter on quarter. It can be seen that the total number of appeals fluctuates, which makes resourcing them challenging, with a need to balance appeal work against the number of applications a case officer is dealing with. Additionally, the type of appeal makes resourcing more challenging. There are 4 types of appeal – inquiry, hearing, written representations and fast track with the amount of resource responding accordingly from very high to low. Members will be aware that there have been a number of appeals in recent months and, although there has not been an inquiry this quarter, work was undertaken in relation to the A17 Big Box, Newark which had been due to be heard by way of a hearing. The majority of appeals are heard via written representations.



5.2 The chart below shows the number of appeals against planning applications and enforcement notices that have been allowed, dismissed and split (part allowed and part refused). This quarter has seen a reduction in the number of decisions issued by the Inspectorate compared to the previous quarter, from 18 to 11. The number dismissed exceeds the number allowed and is line with the Government’s previous target of having no more than 33% being allowed. Where a split decision has been issued, in terms of the Government’s monitoring, this is treated as a dismissal. This quarter has seen 27% of appeals being allowed.



5.3 As well as the Government monitoring authorities in relation to performance for determining applications, it also monitors quality in relation to the number of major and non-major applications overturned (i.e. allowed) at appeal. The threshold is for fewer than 10% of major applications overturned at appeal over a rolling two-year period. For authorities who exceed this target, they will be classed as ‘poorly performing’ and applications for major developments may be made by developers directly to the Planning Inspectorate. Members may have seen headlines reporting that one such authority, which has recently been sanctioned against, is Uttlesford District Council.

5.4 As of 1 April 2018 DLUHC implemented a threshold for quality of decisions for major and non-major applications at 10%. For clarification, this is 10% of all major decisions and all non-major applications (i.e. minor and others) decisions refused by the Council and subsequently overturned (allowed) at appeal over a rolling two-year period.

5.5 Data from government has not been updated since the report was originally presented to Members which showed the Council is significantly below the thresholds set out. However, with the number of appeals allowed compared to the overall number of decisions made for each of the categories, the Council will be significantly within these figures.

5.6 Alongside the processing of an appeal, the appellant and Council can both seek costs against the other party. Planning Practice Guidance sets out what might constitute grounds for a claim but this comprises unreasonable behaviour. Whilst claims have been made, the Council has not been found to have acted unreasonably.

5.7 In addition to the appeal types referred to earlier. The Council’s decision has been judicially challenged in relation to application 20/00580/FULM at ‘Land at Bowbridge Road, Newark’ for 87 affordable dwellings. The hearing date was July 22nd. The claim was dismissed and the claimant instructed to pay the Council’s full costs. In addition, the Inspector’s decision on application 20/2420/S73M at ‘Kilvington Lakes, Newark’

seeking to vary two conditions on the 2014 permission for self-catering holiday lets and inn and 2019 application (also varying conditions) which was allowed on appeal has been challenged by the Appellant. This challenge is at its initial stage whereby the Inspectorate will be assessing whether they wish to defend their decision or not. An update will be provided in due course.

6.0 Updates

- 6.1 Staffing – Since the previous report was presented, there have been further changes to staffing. Danielle Peck has left the authority and a new starter has joined – Steve Cadman. This has had impact on resourcing applications, along with absences for a variety of reasons during the previous quarter, resulting in the slight drop in performance.
- 6.2 Whilst there has been little change in relation to legislation, Members will be aware the Levelling Up and Regeneration Bill was published in May. This will have significant impact across the Council, but in particular for planning. A report will be provided to Members of changes as the Bill progresses through its hearings and there is more certainty.
- 6.3 A customer services survey will shortly be sent to applicants, agents and neighbours submitting and responding to applications. The responses will be used to assist in improving the service for everyone affected. In addition, progress is being made in relation to reviewing the software used to deal with applications. This is a significant project with a 3-year timetable given to this project (starting in April 2022). Again, this project is anticipated will be able to make improvements for everyone’s experience with planning.

7.0 Implications

In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Digital and Cyber Security, Equality and Diversity, Financial, Human Resources, Human Rights, Legal, Safeguarding and Sustainability, and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

8.0 Conclusion

- 8.1 Performance continues to be met. Overall the department has been able to provide an excellent service, whilst continually looking to make improvements whether large or small.

Background Papers and Published Documents

None



Report to Planning Committee 11 August 2022

Director Lead: Matt Lamb, Planning & Growth

Lead Officer: Richard Marshall, Senior Planner (Enforcement)

| Report Summary | |
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| Report Title | Quarterly planning enforcement activity update report |
| Purpose of Report | <p>To update Members as to the activity and performance of the planning enforcement function over the first quarter of the current financial year.</p> <p>To provide Members with examples of cases that have been resolved (both through negotiation and via the service of notices) and to provide details and explanations of notices that have been issued during 1st April 2022 – 30th June 2022.</p> |
| Recommendation | <p>For noting. The services in assists in the delivery of Community Plan Objectives:</p> <ul style="list-style-type: none"> • Continue to maintain the high standard of cleanliness and appearance of the local environment • Enhance and protect the district’s natural environment |

1.0 Background

This report relates to the first quarter from the 1st April to the 30th June and provides an update on enforcement activity during this period, including cases where formal action has been taken. It also includes case studies which show how the breaches of planning control have been resolved through negotiation, and Notices that have been complied with.

Schedule A outlines the enforcement activity for Q1 in terms of the numbers of cases that have been received and closed (Chart 1) and also provides a breakdown of the reasons that cases have been closed (Chart 2). Charts 3 and 4 details the performance of the enforcement team when compared against time limits set out within the Newark and Sherwood District [Planning Enforcement Plan](#) (PEP) in both Q1 and since the adoption of the policy in September 2020

Schedule B includes a small number of examples of where formal planning enforcement action has been taken (such as a notice being issued).

Schedule C provides just a few examples of how officers have resolved breaches through negotiation during the last quarter.

Schedule D provides examples of Notices that have previously been served and now complied with; resolving the breach of planning control, or reducing the harm and impact caused by unauthorised development to an acceptable degree.

2.0 **SCHEDULE A – OUTLINE OF ENFORCEMENT ACTIVITY**

Members will note from Chart 1 that the enforcement team has continued, as outlined within previous reports, to be extremely busy – with an ever increasing number of reports being received that require some form of active investigation.

What is not reflected within the figures provided is that the complexity and seriousness of cases are increasing. Officers are actively investigating cases that include the creation of reservoirs and new dwellings without planning permission, unauthorised works to Listed Buildings and unlawful works to protected trees. Whilst the complexity of cases is not necessarily revealed within the figures provided, they nevertheless occupy a disproportionate amount of officer time and Officers have managed to do so whilst completing investigations that relate to more ‘standard’ matters that are raised, as demonstrated within Chart 1.

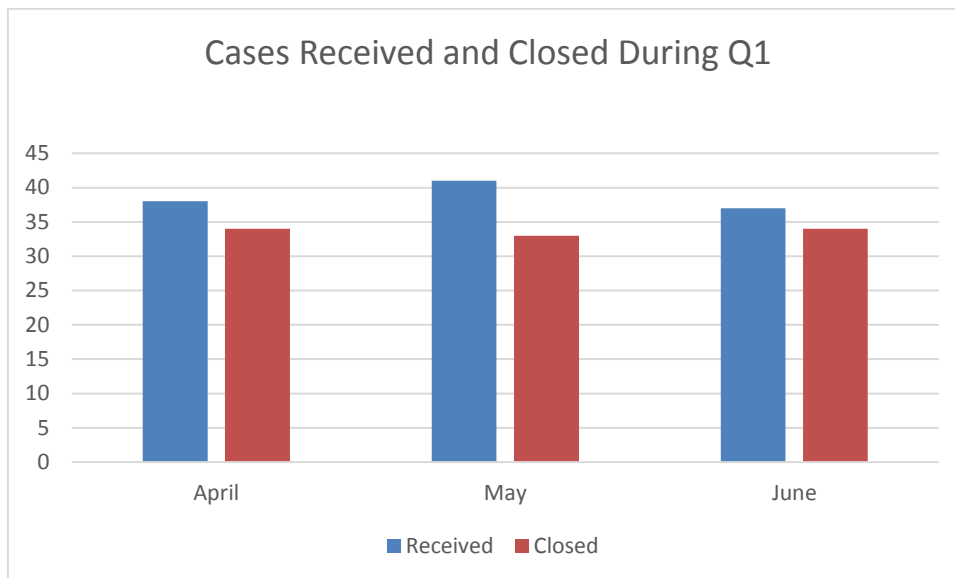


Chart 1 – Case numbers received and closed in Q1

Members will note the continuing positive trend of cases being closed where the breach has been resolved, as shown within Chart 2, which is a high priority for the Planning Enforcement Service.

As will inevitably be the case, there is a significant proportion of cases closed that are not a breach, and this therefore demonstrates the need for staff and local members, where appropriate, to continue to educate the public where possible on planning legislation.

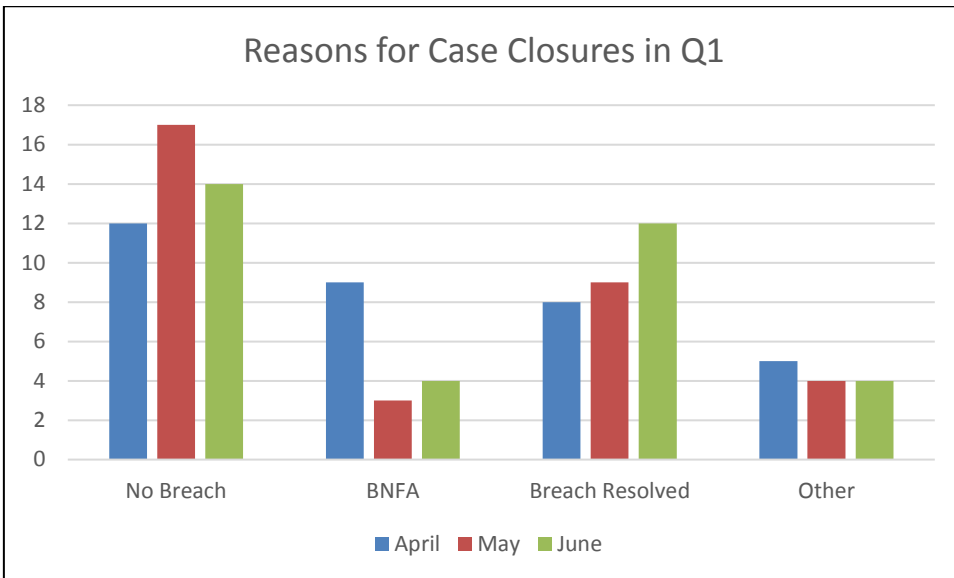


Chart 2 – Reason that enforcement cases have been closed during Q1 of 2022/2023

In addition, Members will be aware that in September 2020 the Planning Enforcement Plan (PEP) was adopted. As well as setting out how the enforcement service will operate and what Members and the public can expect from the service, the PEP also put in place a system of case prioritisation which encompassed targets for initial investigations to take place.

Members will note from Chart 3 that despite the consistently high number of enforcement cases being dealt with, and the previously explained complexity of those matters investigated, the Planning Enforcement team has been working with continued commitment to achieving the highest standard of attainment and has reached a 100% compliance with the targets set within the PEP.

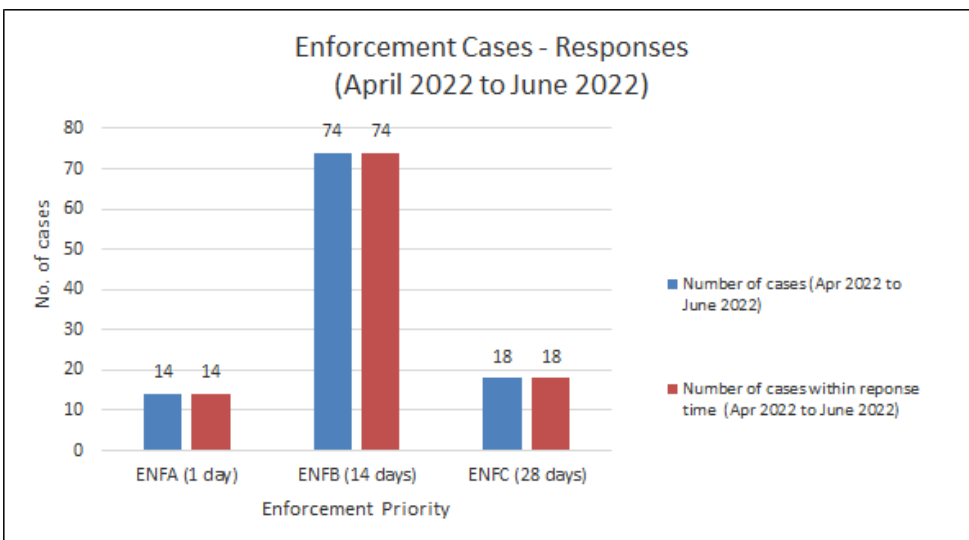


Chart 3 – Response Times in Q1 of 2022/2023

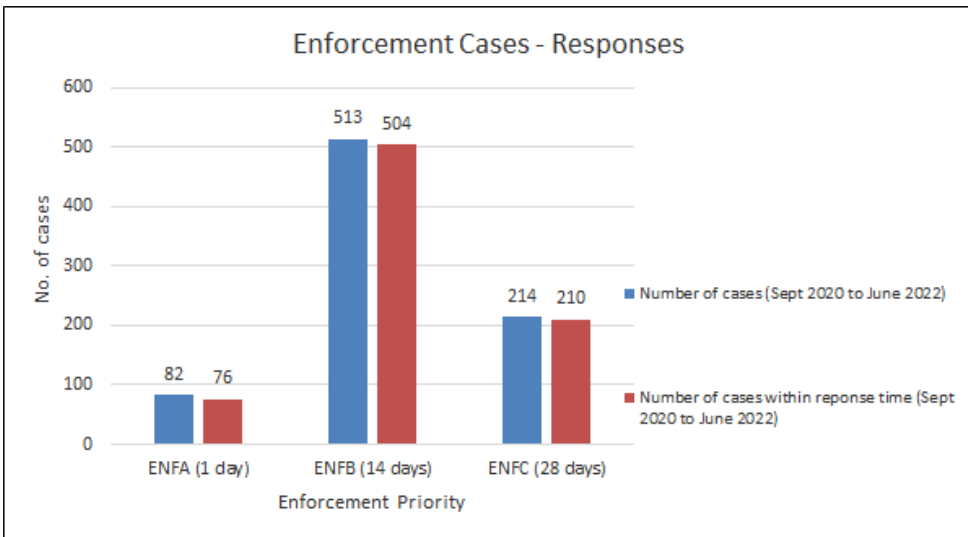


Chart 4 – Response Times Since September 2020

3.0 Outcomes in Quarter 1

| | April | May | June | Total |
|------------------------------|-------|-----|------|-------|
| Notices Issued | 2 | 1 | 2 | 5 |
| Notices Complied With | 1 | 2 | 0 | 3 |
| Appeal Lodged | 2 | 1 | 1 | 4 |
| Appeal Determined | 1 | 1 | 2 | 4 |

Table 1 – Details of planning enforcement notices issued and complied with during Q1 of 2021/2022. Also included are details of appeals relating to enforcement notices.

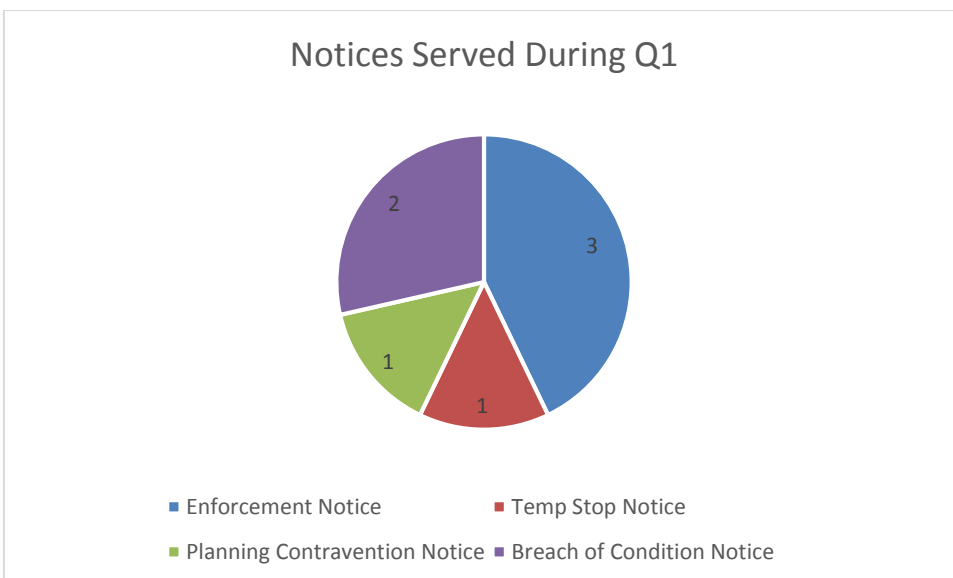


Chart 5 – Notices Served During Q1

4.0 **SCHEDULE B. FORMAL ACTION TAKEN**

Enforcement Ref: 22/00006/ENFB

Site Address: 18 Valley Road, Bilsthorpe

Alleged Breach: Unauthorised erection of extension forward of the principal elevation

Action To Date: Enforcement Notice

Background: A brick outbuilding was being erected to the front elevation of an existing dwellinghouse within Bilsthorpe. The extension was of a significant size and accordingly required planning permission. A retrospective application for planning permission was submitted but refused, and an Enforcement Notice requiring its removal was issued. The Enforcement Notice has been appealed to the Planning Inspectorate.



Enforcement Ref: 22/00022/ENFC

Site Address: 1 Bayford Drive, Newark

Alleged Breach: Unauthorised Outbuilding

Action To Date: Enforcement Notice

Background: A large timber outbuilding had been erected forward of the principal elevation of 1 Bayford Drive. Outbuildings forward of the front of a dwelling require planning permission. A retrospective application for planning permission was submitted but refused and an Enforcement Notice requiring its removal was issued. The Enforcement Notice has been appealed to the Planning Inspectorate.



Enforcement Ref: 21/00355/ENFM

Site Address: Development site off Oldbridge Road, Bilsthorpe

Alleged Breach: Alleged breach of planning conditions relating to the means of enclosure installed around an existing open space/ play areas

Action To Date: Breach of Condition Notice (BCN)

Background: A low height post and rail fence had been erected surrounding the existing play area on Compton Road, separating the play space from the Gleeson Homes development site. The approved plans detailed a 1.8m high close boarded fence and conditions attached to the planning permission required the development to be undertaken in accordance with the approved plans.

An application was submitted to vary the plans to allow for the retention of the post and rail fence but was refused by the Planning Committee.

A breach of condition notice (BCN) has been issued to require the means of enclosure to be amended to comply with the approved plans. The date for compliance with the BCN is 22nd August 2022.



Enforcement Ref: 20/00309/ENFB

Site Address: Kilvington Lakes, Kilvington

Action To Date: Planning Contravention Notice and Temporary Stop Notice Issued

Background: Kilvington Lakes is a designated Local Wildlife Site with an extant planning permission for use as a holiday site dating back to 2015. Officers were notified that a large quantity of soil was being imported onto the land and being spread over ecologically sensitive parts of the land. There is no provision for these works within the extant planning permission for such vast quantities to be spread over the landscape. A Temporary Stop Notice was issued requiring the spreading of soils to cease, and for any additional soils brought onto the land to be stockpiled only in one confined area of the large site, to prevent further ecological harm while a response to a Planning Contravention Notice was being awaited.

Officers continue to assess and investigate the situation alongside Planning Officers at Nottinghamshire County Council, in their function as the planning authority for waste and minerals, to determine the appropriate next steps. Nottinghamshire County Council have also issued a Temporary Stop Notice requiring the importation of soils to cease entirely.



5.0 SCHEDULE C: EXAMPLES OF BREACHES RESOLVED WITHOUT FORMAL ACTION

Enforcement Ref: 22/00138/ENFB

Site Address: 71 Walesby Lane, Ollerton, NG22 9UT

Alleged Breach: Untidy Land

Background: The occupant of 71 Walesby Lane has over time acquired an unacceptable amount of broken vehicles, parts and other waste items, storing them on the front garden and driveway of the property. A Section 215 Notice (untidy land) has previously been issued, requiring the land to be cleared. This scenario has repeated itself with further vehicles and items being amassed, however upon contact by officers, the occupant promptly acted to tidy the land and avoid any further formal enforcement action.



Before



After

Enforcement Ref: 21/00388/ENFB

Site Address: Braemar Road, Collingham

Alleged Breach: Unauthorised use of a dwelling as a short-term holiday let

Background: Complaints were received regarding anti-social behaviour, noise and parking issues resulting from the use of this property for short-term holiday lets – advertised through companies such as Air BnB. This is a ‘grey area’ in planning law, and whether a material change of use has occurred is dependent upon the site’s context, scale of the use and its implications for the locality. Complaints were extensive and the alleged behaviour of the occupants unacceptable. Officers corresponded with the owner of the property who removed the property from online rental listings and is now in the process of selling the property.

6.0 SCHEDULE D – NOTICES COMPLIED WITH DURING QUARTER

Enforcement Ref: 21/00152/ENFB

Site Address: Woodlark Close, Rainworth

Action To Date: Planning Applications Refused, Enforcement Notice issued

Background: The enforcement case involves the erection of a pergola and area of raised decking, which overlooked a number of neighbouring gardens due to the difference in land levels. A retrospective application for planning permission to retain both the decking and pergola was submitted – reference 21/01558/HOUSE – which was refused due to the impact upon neighbouring privacy.

An enforcement notice was issued requiring the removal of this development. Initially the decking and pergola was removed, however a subsequent inspection found that the decking had been reinstalled at a lower height. The owners were informed that whilst they may have complied with the Enforcement Notice, the 'new' decking required planning permission and must also be removed. This has now been undertaken.



Enforcement Ref: 18/00271/ENF

Site Address: Sherwood Avenue, Edwinstowe

Action To Date: Enforcement Notice Issued

Background: Without planning permission a flat-roof second storey was being built atop an existing single storey extension, leading to a serious loss of neighbouring privacy, and an uncharacteristic design.

A retrospective planning application was refused and a planning enforcement notice issued which required the extension to be removed and the property returned to its previous condition. The enforcement notice and planning decision were appealed and subsequently dismissed.

Following the appeal a second planning application was submitted. This application proposed the retention of the extension, but with external materials proposed to be more in keeping with the existing character of the area, alongside revisions to the roof.

This application received permission from the Council and alterations have now been made to comply with the approval.



Before



After

7.0 Implications

In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

Background Papers

None