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**Wednesday, 11 January 2023**

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

**Members of the Committee:**

**Councillor M Brock  
Councillor R Crowe  
Councillor A Freeman  
Councillor L Goff  
Councillor Mrs R Holloway  
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, 19 January 2023 at 4.00 pm**

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

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

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



## AGENDA

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

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, 8 December 2022 at 4.00 pm.

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

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

APOLOGIES FOR ABSENCE: Councillor A Freeman (Committee Member), Councillor S Saddington (Committee Member), Councillor T Smith (Committee Member) and Councillor T Wildgust (Committee Member)

### 67 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

Councillor R V Blaney declared Non-Registerable Interest regarding Application No. 22/02063/TWCA, St. Denis's Church, Main Street, Morton, as he was the Church Warden and agent.

Councillor Mrs L Dales declared a Disclosable Pecuniary Interest regarding Application No. 22/01824/LDCP, 2 Redmay Corner, Main Street, South Scarle, Newark on Trent, as her husband was the applicant.

Councillor Mrs P Rainbow informed the Planning Committee that she had spoken on the telephone to the applicant regarding Application No. 22/00874/HOUSE, Meadow Farm, Greaves Lane, Edingley.

Councillor I Walker declared a Non-Registerable Interest regarding Application No. 22/01331/FUL, Land Adjacent to Fosse Road, Farndon, as his daughter was Vice-Chairman of Farndon Parish Council. Councillor K Walker also declared a Non-Registerable Interest regarding this application as his niece was Vice-Chairman of Farndon Parish Council.

Councillors L Dales, I Walker and K Walker declared Non-Registerable Interests as appointed representatives on the Trent Valley Internal Drainage Board.

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

The Chairman advised that the proceedings were being audio recorded and live streamed by the Council.

### 69 MINUTES OF THE MEETING HELD ON 10 NOVEMBER 2022

AGREED that the Minutes of the meeting held on 10 November 2022 were approved as a correct record and signed by the Chairman.

70 LAND ADJACENT TO FOSSE ROAD, FARNDON - 22/01331/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought the erection of a four-bedroom bungalow.

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 from the Flood Risk Assessment Author.

Members considered the application, and it was felt that there was a need for a bungalow in this location given that Farndon had all facilities to offer this development. The building itself was not in the flood zone and it was questioned whether the driveway could be raised to alleviate the issue with that being in flood Zone 2. It was commented upon that to a local Members knowledge that land had never flooded and that it was a shame that the land would not be used given that there were developments surrounding that plot. Another Member commented that a consistent approach should be taken when considering Planning applications and the application should be refused on the advice of the Environment Agency on the grounds of being in flood Zone 2. The Chairman commented that it was disappointing that the land could not be developed however if the Committee were minded to refuse the application that there may be a solution to the land being developed, possibly through the access of a surrounding property, if that could be secured.

The Business Manager – Planning Development commented that the applicant had the right of appeal and that dwelling houses were more vulnerable as people reside there. This application was also for a bungalow which was more vulnerable than a two-storey house. The land may be feasible for allotments, or possibly a small business, although the surrounding development would need to be protected.

The Chairman commented that he hoped the applicant would engage with Officers, as this Committee would like to see some development on that parcel of land.

AGREED (with 6 votes For and 5 votes Against) that planning permission be refused for the reasons contained within the report.

71 LURCHER FARM BARN, MANSFIELD ROAD, FARNSFIELD - 22/01527/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought the erection of a new residential dwelling, demolishing the existing building, with associated parking and private amenity space, following a site visit.

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 from the Agent and Planning Case Officer.

Councillor B Laughton, Local Ward Member for Farnsfield, spoke in support of the development on the grounds that the applicant would like to build a property on the site of his business, which would be used as a family home and be retained by the applicant. The site although taller than what was currently in situ would not be seen from the road and would be hidden by trees. He mentioned that the current development had been cheaply constructed and may fall down if converted, it was therefore felt that a new build would be an improvement and would make it easier for the family and provide a development with an enhanced value.

Members considered the application, and it was commented that there were bats roosting on site which needed to be protected. Another Member commented that whilst he had no problem with the development, he did have a problem with the removal of the line of poplar trees, it was felt that a road could be built in front of them. A Member commented that she could not see any special circumstances and that the current building could be converted.

AGREED (with 8 votes For and 3 votes Against) that planning permission be refused for the reasons contained within the report, subject to the revised Reason for Refusal No. 2 as set out on the Schedule of Communication.

72 LAND NORTH OF HALLOUGHTON, SOUTHWELL - 22/01858/S73M

The Committee considered the report of the Business Manager – Planning Development, which sought the variation of condition 6 attached to the appeal decision for planning application 20/01242/FULM to amend the approved plans.

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 from the Agent.

Members considered the application acceptable.

AGREED (with 9 votes For and 2 Abstentions) that planning permission be approved, subject to the conditions contained within the report.

73 MEADOW FARM, GREAVES LANE, EDINGLEY - 22/00874/HOUSE

The Committee considered the report of the Business Manager – Planning Development, which sought the extension and refurbishment works to the farmhouse, which was part retrospective, following a site visit.

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 from the Agent. The agent had requested for the application to be determined at committee without the amendments submitted 21 November 2022.

Members considered the application and the local Ward Member commented that the dwelling had been left in a derelict state and the alterations made had enhanced the site. There had been a number of letters in support of the application including support of the Parish Council, who encouraged families to settle in Edingley. It was commented that the Oak cladding would mellow in time and fitted in with Meadow Barn next door, which was totally wood cladded. The previous windows were not original and dated back to 1988, therefore had no merit. The current windows and roof tyles had been chosen carefully to reflect the cottage style. It was alleged that the applicant had engaged with the Local Planning Authority and had been advised that there was nothing contentious regarding their plans. The applicant had only added a small amount more than permitted development. Retrospective applications were not a material consideration and she asked that the family be given a home they had built and need. Other Members felt that the character of the property had been fundamentally changed, was incongruous in setting and the materials were not suitable. It was commented that the applicant should have appealed against the refusal issued in 2021. It was considered not right to undertake alterations of this scale without seeking planning permission.

AGREED (with 9 votes For and 2 votes Against) that planning permission be refused for the reasons set out within the report.

74 CAUNTON COTTAGE, AMEN CORNER, CAUNTON - 22/01902/HOUSE

The application was withdrawn from the agenda and would be considered at a future Planning Committee.

Councillor L Goff left the meeting at this point.

75 2 REDMAY CORNER, MAIN STREET, SOUTH SCARLE, NEWARK ON TRENT - 22/01824/LDCP

The Committee considered the report of the Business Manager – Planning Development, which sought a certificate of lawfulness for proposed replacement conservatory.

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

Members considered the application acceptable.

*(Having declared a Disclosable Pecuniary Interest, Councillor Mrs L Dales left the meeting for the duration of this item).*

AGREED (unanimously) that a certificate of lawfulness be approved for the reason detailed within the report.

*(Councillor Mrs L Dales returned to the meeting).*

76 ST DENIS'S CHURCH, MAIN STREET, MORTON - 22/02063/TWCA

The Committee considered the report of the Business Manager – Planning Development, which sought the following:

1no Cedar - 8 on accompanying plan - remove snapped/broken branches and overall crown reduction of approx 1-2m, crown thin to a max. of 15% and crown lift to 1-2m

1no Mulberry -10 on accompanying plan - remove

1no Rowan - 27 on accompanying plan - remove

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

Members considered the application acceptable.

*(Having declared a Non-Registerable Interest, Councillor R V Blaney left the meeting for the duration of this item).*

AGREED (unanimously) that no objections to the proposed works.

*(Councillor R V Blaney returned to the meeting).*

77 PROTOCOL FOR MEMBERS ON DEALING WITH PLANNING MATTERS

The Business Manager – Planning Development sought Member approval regarding an amendment to the protocol for Members on dealing with planning matters following recent case law.

Members were informed of recent case law published which highlighted that it would be beneficial to provide greater clarity, in order to minimise the risk of any legal challenge, in relation to decisions made by Members of the Planning Committee.

Section 15: Voting at Committee of the Protocol set out when a member was able to vote on an agenda item:

*“15.1 Any member who is not present throughout the whole of the presentation and debate on any item shall not be entitled to vote on the matter.”*

Recent case law R (on the application of The Spitalfields Historic Building Trust) v London Borough of Tower Hamlets (LBTH), Date: 6 September 2022, [2022] EWHC 2262 (Admin) was a challenge against the London Borough of Tower of Hamlets (LBTH) by an interested party that the Council had erred in its decision making at their planning committee. A summary of the case in a report was presented to the committee in April 2021 at which time it was deferred. The application was re-presented in September 2021 by which time a new Constitution had been adopted as well as a change in the membership of the committee. LBTH’s Constitution was such that only those members who were present at the April 2021 meeting were able to vote at the September meeting. The case was dismissed, and the Court found the power prohibiting members from the vote on the deferred application had been lawfully constructed in Council’s Constitution and fell within the Local Authority’s power under Paragraph 42 of Schedule 12 to the Local Government Act 1972. However, the case highlighted the need for clarity when exercising the discretion to



regulate proceedings and business.

It was reported that each council adopted their own constitution, protocols and delegation arrangements. Newark and Sherwood District Council was different in that it only related to members needing to be present at the meeting on the day a decision was made. However, to provide clarity for all, the proposed change was recommended:

15.1 Any member who is not present throughout the whole of the presentation and debate on any item shall not be entitled to vote on the matter. For clarity, the '*whole of the presentation and debate*' comprises only the presentation and debate on the day the application is determined. It does not include any previous presentation and/or debate of the item for either referrals or resolutions to approve subject to '...' which might include completion of a s106 planning obligation, consultations or notifications to expire or other matter.

In addition, it had been noted that the paragraph numbering of the document adopted in June was, towards the end of the document, mistyped. There was also an error in paragraph 15.1 of the report and the last word should read 'matters' and not matter. Those amendments were also suggested to be corrected.

AGREED: (unanimously) that Planning Committee adopt the amended Protocol for Members on dealing with planning matters, including the additional amendments.

78 APPEALS LODGED

AGREED that the report be noted.

79 APPEALS DETERMINED

AGREED that the report be noted.

Meeting closed at 5.32 pm.

Chairman



Report to Planning Committee 19 January 2023

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Jamie Pegram, Planner, ext. 5326

Report Summary			
<b>Application Number</b>	22/01902/HOUSE		
<b>Proposal</b>	Remove front porch and rear extension. New two storey side/rear and single storey rear extensions and alterations to existing window and doors and raise existing cottage ridge		
<b>Location</b>	Caunton Cottage, Amen Corner, Caunton, NG23 6AP		
<b>Applicant</b>	Mr and Mrs John & Ruth Boardman	<b>Agent</b>	Mr Keith Rodgers
<b>Web Link</b>	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage</a>		
<b>Registered</b>	30.09.2022	<b>Target Date</b>	29.11.2022
<b>Recommendation</b>	That planning permission be APPROVED subject to the Conditions set out in Section 10		

This application was deferred from the December Planning Committee meeting to allow officers to consider the impact on trees. The report that follows is largely as previously published with additional commentary included relating to trees and landscaping and updates as necessary.

This application is presented to Planning Committee due to the proposed extensions not being subservient to the original dwelling and therefore representing a departure from the Development Plan.

## 1.0 The Site

The application site is occupied by a two-storey cottage sitting within a large residential curtilage, situated at the eastern end of Amen Corner within but on the edge of the village of Caunton. The site is located within the designated Caunton Conservation Area. Approx. 100m

to the south-west of the site is a Grade II listed building known as The Grange.

The cottage has a linear planform with single storey lean-to additions with a white render finish and a clay pantile roof. The original part of the cottage sits at its eastern end. To the west of the cottage is a detached flat roofed sectional double garage with pebbledash finish. There are also a number of outbuildings to the east of the cottage.

The site is located within Flood Zone 1 of the Environment Agency flood maps which means it is at low risk of fluvial flooding. The site is prone to surface water flooding.

Caunton village sits to the west of the site with open fields to the north, east and south. Caunton Footpath 10 runs alongside The Beck beyond the open field to the south of the site.

## **2.0 Relevant Planning History**

**PAFU/00166/22** - Request for follow up advice for proposed 2-storey extension and alterations to the existing Caunton Cottage to provide additional living accommodation and garage. (Advice sent 01.07.2022)

**PREAPP/00069/22** - Proposed 2-storey extension and alterations to the existing Caunton Cottage to provide additional living accommodation and garage. (Advice sent 29.03.2022)

## **3.0 The Proposal**

The application seeks approval to remove the lean-to front porch and lean-to rear extension and build a two-storey side and rear extension and a single storey rear extension with alterations to the existing cottage to include the raising of the ridge.

The proposal would involve three extensions to the building – a two storey side extension to the east elevation (with depth to match the existing cottage and 2.2m wide), a two-storey rear extension to the south elevation to create an M-plan roof (with depth to match the existing cottage (4.8m off the rear wall) by 11.9m wide) and a single storey flat roofed rear extension to the south elevation. The height of the proposal would be approximately 4.3m to the eaves and 6.5m to the ridge, part of the existing cottage that forms the M-plan roof element would have the ridge and eaves raised to match the extension (approx. 300mm above the existing cottage ridge and eaves). A single storey flat roofed fully glazed extension is also proposed measuring approximately 3.6m by 4.96m and 2.8m in height with aluminium frame.

The proposal includes an oak framed porch, insertion and alteration of windows and doors within the existing cottage to match that in the proposed extension. This includes three sets of patio door openings on the rear elevation. All new windows would be timber (as opposed to existing UPVC) painted in a heritage colour with brick cills. The central chimney stack is to be retained and be built around; if however, it needed to be re-built, it would be replicated to the same proportions and detailing.

In terms of materials, it is proposed to finish the western end of the cottage in painted brickwork (any existing render would be removed) with slate roof and the eastern M-plan

element in brick with a clay pantile roof.

As indicated within the Planning History section above, proposals to extend this property have undergone a significant number of amendments and alterations, which have included considerable negotiation on this current scheme with officers, to arrive at this existing scheme currently before Members.

The application has considered the following plans and documents:

- Site Location Plan (19) 100 Rev A
- Proposed Floor Plans, Elevations and Block Plan (08)101 Rev C

#### **4.0 Departure/Public Advertisement Procedure**

Occupiers of 4 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.

The application has been advertised as a departure from the Development Plan which does not expire until 15 December 2022.

Site visit undertaken: 07.10.2022

#### **5.0 Planning Policy Framework**

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

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

Core Policy 9 Sustainable Design

Core Policy 14 Historic Environment

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

Policy DM5: Design

Policy DM6: Householder Development

Policy DM9: Protecting and Enhancing the Historic Environment

Policy DM12: Presumption in Favour of Sustainable Development

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

- National Planning Policy Framework 2021
- Planning Practice Guidance (on-line resource)
- Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990
- Householder Development SPD 2014

#### **6.0 Consultations**

**Caunton Parish Council** – No Comments received.

**NSDC, Conservation** – No objection, subject to conditions.

Caunton Conservation Area was designated for its medieval origins, retention of medieval church and retention of large houses, farmhouses and cottages dating from the 18<sup>th</sup> and 19<sup>th</sup> centuries. Caunton Grange (Grade II listed) to the south-west is a three storey, C1785 house with earlier origins and significant due to retention of historic fabric, layout and plan form, Neo-classical detailing, and internal décor. Its setting is provided by the surrounding gardens and mature greenery. The historic open field setting has been encroached by modern 20<sup>th</sup> century housing.

The existing cottage has been much altered in the 20<sup>th</sup> century and subsumed on the western end by a large modern extension. The form and shape of this extension has retained the linear plan form but with single storey lean-to additions. As it stands it is difficult to understand the historic legibility of the building, but it does still make a minor positive contribution to the significance of the Conservation Area through the association with the village's historic environment. Even though it has been considerably extended, it retains a relatively modest scale and proportion which is sympathetic to Caunton's character and appearance. Given that the existing cottage has been much altered and there is limited historic integrity, there may be scope from a conservation perspective for various extensions and alterations (subject to detailing and how it responds to its heritage context).

The size and scale of the proposed development would subsume the footprint of the building further and increase its massing and prominence within the Conservation Area. This has the potential to dominate and distract from the surrounding built heritage and cause harm to the significance of the designated heritage asset as a result. This visual impact, however, has been somewhat minimised by a sympathetic roof formation, gable proportions and palette of materials which relate to the surrounding vernacular. The proposed single storey extension would have a more contemporary appearance putting its style and form at odds with the traditional character of buildings in the area. However, it is discretely sited and low-rise and subject to detailing could be a high-quality lightweight addition that would not dominate or overbear the cottage or surrounding built heritage.

Given the distance and intervening greenery/trees, inter-visibility to Caunton Grange (Grade II listed building to the south-west) would be limited and the proposed extensions would therefore have a negligible impact on its setting.

The rise in ridge height to the existing cottage is modest and the pitch and style of the roof together with the central chimney stack would remain the same, thus would unlikely harm the significance of the Conservation Area. Following concerns raised in relation to the proposed re-fenestration, revisions have been submitted that would result in a more cohesive design that would create a visually attractive addition, sympathetic to local character.

Overall, the scale of the proposal has the potential to dominate the original cottage, thus cause harm to the significance of the Conservation Area. However, the principle of these extensions may be acceptable from a conservation perspective in this instance as the legibility and integrity of the cottage has already been substantially lost and the form and siting of the 2-storey extensions would adequately reflect both the vernacular form and style of the cottage itself and the surrounding built heritage.

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

## **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 the setting of a listed building and, a conservation area, sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') are particularly relevant. 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) 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 does 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.

### Principle of Development

Householder developments are accepted in principle subject to an assessment of the considerations listed within Policy DM6. These criteria include, amongst others, no adverse impact on the amenity of neighbours, the proposal respects the design, materials and detailing of the host dwelling and it respects the character of the surrounding area. Policy DM5 states that the rich local distinctiveness of the landscape and character of built form should be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development. Where local distinctiveness derives from the presence of heritage assets, proposals will need to satisfy Policy DM9.

### Impact upon Character of Area and Heritage Assets

Core Policy 9 requires new development to demonstrate a high standard of sustainable design that both protects and enhances the natural environment and contributes to and sustains rich local distinctiveness of the district. New development should achieve a high standard of design and layout that is of an appropriate form and scale to its context, complementing the existing built environment and landscape environments. Policy DM6 states planning permission will be granted providing that the proposal respects the character of the

surrounding area including its local distinctiveness, the significance and setting of any heritage assets, landscape character and the open character of the surrounding countryside.

As part of the Development Plan, Core Policy 14: Historic Environment (Core Strategy DPD) and DM9: Protecting and Enhancing the Historic Environment (Allocations and Development DPD) amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance.

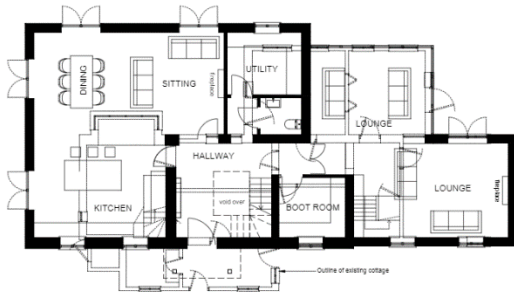
Section 12 of the NPPF refers to achieving well designed places. Paragraph 12 states that good design is a key aspect of sustainable development by creating better places in which to live and work in and helps make development acceptable to local communities. Paragraph 134 of the NPPF advocates that where a development is not well designed and fails to reflect local design policies and government guidance on design planning permission should be refused.

The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 16 of the National Planning Policy Framework. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, for example. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

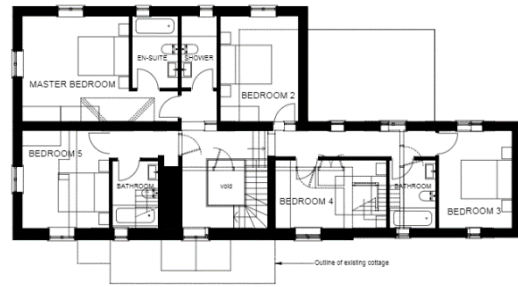
Paragraph 197 of the NPPF states "In determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness."

The site lies within the Mid-Nottinghamshire Farmlands (MN PZ 28 Caunton Village Farmlands with Ancient Woodland) character area as defined within the Council's Landscape Character Supplementary Planning Document (SPD). The Landscape Condition is defined as good. The area has a coherent pattern of elements composed of arable fields, blocks of woodland and isolated farmhouses; there are few detracting features including a section of the A616 and a pylon line. Overall, this gives a visually unified and coherent area. The policy zone is described as having a good landscape condition and the landscape sensitivity is described as moderate giving an overall policy action to conserve and reinforce. In terms of built features this means conserving the rural character of the landscape by limiting any new development to within the settlements, maintain the use of vernacular materials, style and scale in any new developments and promote measures for reinforcing the traditional character of existing farm buildings using vernacular building styles.

The proposal would represent significant additions to the existing cottage, that would repeat the long, linear two storey element to the rear (but for roughly half the width), as well as a two-storey double depth addition to the eastern side. It is considered that these extensions could potentially over-dominate the original cottage. The proposed floor plans are below.



Ground floorplan Proposed



First floorplan Proposed



Existing East Elevation



Proposed East Elevation

The proposal would represent an increase of 26.1% in terms of footprint and 38.5% in terms of floorspace. The additional bulk is best seen from the east elevation of the plans the character would change from a linear style cottage to an M-plan with the rear extension matching the width and proportions of the existing. The overall massing and bulk of the proposal would be significantly larger than the existing already extended cottage and is considered not to be subservient to the existing cottage. The coloured 3D images above reflect the proposed scale of the additions but detailing, particularly on the east elevation, have been significantly altered (see proposed elevation drawing for current proposed east elevation).

The cottage itself is largely hidden away and not overly visible within the public realm due to the cottage being accessed at the end of Amen Corner (a dead end) via a long private drive which terminates at the application site with no public access beyond. The proposed additions to the cottage therefore have limited visibility to those who visit the property. The proposed extension would be visible at a distance (approx. 65m) from a public footpath that runs adjacent to The Beck at the far side of the field to the rear of the cottage. The footpath is largely screened by rows of trees and hedgerows which reduce visibility of the dwelling from the footpath. The land surrounding the application site has a gentle uphill gradient from the south to the north. In terms of impact on the surrounding landscape character, the additional two storey bulk is not considered to have an unacceptable impact, given the additions reflect the layout and form of the existing. The greatest amount of additional bulk would be visible from the eastern elevation however it is not considered that this additional built form would be harmful to the character and appearance of the open countryside beyond the curtilage of the host dwelling.

In relation to the impact on Caunton Conservation Area, although it is accepted that the size and scale of the proposed development would subsume the footprint of the building further



and increase its massing and prominence within the Conservation Area. This has the potential to dominate and distract from the surrounding built heritage and cause harm to the significance of the designated heritage asset as a result. This visual impact, however, has been somewhat minimised by a sympathetic roof formation, gable proportions and palette of materials which relate to the surrounding vernacular. The proposed single storey extension would have a more contemporary appearance putting its style and form at odds with the traditional character of buildings in the area. However, it is discretely sited and low-rise and subject to detailing could be a high-quality lightweight addition that would not dominate or overbear the cottage or surrounding built heritage.

The central chimney stack is to be retained and be built around; if however, it needed to be re-built, it would be replicated to the same proportions and detailing (which could be conditioned). Amendments on the detailing of the scheme, windows/doors/chimneys etc have been received. Taking into account that the legibility and integrity of the cottage has already been substantially lost because of the alterations that have occurred together with revisions negotiated, Conservation have been able to conclude that although significant in scale, the proposals would result in no harm to the character and appearance of the Conservation Area or the setting of The Grange.

Taking all matters into consideration, planning officers on balance, consider that the proposed additions would predominantly respect the form, proportions and detailing of the existing cottage and that this would mitigate for the scale of the proposal and would not result in an unacceptable harm to the character and appearance of the existing cottage or the surrounding landscape.

With the above in mind, it is considered that the proposed development, although not subservient to the existing dwelling, and not strictly in accordance with all criteria within Policy DM5 and DM6 and the supporting Householder Development SPD, overall the scheme is considered to be acceptable and in accordance with Policy DM9 of the A&DM DPD, and CP9, CP13 and CP14 of the Amended Core Strategy, and the provisions of the NPPF. The duty to preserve under Sections 66 & 72 of the Act has been given appropriate consideration in this case.

#### Impact upon Residential Amenity

Policy DM6 'Householder Development' of the Allocations & Development Management DPD is permissive of the erection of the extensions to dwellings provided there is no adverse impact on the amenities of neighbouring resident in terms of loss of privacy, light and overbearing impact. Policy DM5 accepts development providing that it does not unacceptably reduce amenity in terms of overbearing impacts, loss of light and privacy. It also states that the rich local distinctiveness of the character of built form should be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development.

Paragraph 130 of the NPPF seeks to "create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users."

There would be no new windows on the northwest elevation that would face Brook House, and the fully glazed single storey element, given its scale and distance from this property (over 40m away), I do not consider this to have an impact on neighbour privacy. The proposal is also unlikely to have an overbearing or overshadowing impact on neighbouring dwellings given that the nearest dwelling is over 40m away.

As such, it is considered that the proposal accords with Policy DM6 (Householder Development) and DM5 (Design) of the ADMDPD as well as the provisions in the NPPF.

### Trees and Landscaping

Both Core Policy 12 and DM5 require that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced. Paragraph 8 of the NPPF has an environmental objective to protect and enhance our natural, built, and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

The proposal would involve the removal of an Ash tree situated to the east of the dwelling. As Members will have noted from their site visit, the tree is not overly prominent due to pollard works having been carried out to control its growth and it isn't considered to contribute so significantly to the character and appearance of the conservation area such that it would warrant protection. The removal of this Ash tree is considered to be acceptable subject to a replacement tree in an alternative location being planted. It has been suggested and agreed that a replacement be planted to the northwest of the dwelling. This would help minimise any bio-diversity loss and a tree in this revised location would provide visual enhancement to the area.

With the above in mind the removal of the tree is considered acceptable and would accord with the above mentioned policy objectives.

### Impact upon Highway Safety

Policy DM5 requires provision of safe access to new development and appropriate parking provision. Policy DM6 states that provision for safe and inclusive parking provision should be achieved and parking arrangements are maintained as a minimum. Spatial Policy 7 seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Paragraph 110 of the NPPF states that schemes can be supported where they provide safe and suitable access for all. The Council has also adopted a Residential Cycling and Car Parking Standards Design Guide SPD which is material to decision making.

The proposed development would not alter the existing access or parking arrangement, the dwelling would see an increase in bedrooms from 4 to 5 bedrooms however the parking demand remains the same. The Newark and Sherwood Residential Cycling and Parking SPD recommends that 4+ bedrooms houses should have a minimum of 4 spaces. The proposal is considered to be acceptable from a highway safety perspective.

## **8.0 Conclusion**

In conclusion, it is considered that the proposal accords with Spatial Policy 7, and Core Policy 14 of the Amended Core Strategy DPD and policy DM9 of the ADM DPD. It is considered that the proposed development, although not subservient to the existing dwelling, and not strictly in accordance with all criteria within Policy DM5 and DM6 and the supporting Householder Development SPD, there are other mitigations relating to appropriate form, proportions and detailing that are considered to outweigh this consideration. Overall the scheme is considered to be acceptable and in accordance with Policy DM9 of the A&DM DPD, and CP9, CP13 and CP14 of the Amended Core Strategy, and the provisions of the NPPF. The duty to preserve under Sections 66 & 72 of the Act has been given appropriate consideration in this case.

It is therefore recommended that full planning permission be granted subject to the conditions set out below.

## **9.0 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 be carried out only in accordance with the details and specifications included on the submitted application form and shown on the submitted drawings as listed below:

- Site Location Plan (19) 100 Rev A
- Proposed Floor Plans, Elevations and Block Plan (08)101 Rev C

Reason: To ensure that the development takes the agreed form envisaged by the Local Planning Authority when determining the application.

03

No development in relation to the following details shall be commenced until samples have been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details.

- Details of bricks, including sample panel showing jointing, coursing, brick bond, and pointing
- Details of roofing materials, including samples
- Details of replacement render to the existing dwelling, including a sample panel.

Reason: To ensure the development preserves the character and appearance of the Conservation Area.

04

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

- Windows (including materials, openings colour and finish)
- External doors (including materials, openings colour and finish)
- Heads and cills
- Ridge, verge, and eaves details
- Rainwater goods
- Flues and vents
- Chimney stacks and pots
- Porch details
- Specific details of the fascia of the glazed extension, including details of cornice and any fixings.

Reason: Inadequate details of these matters have been submitted with the application and to ensure the development preserves the character and appearance of the Conservation Area.

05

In relation to Condition 4, trickle vents shall not be inserted into the windows/doors hereby granted consent.

Reason: To ensure the development preserves the character and appearance of the Conservation Area.

06

Prior to completion or first occupation of the development hereby approved, whichever is the sooner; full details of all proposed tree planting shall be submitted to and approved in writing by the Local Planning Authority. This will include a replacement tree in a revised location to compensate for the loss of the Ash tree currently on the east side of the dwelling. This will also include planting and maintenance specifications, including cross-section drawings, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier, and defect period. All tree planting shall be carried out in accordance with those details and at those times.

Any trees that are found to be dead, dying, severely damaged or diseased within ten years of the completion of the building works OR ten years of the carrying out of the landscaping scheme (whichever is later), shall be replaced in the next planting season by specimens of similar size and species.

Reason: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 to safeguard and enhance the amenity of the area, to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality in accordance with core policy 12) and to provide for tree compensation and mitigation.

### Informatives

01

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

02

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

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the gross internal area of new build is less than 100 square metres.

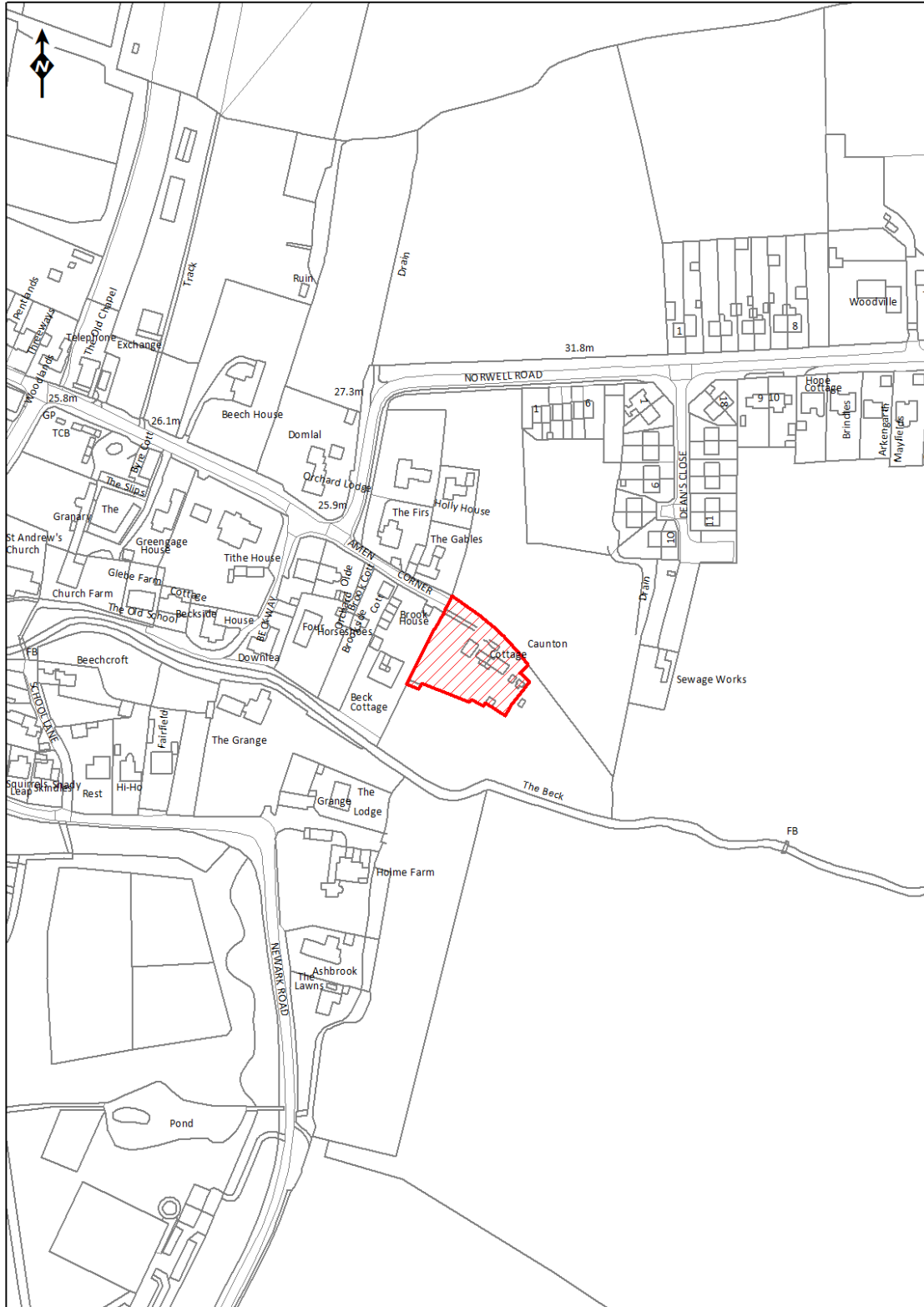
03

The following British Standards should be referred to: a) BS: 3882:2015 Specification for topsoil b) BS: 3998:2010 Tree work – Recommendations c) BS: 3936-1:1992 Nursery Stock - Part 1: Specification for trees and shrubs d) BS: 4428:1989 Code of practice for general landscaping operations (excluding hard surfaces) e) BS: 4043:1989 Recommendations for Transplanting root-balled trees f) BS: 5837 (2012) Trees in relation to demolition, design and construction - Recommendations g) BS: 7370-4:1993 Grounds maintenance part 4. Recommendations for maintenance of soft landscape (other than amenity turf). h) BS: 8545:2014 Trees: from nursery to independence in the landscape - Recommendations i) BS: 8601:2013 Specification for subsoil and requirements for use

### BACKGROUND PAPERS

Application case file.

Committee Plan - 22/01902/HOUSE



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Report to Planning Committee 19 January 2023  
 Business Manager Lead: Lisa Hughes – Planning Development  
 Lead Officer: Amy Davies, Planner, Ex. 5851

Report Summary			
<b>Application Number</b>	22/02123/FUL		
<b>Proposal</b>	Demolition of existing dwelling and removal of foundation structure of part-built barn. Erection of replacement dwelling, detached garage and timber garden shed. Erection of retaining wall to secure adjacent footpath.		
<b>Location</b>	Chapel Farm Chapel Lane Epperstone NG14 6AE		
<b>Applicant</b>	Mr Jack Wainwright	<b>Agent</b>	Mr Anthony Northcote TOWN-PLANNING.CO.UK
<b>Web Link</b>	<a href="https://www.newark-sherwooddc.gov.uk/22/02123/FUL">22/02123/FUL   Demolition of existing dwelling and removal of foundation structure of part-built barn. Erection of replacement dwelling, detached garage and timber garden shed   Chapel Farm Chapel Lane Epperstone NG14 6AE (newark-sherwooddc.gov.uk)</a>		
<b>Registered</b>	01 November 2022	<b>Target Date</b>	27 December 2022
		<b>Extension of Time</b>	23 January 2022
<b>Recommendation</b>	That planning permission be <b>APPROVED</b> subject to <b>Conditions</b> .		

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

## 1.0 Background

The previous application (22/00291/FUL) was presented to Planning Committee on 11<sup>th</sup> August 2022, where it was resolved to refuse the application in accordance with the Officer’s recommendation. The proposal has subsequently been amended and constitutes this revised scheme to address Members’ concerns regarding scale.

## **2.0 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.

In recent months, some excavation of the site has taken place and works to construct a retaining wall along a section of the public footpath have started.

## **3.0 Relevant Planning History**

22/00291/FUL – Demolition of existing dwelling and erection of replacement dwelling. Refused 12.08.2022 (Inappropriate Development in the Green Belt) as recommended by the Planning Committee.

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) under delegated powers.

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.)

#### 4.0 The Proposal

**Demolition of existing dwelling and removal of foundation structure of part-built barn. Erection of replacement dwelling, detached garage and timber garden shed. Erection of retaining wall to secure adjacent footpath.**

This revised submission now proposes demolition of the existing dwelling (same as before) but with the added proposal to remove the foundation structure of the part-built replacement barn/dwelling. The relevance of the latter is discussed in Section 8.0 'Comments of the Business Manager – Planning Development' of this report.

As before, 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 22.6 metres by 10.1 metres and comprise of a series of two-storey and single-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, as shown below.



Figure 1 Proposed Elevations

The proposed new dwelling would comprise of a hall, store, kitchen/dining room, utility, office, garden room, games room, and living room 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, timber windows and doors and powder-coated aluminium bi-folding doors.

The proposal also includes a detached two-bay timber-clad garage/car port measuring approximately 6.43 metres by 7.52 metres with a red clay pantile pitched roof measuring approximately 2.4 metres to eaves and 4.7 metres to the ridge and a cat-slide to the rear. The proposed garage would be set back from the east side of the proposed new dwelling. To the rear of the garage, in the northeast corner of the site, would be a domestic timber shed measuring approximately 3-metres by 3-metres with a shallow pitched roof with a maximum ridge height of 2-metres.

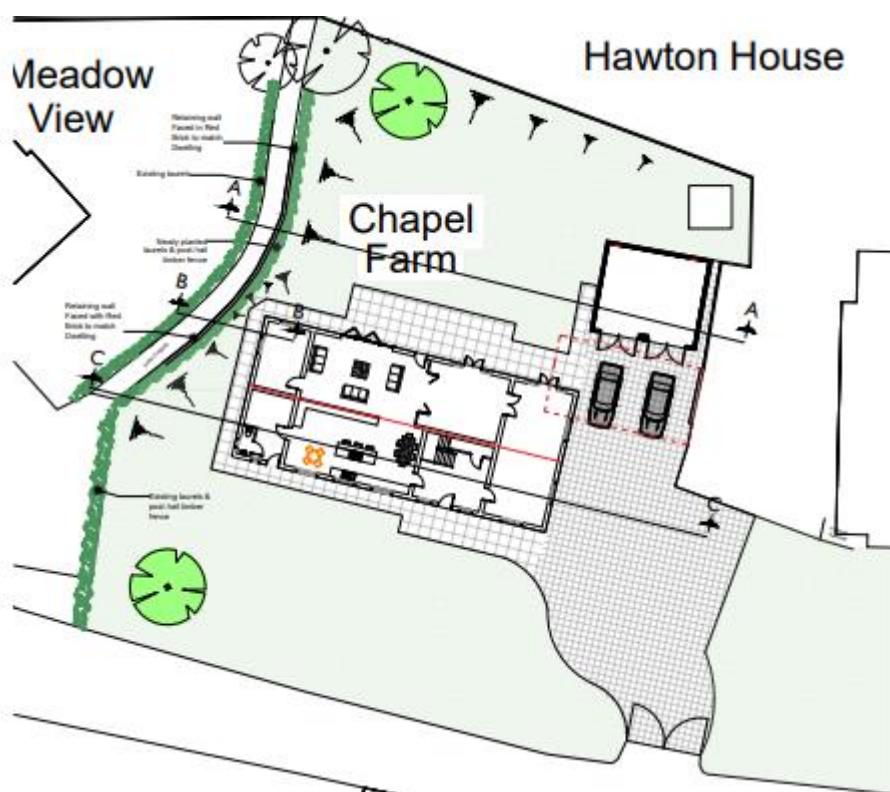


Figure 2 Proposed Site Layout Plan (received 03 January 2023)

The proposed site layout indicates there would be grassed 'front' garden areas to the south and southeast of the proposed new dwelling, which would be intersected by a permeable block paved driveway/turning/parking area. Timber gates would be erected at the site entrance, and all existing boundary treatments, including the existing low-level stone boundary wall to the front, retained. A new retaining wall has been constructed along a section of the public footpath to the northwest. This wall comprises of large concrete blocks and is proposed to be faced with a red brick wall and screened by Yew hedges. The 'rear' garden area to the north is proposed to be regraded and grassed.

#### Revised Description

The description of development has been amended to include works to erect the retaining

wall. It is not considered that anyone has been prejudiced by this change, which has been agreed with the applicant's agent.

### The Submission

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

*Received 09 January 2023*

Letter from Ernest Arkwright & Sons Engineering Ltd regarding Landscaping plans and planting requests dated 09/01/2023

*Received 03 January 2023*

556\_2021\_07 Proposed Site Sections – Updated

*Received 12 December 2022*

Letter from Ernest Arkwright & Sons Engineering Ltd regarding Retaining Wall Inspection dated 21/10/2022

Letter from Ernest Arkwright & Sons Engineering Ltd containing Retaining Wall Structural Calculations dated 30/09/2022

*Received 17 November 2022*

Existing Site Levels Plan

*Received 31 October 2022*

Site Location Plan

556\_2021\_01 Existing Site Layout Plan

556\_2021\_02 Existing Plans and Elevations

556\_2021\_03 REV C Proposed Site Layout Plan

556\_2021\_04 REV C Proposed Ground Floor Plan

556\_2021\_05 REV C Proposed First Floor Plan

556\_2021\_06 REV C Proposed Elevations and Garage

- Planning Statement including Design & Access Statement and Heritage Impact Assessment (October 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
- Photos of Shed

### 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.

## **5.0 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.

Site visit undertaken on 03 November 2022.

## **6.0 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

National Design Guide 2021

Planning (Listed Buildings and Conservation Areas) Act 1990

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

## **7.0 Consultations**

**Epperstone Parish Council** – Fully and unanimously support this new planning application

**NSDC Conservation** –

*Following receipt of updated site sections 03.01.2023:*

- This is an improved scheme, as a red brick wall is a more traditional and less intrusive finish than the concrete shuttering. If this scheme is to be approved it would be imperative to select a nice mellow brick for this retaining wall, rather than a hard baked solid texture engineering brick.
- If this retaining wall can be softened by landscaping (see below) this would be an acceptable scheme in terms of Conservation impact. If approved, it might be prudent to require this landscaping work to be carried out before occupation of the house or within a certain timeframe?
- From Conservation's perspective it would not now be expedient to screen 100% of this red brick retaining wall, but there should still be some legible green softening to it (note Tree Officer's suggestion of a yew hedge)
- A side hedge would be required to provide screening of the retaining wall and engineered approach generally, but in particular at the pinch-point by B-B. A planning condition or TPO would be needed to protect this in perpetuity.
- Conservation would not insist upon additional trees to be planted on the site, although additional tree cover may well be beneficial here, especially to help prevent the potential for a suburban garden appearance to the former paddock/orchard towards the front of the site by the road.
- Conservation would agree [with the Tree Officer] that it would be important that the soil levelling and retaining wall would not undermine the longevity of existing trees on and directly adjacent to the site.
- The Agent has also returned on the various design suggestions put forward by Conservation previously and does not wish to make any alterations. As per previous correspondence these were given purely as ways to improve the overall appearance and are not decisive to Conservation's overall comments.

*Previous comments following receipt of application:*

- Chapel Farm Epperstone is a positive building within Epperstone CA and has demonstrable heritage value.
- Demolition of the building would lead to less than substantial harm to the character and appearance of the Conservation Area.
- Independent structural advice has been sought and Conservation agrees the building is beyond practicable repair. Clear and convincing justification has been submitted to justify this harm. This does not remove the harm, but is key in moving towards a planning decision.
- The relevant structural surveys (Applicant's and Council's independently commissioned reports) should all be copied across to this application for full transparency and as there has not been a planning approval to date for the demolition of the house.

**[Officer note: this has been actioned, reports added 04/01/2022]**

- The principle of a replacement dwelling is acceptable in heritage terms.
- The proposed design broadly replicates the existing historic cottage, in its frontage at least, and is a broadly attractive composition. The proposed plan form adopts a full two-story double pile plan form, which is a rather unusual approach on a modest cottage, but which does provide narrow gables and a condensed and relatively simple plan form, which overall makes for a design that does not harm the character and appearance of the CA or the setting of nearby Listed Buildings (LBs).
- Minor modification to a few elements of the windows would improve the submitted design.

- Traditional materials have been detailed, which are key to the suitability of this proposal.
- The proposed garage design and location are acceptable. There is no objection to the proposed shed.
- Landscaping is key to this site, which should retain a relatively open, informal and green appearance, in keeping with its surroundings. At time of writing further clarification is still required (in the form of scaled site sections, advice from the Tree Officer and a potentially amended site plan) to confirm the potential suitability of the proposed landscaping scheme with reference to whether it can successfully mitigate the impact of concrete shuttering currently installed without permission and the retention of an open frontage. Acceptable landscaping is key to the suitability of this application and the principles here should not be left to condition in this case.

**NSDC Tree & Landscape Officer** – Comments on revised landscaping will be report to members as a late item.

*Following receipt of updated site sections 03.01.2023 the Tree Officer comments can be summarised as*

- Inadequate information (no tree survey) has been submitted to allow evaluation of retained trees.
- Submitted landscaping is inappropriate due to proximity to retaining wall and not in keeping with the character and history of the conservation area.
- The scale, footprint of the dwelling has not allowed for adequate landscaping in keeping with the character and setting of the conservation area.

**NCC Rights of Way** –

*Following receipt of updated site sections 03.01.2023:*

Maintenance of the post and rail fence and the retaining wall is down to applicant and subsequent owners of the house so should be included in the house deeds going forward.

There are no dimensions in terms of width of the footpath shown on the plan. Where a footpath is to be enclosed as part of a development the width of the footpath should be wide enough for two people to pass safely and comfortably. 1.5m will give a suitable width.

*Previous comments following receipt of application:*

We note that the proposal includes a change in levels between the development site and the footpath of 2.7 metres. The applicant has proposed a retaining wall to support the higher ground over which the Public Footpath passes however there are very few details about the design and suitability of the retaining wall. There is a lack of detail about the dimensions of the wall, its location in relation to the path, the width of the finished footpath, the location of any hedge planting alongside the path on top of the retaining wall. The LPA need to be satisfied that the proposed retaining wall is of a suitably engineered design to protect and prevent collapse of the ground over which the Public Right of Way passes

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

- Main objection is siting of the garage and driveway in front of the garage, both right next to the rear garden boundary of Pantiles

- The proposed new dwelling and detached garage will have an overbearing impact on Pantiles – the old barn had an attractive gable end which hid the main farmhouse providing privacy on both sides
- People and cars using the garage and driveway will cause noise and loss of privacy
- If the garage were to be moved forward to the site of the old barn this would be more acceptable

## **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.

As the applications concern 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 possesses.”* 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 within 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 2021 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 extent of 'existing development' is shown on Drawing no. 556\_2021\_01 Existing Site Layout Plan and comprises of the existing farmhouse, which is proposed to be demolished, and the foundation structure of the part-built barn, which is proposed to be removed.

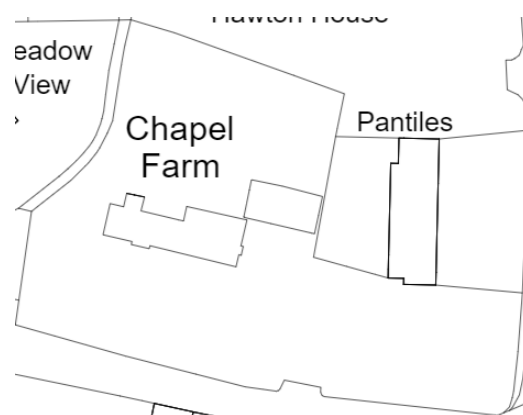


Figure 3 Existing Site Layout

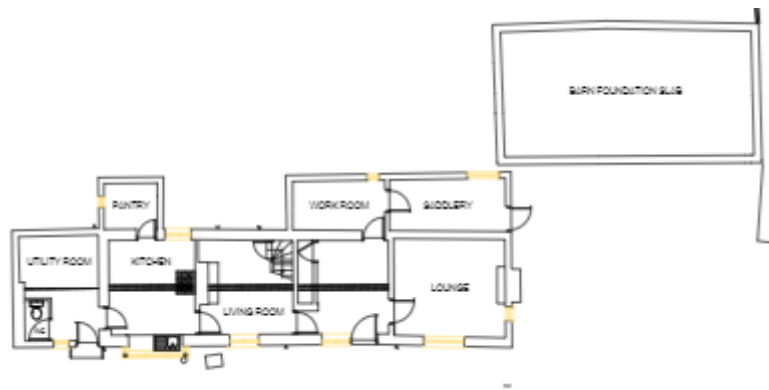


Figure 4 Existing Ground Floor Plan

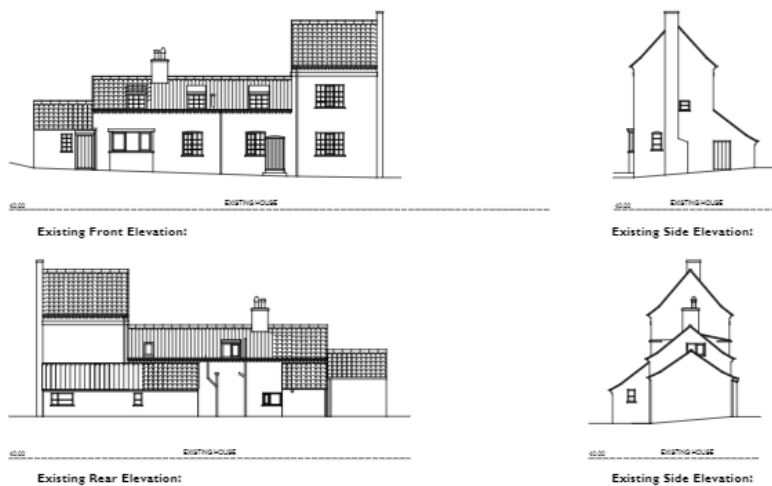


Figure 5 Existing Elevations

The footprint of the existing farmhouse, as shown above, is approximately 110m<sup>2</sup>, which equates to approximately 5% of the total site area. The Planning Statement submitted in support of the application suggests that although the height of the building would be increased, the built footprint would be more compact than the existing dwelling and approved barn thereby reducing impact on openness. However, this would only be true if the replacement barn/dwelling were built, which would only be a possibility if this revised application was unsuccessful.

In terms of the proposed garage/car port and timber shed. The existing property benefits from permitted development rights, under which outbuildings of very similar designs and dimensions could be erected in the same positions. This represents a genuine fall-back position and the very special circumstances required to initially support the principle of these elements of the scheme. Consequently, the green belt calculations presented below do not include the proposed garage/car port and timber shed.

### Impact on the Openness of the Green Belt

#### *Proposed new dwelling*

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

approved replacement barn/dwelling has not been built beyond foundation stage and, as such, has not been factored into the following calculations.

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

		Existing Dwelling	Proposed Dwelling	% Increase
<b>Foot print</b> ( <i>measured externally</i> )*		110m <sup>2</sup>	228m <sup>2</sup>	108%
<b>Floor space</b> ( <i>measured internally</i> )*		147m <sup>2</sup>	365m <sup>2</sup>	148%
<b>Length</b>		19.5m	22.6m	16%
<b>Depth</b>		4.5m	10.1m	124%
<b>Depth (with outshot)</b>		6.8m	10.1m	49%
<b>Height</b> ( <i>highest point measured externally</i> )*	<i>Single storey range</i>	3.8m	4.8m	25%
	<i>2 storey side ranges</i>	5.6m	7.5m	33%
	<i>2 storey middle range</i>	8.8m	9.7m	10%

*\*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 Planning Statement submitted with the revised application. However, both indicate the proposed new dwelling would be larger than the existing dwelling, with a footprint approximately twice the size and approximately 1.5 times the amount of floorspace. In comparison to the previously refused scheme (under planning application 22/00291/FUL), the scale of the proposed new dwelling has been reduced. However, based on the percentage increases, officers still consider the proposed new dwelling would be materially larger than the existing dwelling in almost all dimensions. Following revisions, the increases in ridge heights are not considered to be ‘materially larger’ than existing. Given the magnitude of change, it is clear that the proposed new dwelling would have a 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 the existing farmhouse; on what is a prominent site within the village.

The Planning Statement submitted with the revised application comes to a different conclusion by asserting that the proposed new dwelling does not constitute inappropriate development in the Green Belt as it would not be materially larger than the existing dwelling plus the approved replacement barn/dwelling. Whilst the latter may be true, the relevant tests are whether the proposed new dwelling is materially larger than the *existing* dwelling, to be an exception under para. 149(d), or has no greater impact on the openness of the Green Belt than the *existing* development, to be an exception under para. 149(g) part 1. The new dwelling is materially larger and would have a greater impact on the openness of the Green Belt and therefore constitutes inappropriate development which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

It is therefore necessary to consider whether there are other considerations that amount to the very special circumstances required to support the proposed development (see 'Other considerations' below).

*Detached garage/car port and timber shed*

The proposed garage/car port and timber shed are also considered inappropriate development, which, by definition, would be harmful to the Green Belt and should not be approved except in very special circumstances. As previously outlined, very special circumstances relevant to these elements of the proposal are that outbuildings of very similar design and dimensions could be erected under permitted development. The proposed garage/car port and timber shed would have no greater impact on the openness of the Green Belt than what could be built under permitted development.

*Retaining wall*

As outlined under paragraph 150 of the NPPF 2021, there are certain other forms of development that are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. The retaining wall constitutes an engineering operation that preserves the openness of the Green Belt, which is regarded as an exception under para. 150(b).

Other Considerations

Officers acknowledge there is extant permission to extend the existing dwelling and link it, albeit at ground floor level only, to the barn, which has since been demolished but approved to be replaced. The proposed and previously approved schemes are not directly comparable, not least because one seeks to demolish the existing farmhouse, while the other would see it retained. Notwithstanding this, the calculations presented in the table below indicate the footprint of the proposed new dwelling would be just over 10% larger than the approved scheme. However, the proposed new dwelling, by virtue of the extent of proposed first floor accommodation, would provide approximately 66% more floor space.

	<b>Previously Approved Dwelling (i.e. existing cottage, plus extension, plus barn conversion)</b>	<b>Proposed Dwelling</b>	<b>% Increase</b>
<b>Foot print (measured externally)*</b>	202.5m <sup>2</sup>	228m <sup>2</sup>	13%
<b>Floor space (measured internally)*</b>	220m <sup>2</sup>	365m <sup>2</sup>	66%

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

Again, the calculations presented in the table above differ from those presented in the Planning Statement submitted with the revised application. However, both indicate the

extant permissions (i.e. those to extend the existing dwelling and link it to the replacement barn) would result in less floorspace and footprint and be of a lesser height than the proposed new dwelling. However, it has been established that openness can have both spatial and visual aspects, so the visual impact of the proposal may be relevant<sup>1</sup>. From a visual aspect, it is clear that the extant permissions would deliver a more sprawling and less comprehensively designed development than what is now being proposed, as shown below.

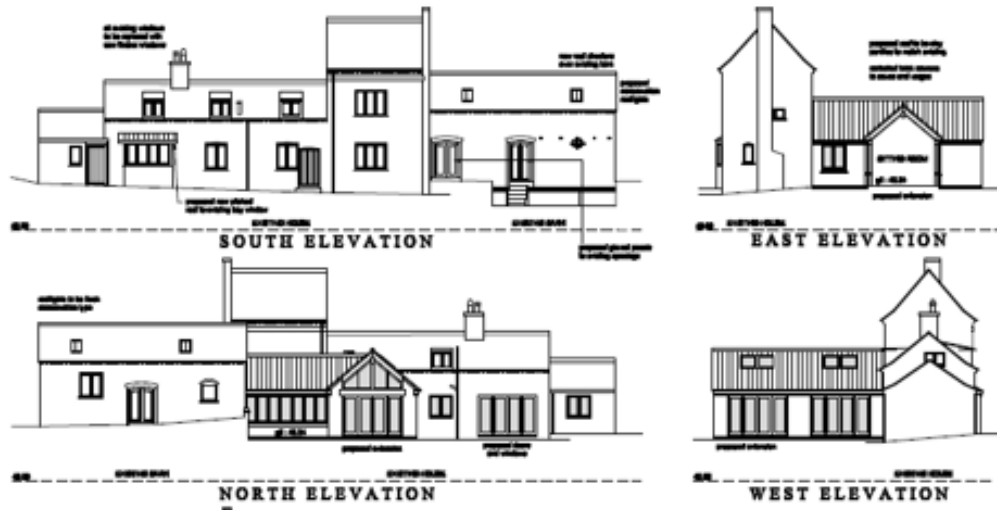


Figure 6 Approved Elevations under 14/01991/FUL (barn elevations amended by 17/01330/FUL & 20/00536/FUL)

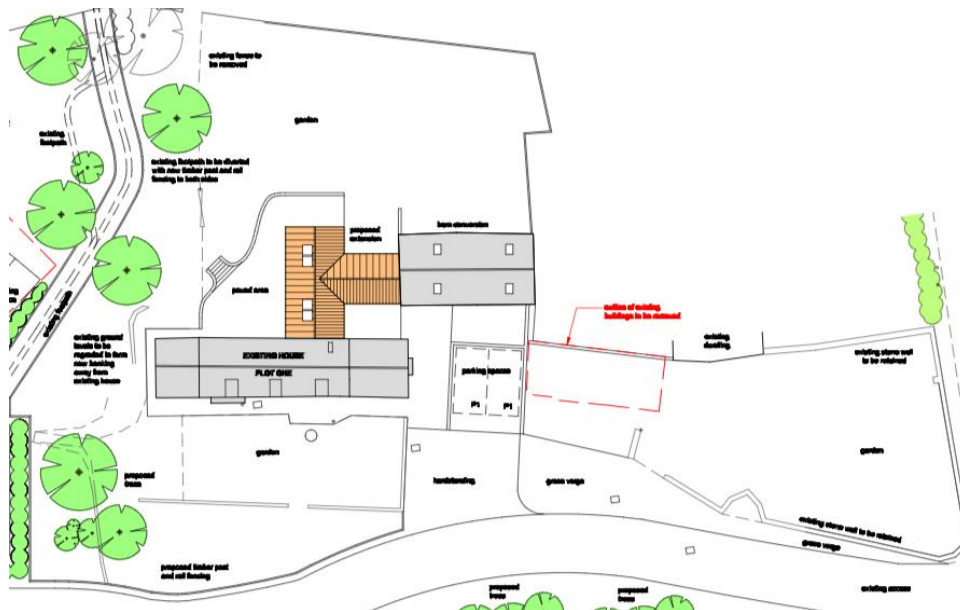


Figure 7 Approved Site Plan under 17/01330/FUL (amended by 20/00536/FUL)

When considering the approved and proposed site plans in the round, it is clear to officers that the proposed scheme would have no greater impact on the openness of the Green Belt than the approved development. Indeed, both the approved and proposed schemes would cover no more than 10% of the total site area. Another consideration is that construction of the replacement barn/dwelling would also result in the site being subdivided into three distinct sections, as shown below, which it could be argued would have a greater impact on openness, albeit one that was found to be acceptable.

<sup>1</sup> <https://www.gov.uk/guidance/green-belt> Paragraph 001



part-built barn, which therefore requires removal as part of the proposed development. Consequently, a legal agreement preventing both schemes from being implemented is not required.

Overall, it is considered the revised scheme accords with 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 in March 2022 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 previous 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 plans and is generally supportive of the scheme despite elements of the design lacking authenticity e.g., full length two-storey 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 declined to make further amendments. 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.

Consideration has been given to the removal of householder permitted development rights, which has, in part, influenced the inclusion of a detached garage/car port and timber shed as part of this revised scheme, to which Conservation have raised no objections. Some householder permitted development rights are naturally restricted for dwellings in conservation areas (otherwise known as article 2(3) land) and, as such, it is not considered appropriate to further restrict development under these classes. However, to ensure future development preserves the character and appearance of Epperstone Conservation Area and the setting of the Grade II listed Poplars, it is considered appropriate to remove permitted development rights under Schedule 2 Part 1 Class C – other alterations to the roof and Class



D – porches, so that such alterations can be given due consideration by the local planning authority if required in future.

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).

Turning to the retaining wall, which has been the subject of several discussions since it was first viewed by officers on site in November 2022. Updated site sections were received on 03 January 2023, indicating the wall would be faced with a red brick wall and laurels planted along the sloping bank of soil to soften the visual impact. However, the Council's Tree and Landscape Officer has expressed concerns regarding the proposed laurel hedge and its potential to thrive given its proximity to both the retaining wall and the proposed new dwelling and limited volumes of soil at certain 'pinch-points'. Following discussions, the applicant has been advised to replace the proposed planting of laurels with planting of yew hedges and has confirmed that the proposed site plan and site sections will be updated to incorporate the recommended screening i.e., a red facing brick wall and yew hedges. The revised plans are anticipated to be submitted just after the Committee Report print run and, as such, revised details, plus consultee comments including any recommended conditions, are likely to follow as 'late items' for consideration.

#### 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 no first-floor windows that would directly overlook the neighbouring dwelling or its private amenity space.

Concerns regarding impacts on the adjacent property known as Pantiles have been noted. However, it is considered the proposed detached garage and driveway have been sensitively sited to respect the character of the site and surrounding area and amenities of neighbouring residents. Indeed, the driveway would extend directly from the existing access site to the

proposed garage. Furthermore, it is not unusual for driveways and garages to be sited adjacent to site boundaries shared with neighbouring properties and there is no evidence to support perceived impacts of noise and disturbance.

Future residents of the proposed new dwelling would enjoy a large amount of private amenity space, some of which may be overlooked by the public footpath to the northwest. However, it is anticipated that a revised planting and landscaping scheme incorporating yew hedges would provide effective screening between the footpath and private garden where needed.

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

#### Impact on Highway Safety and Parking

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's Highway Design Guidance and the Council's Residential Cycle and Car Parking Standards & Design Guide SPD. The existing access to Chapel Farm is adequate in terms of its width and visibility and, subject to standard conditions regarding surfacing and drainage, would be acceptable in terms of highway safety. In addition, the proposed garage is adequately sized to provide sheltered parking and 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 Biodiversity and Trees

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 15<sup>th</sup> September 2021. The Bat Survey Report indicates the existing dwelling 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 can be secured by an appropriately worded condition.

The Council's Tree and Landscape Officer has considered the application and noted there is no tree survey to support the application. However, there is only a single tree in the north-west corner which is shown to be retained with the remainder of the site having been cleared of trees at some point following approval of 14/01991/FUL. Details of tree protection measures for retained trees including those on adjacent land to the north plus indicative proposals for new tree planting have been requested and are anticipated to be submitted imminently (revised plans to be submitted between now and January Planning Committee). It is considered appropriate to impose conditions on an approval to secure appropriate landscaping and planting in accordance with consultee advice.

Consequently, subject to 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 considered the application as submitted and noted the inclusion of a retaining wall to stabilise the footpath. Further details have been submitted since the Rights of Way Team initially commented, including copies of letters from the applicant's structural engineer, which confirm the wall has been constructed in accordance with the structural engineer's instructions and calculations and the proposed planting of yew hedges would have no short or long-term effects on the structural integrity of the retaining wall structure. Officers are therefore satisfied that the retaining wall is of a suitably engineered design to protect and prevent collapse of the ground over which Epperstone Footpath 1 passes.

The Rights of Way Team has also considered the updated site sections received on 03 January 2023 and shared a 'note to applicant' regarding future maintenance of the retaining wall and associated post and rail timber fence. Further revised details, anticipated to be submitted between now and January Planning Committee, will also be shared with the Rights of Way Team and any further comments reported under 'late items' for consideration where necessary.

## **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 Planning Balance and 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 that there is clear and convincing justification for the loss of the existing dwelling, which has been identified as a non-designated heritage asset and are generally supportive of the scheme indicating that the scheme meets the heritage objectives outlined. Harm to bats can be mitigated, avoided or compensated for and there is no identified harm in relation to highways or neighbouring amenity so these are neutral factors in the planning balance.

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 so does not meet the exception to inappropriate development in the Green Belt that the NPPF sets out. However, there are other considerations that apply to the assessment of impacts on the Green Belt. These relate to the planning history of the site, that the applicant could elect to propose a like-for-like replacement of the existing dwelling, which would be a realistic fall-back position, and that the permission for the replacement barn/dwelling adjacent that remains extant with no pre-commencement conditions and could be implemented before its expiry in July. The latter would see the site developed in a similar manner to that approved under planning permission 20/00536/FUL. In my view the proposal before Members constitutes a better designed development that is more respectful of the character of the site and allows for more effective landscaping than the fall-back scheme. Moreover, the proposal would have no greater impact

on the openness of the Green Belt than the fall-back scheme. It is therefore considered that all these factors amount to very special circumstances that sufficiently outweigh the 'inappropriate development' which is by definition harmful to the Green Belt. Consequently, it is considered the revised scheme accords with the relevant provisions of the NPPF and Spatial Policy 4B of the DPD.

Regarding the retaining wall, officers are satisfied that it is of a suitably engineered design to protect and prevent collapse of the ground over which Epperstone Footpath 1 passes. However, discussions have been ongoing regarding appropriate screening, with details agreed but not yet formally submitted for consideration. It is anticipated that revised plans incorporating officer recommended landscaping and planting details, i.e., red facing brick wall and yew hedges, will be submitted for consideration just after the Committee Report print run and, as such, will likely follow as 'late items' for consideration alongside consultee comments/recommended conditions. It is not anticipated that this will alter the officer's recommendation to approve the development.

It is therefore recommended planning permission be approved subject to appropriately worded conditions.

#### **11.0 Conditions**

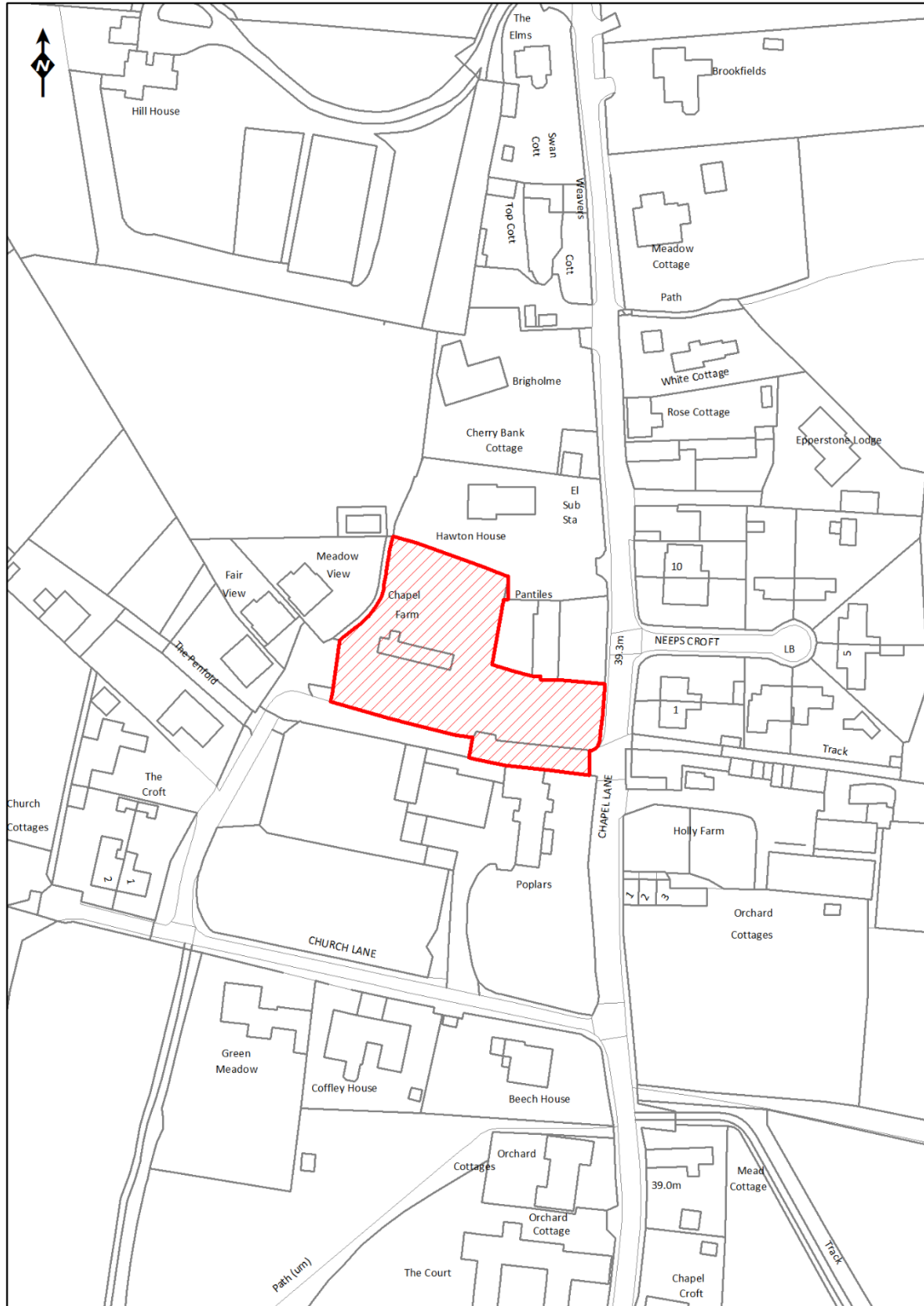
Given that some further revisions are still required as outlined above, a comprehensive list of **conditions will follow on the late representations schedule.**

#### **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 - 22/02123/FUL



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Report to Planning Committee 19 January 2023  
 Business Manager Lead: Lisa Hughes – Planning Development  
 Lead Officer: Honor Whitfield, Planner, ext. 5827

Report Summary			
<b>Application Number</b>	22/02122/HOUSE		
<b>Proposal</b>	Part two-storey, part single-storey side and front extension and insertion of dormer windows		
<b>Location</b>	Sunray, Main Street, South Scarle, Nottinghamshire, NG23 7JH		
<b>Applicant</b>	Miss Sarah Davis	<b>Agent</b>	N/A
<b>Web Link</b>	<a href="https://www.newark-sherwooddc.gov.uk/22/02122/HOUSE">22/02122/HOUSE   Proposed ground floor and first floor extension   Sunray Main Street South Scarle Nottinghamshire NG23 7JH (newark-sherwooddc.gov.uk)</a>		
<b>Registered</b>	15.11.2022	<b>Target Date Extension To</b>	10.01.2023 20.01.2023
<b>Recommendation</b>	That Planning Permission is <u>APPROVED</u> subject to the Conditions detailed at Section 10.0		

The application is referred to the Planning Committee in the interests of transparency at the request of the Business Manager as the Applicant works for Newark and Sherwood District Council, including liaising with the Planning Department.

## 1.0 The Site

The application site is located within a residential area of South Scarle on the eastern side of Main Street. The property is one half of a linear cottage that is gable on to the highway, positioned on an E-W alignment. The property is accessed via an access in the SW corner which is set back from the highway and enclosed by a mixture of overgrown hedgerows and fencing.

The property is red brick with a pantile roof and two chimney stacks and is identified on the Nottinghamshire Historic Environment Record as a non-designated heritage asset (NDHA). The property has a lean-to uPVC porch on its southern elevation and a flat roof single storey

element on the eastern elevation. The windows in the property have also been replaced with uPVC.

There are a number of other properties in the vicinity that have been identified as NDHA such as the adjoining property, Wheats Cottage to the NW and Ashcroft View to the SE.

## **2.0 Relevant Planning History**

No relevant planning history.

## **3.0 The Proposal**

*For the avoidance of doubt, amended plans have been received throughout the lifetime of this application to overcome concerns raised by Officers.*

The application seeks permission for a part two-storey, part single-storey extension on the eastern side elevation designed with a cat-slide roof. External alterations are also proposed including the insertion of 2 no. dormer windows.

The extension would be approx. 5m wide x 6.1m deep, set in approx. 1m off the northern (rear) boundary and projecting approx. 2m past the existing principal elevation. The ridge height is proposed to be approx. 5.8m with the eaves at the rear at 4.3m, reducing to 2.4m at the front. The extension is proposed to be constructed in materials to match the hostdwelling (red brick and pantile) and would have two windows and a roof light on the southern elevation, a window at first floor in the gable end on the eastern elevation and a door and patio doors at ground floor. One window is proposed in the western side elevation of the extension and two windows are proposed in the northern rear elevation at ground floor (it is noted that given the extension has been set in from the existing boundary, these windows would be screened by the existing 1.8m high brick wall along the boundary).

External alterations to the dwelling also include:

- Removal of the existing front lean-to porch.
- Demolition of the existing flat roof side element of the dwelling.
- Insertion of 2 no. cat-slide dormer windows on the southern (front) elevation.

Documents Assessed in this Appraisal:

- Application Form
- Heritage Statement
- Revised Red Line Site Location Plan (21.12.22)
- Revised Existing and Proposed Floor Plans (21.12.22)
- Revised Existing Elevations (21.12.22)
- Revised Proposed Elevations (21.12.22)
- Revised Sections (21.12.22)
- Proposed Site Plan (21.12.22)

## **4.0 Departure/Public Advertisement Procedure**

Occupiers of 9 properties have been individually notified by letter, a site notice has been



displayed and an advert has been placed in the local press.

Site Visit Undertaken: 22.11.2022

## **5.0 Planning Policy Framework**

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

Core Policy 9 -Sustainable Design

Core Policy 12 - Biodiversity and Green Infrastructure

Core Policy 14 – Historic Environment

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

Policy DM5: Design

Policy DM6: Householder Development

Policy DM7: Biodiversity and Green Infrastructure

Policy DM9: Protecting and Enhancing the Historic Environment

### **Other Material Planning Considerations**

- National Planning Policy Framework 2021
- Planning Practice Guidance (online resource)
- Householder Development SPD 2014

## **6.0 Consultations**

*NB: Comments below are included in summary, for comments in full please see the online planning file.*

**South Scarle Parish Council** – Support the proposal.

**NSDC Conservation Officer** – Concerns raised: “The amended details submitted on the 21<sup>st</sup> December largely addresses the conservation teams concerns. However, the proposal still includes an extension to the front of the property, which does not respect the liner form of the property. However, the harm of this addition is reduced through an improved design by reducing the depth of the projection and using a catslide roof form. [Nevertheless] the conservation team still have concerns about the proposed design and harm to a non-designated heritage asset. A balanced judgement [therefore] needs to carry out in regard to the scale of harm and the significance of the heritage asset, as set out in paragraph 203 of the NPPF.”

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

- Concerns over the proportions of the extensions which would not be subservient to the property. The size of the original building is less than the extensions proposed meaning the extensions will be dominating.
- There are 2 trees that are in the garden of Wheats Cottage which are within falling distance of the development (one cherry and one holly).
- Several large trees have been removed from the site prior to the submission of the application.

- Removing the flat roof element of the building which can be seen on historic maps) would remove some of the heritage value of the property.
- The proposal will adversely affect other properties of heritage value in the vicinity.
- The extension will have a detrimental impact on properties along Washtub Lane and Wheats Cottage as it will block the nights sky and windows are proposed to look into surrounding gardens. The development would also result in an overshadowing impact on Wheats Cottage's garden area and property as it would be within 45 degrees of east and south facing windows.
- The development would have an overbearing impact on Wheats Cottage and would be out of scale when compared with open spaces surrounding it.
- The development could cause an impact on potential subsidence for surrounding properties.
- The extension should be limited to single storey as the extension will further increase the built skyline visible from Washtub Lane (and cottage).
- The extension would overshadow Washtub Cottage when the sun is low in winter.
- The extension will be a good addition to the property and will not adversely affect the area. This cottage needs to be extended to allow for safe living standards.
- There is sufficient off-street parking for this house which is a problem for others on the street.

## **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

Householder developments are accepted in principle subject to an assessment of numerous criteria outlined in Policy DM6. These criteria include the provision that the proposal should respect the character of the surrounding area. It also states that there should be no adverse impact in the amenities of neighbouring users including loss of privacy, light and over-bearing impact. Policy DM5 accepts development providing that it does not unacceptably reduce amenity in terms of overbearing impacts, loss of light and privacy. It also states that the rich local distinctiveness of the character of built form should be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development.

### Impact on the Character of the Area (including heritage impact)

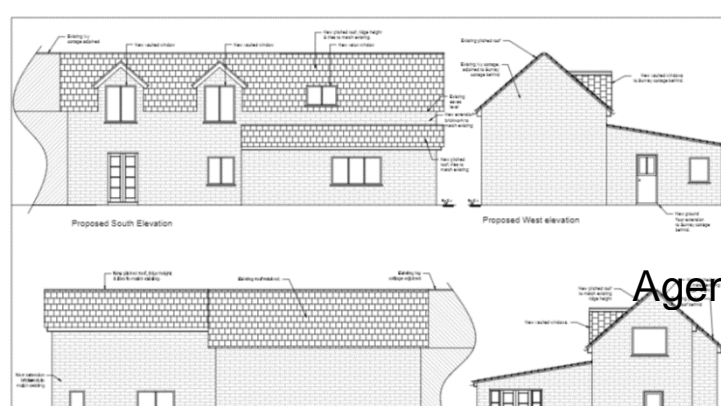
The property is a historic building of a modest vernacular character and is linear in form. A building in this location can be seen on Sanderson's 1835 OS map. Whilst it has been altered, including single storey additions and upvc windows the building nevertheless is considered to

be a NDHA given its historic and vernacular interest. Policies CP14 and DM9 of the Council's LDF DPDs are therefore relevant which, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. Key issues to consider in proposals for additions to heritage assets, including new development in conservation areas, are proportion, height, massing, bulk, use of materials, land-use, relationship with adjacent assets, alignment and treatment of setting. Para 203 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 8.c).

Core Policy 9 requires a high standard of sustainable design that protects and enhances the natural environment and contributes to the distinctiveness of the locality and requires development that is appropriate in form and scale to the context. Policy DM6 states that planning permission will be granted providing the proposal "respects the character of the surrounding area including its local distinctiveness and the proposal respects the design, materials and detailing of the host dwelling." The Council's SPD states the addition should respect and is balanced with the scale and proportions of the host dwelling and is well related to the characteristics of the application site in terms of its size and shape. Also, the addition should respect the wider street scene and integrate well into it (para 7.4). The NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive.

In respect of side additions, the Council's Householder Development SPD contains useful guidance which explains that in the case of semi-detached properties or where a substantial side addition is proposed regard should be given to the effect of this on the appearance of the 'block' as a whole, with consideration being given to whether the addition would unbalance the properties frontage. Furthermore, the SPD advises that the proposed roof type and eaves and ridge heights should respect and successfully integrate into the existing roofscape. Extensions to properties generally should respect the properties existing character and proportions and not result in dominating additions.

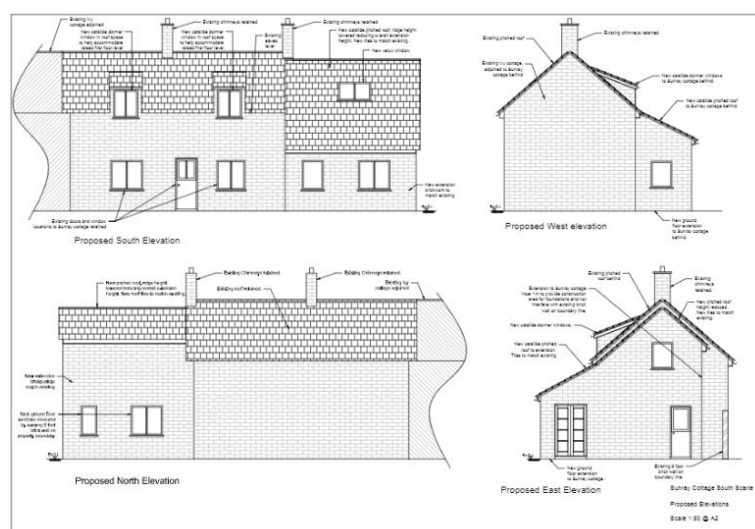
Initially the proposal included a large two-storey extension to the side of the dwelling with a matching ridge and eaves height to the property (see plan extract below) in addition to a large single storey extension and two dormer windows. The length of the side extension was proposed to be similar to the length of the existing cottage and the design, massing and proportions were considered to be unbalancing to this traditional two bay cottage. The single storey extension to the front was also considered to disrupt the linear form of the cottage, adding a deep/bulky front projection. Cumulatively the extensions to add a significant additional footprint to the cottage and were considered to be incongruous in design, disproportionate and harmful to the character of this NDHA.



Concerns were also raised in relation to the dormer windows which were considered to be larger in scale to those traditionally found on historic buildings and added further bulk to the cottage. In respect of dormer windows, the Householder SPD explains that the introduction of dormer windows into a roof can give rise to significant impacts on the appearance of a dwelling and the character of the surrounding area. Use of smaller pitched roof dormers, balanced in terms of their proportions and positioning with the hostdwelling is encouraged and overall, dormers should be balanced with the proportions of the hostdwelling and reflect its vertical proportions.

It is noted that the dwelling is not highly prominent in the street scene, given it forms the rear half of a linear range of cottages, however glimpsed views of the site are achievable along Main Street and Washtub Lane to the north. Good design should also not just exist in visible locations and given the building is considered to be a NDHA the design of the extensions and impact on the significance of the NDHA is an important consideration.

Following negotiations to overcome Officer’s concerns, amended plans were received which have reduced the scale (width and length) of the proposed extensions and re-designed the style of the extension to a cat-slide addition (which is a more traditional style of extension to gain additional footprint). The amended plans below show the two-storey extension would now sit below the existing ridge height of the dwelling, resulting in a more subservient appearance. The use of a cat-slide design to include a front single storey extension also assists in reducing the overall bulk and massing of the extensions. The dormer windows have also been amended to cat-slide dormer windows of smaller proportions which now respect the character and proportions of the hostdwelling, and new windows have been amended to reflect the style and proportions of the existing windows.



The scheme also includes the removal of the existing front (modern) lean-to porch which is currently considered to be a detracting feature of the dwelling – it is considered that this would be a heritage benefit of the scheme that could help to balance out and limit the harm from the cat-slide extension projecting past the front elevation which is not typical for a linear

cottage range. Given the retention of this lean-to porch in addition to the cat-slide front extension would result in a cluttered principal elevation and the removal of this porch helps reduce the level of harm arising from the cat-slide extension it is considered reasonable to condition that this porch must be removed prior to occupation of the new extension.

The Council's Conservation Officer has commented on the amended plans advising that these plans largely address the Conservation teams concerns. However, given the proposal still includes an extension to the front of the property, which does not respect the liner form of the property, this would result in some harm to the building as an NDHA. However, the CO does explain that the harm of this addition is reduced through an improved design by reducing the depth of the projection and using a catslide roof form.

Whilst it is noted that the CO has identified some limited harm arising from the development, it is considered that having regard to the alterations that have already taken place to the dwelling that detract from its significance in addition to other benefits arising from the scheme that seek to improve the appearance of the property, this harm would be limited and is also reduced through the improved design, therefore on balance (in accordance with para 203 of the NPPF) it is considered that the scheme would be acceptable in this context. Furthermore, following negotiations, the scheme has been improved to accord with the guidance contained in the Council's Householder Development SPD and would now preserve the character and appearance of the area and street scene. The proposed development (as amended) is therefore considered to accord with the aims of Core Policies 9 and 14, and policies DM5, DM6 and DM9 of the ADMDPD. The proposal would also comply with the advice contained within the Council's Householder Development SPD and section 16 of the NPPF.

#### Impact upon Residential Amenity

The NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy DM6 of the DPD states that development proposals should ensure no unacceptable reduction in amenity upon neighbouring development.

The property forms the eastern half of a pair of cottages and has a close relationship with Wheats Cottage to the north (as Sunray forms part of the southern boundary of this neighbouring property). Ivy Cottage is the adjoining cottage to the west, however given its positioning away from the proposed extension it is unlikely to be impacted by this element of the proposal. The two dormer windows are proposed in the southern elevation in the main body of the dwelling that adjoins Ivy Cottage, however given these windows would replace the existing first floor windows in this location there would not be any additional overlooking impact to consider. Amos Farmhouse also lies to the south; however, this is over 21m from the front elevation of Sunray and thus there is unlikely to be any impact on this property through increased overlooking, overbearing or overshadowing.

Turning now to consider the impact on Wheats Cottage it is noted that comments have been received from this neighbouring occupier raising concerns in relation to the potential amenity impact of the extension through overshadowing, overlooking and overbearing. The comments of this third party highlight their concerns principally in relation to overshadowing and the impact this could have on their existing medical conditions. When considering the

proposed extension, it is important to note that the current arrangement of Sunray with Wheats Cottage (which has been extended to the rear along the southern side) means that Wheats Cottage and likely most of the patio/garden area adjacent to the house is already affected by the main body of Sunray. Given Sunray is to the south of Wheats Cottage and its two-storey form already bisects the 45-degree line taken from the centre of the nearest ground floor principal window (see annotated aerial photo below) this property is already overshadowed by Sunray for the latter portion of the day.



*Aerial Image of Site showing 45-degree Line from Wheats Cottage bisecting Sunray*

Concerns were initially raised in relation to the potential impact of the original extension proposed on the amenity of the occupiers to the north given the extension was proposed at a matching ridge and eaves height to the main dwelling and would project at two-storey for c.6.55m. However, following negotiations the extension has been reduced to 5m wide and the ridge height has been reduced. The extension is also proposed to be set approx. 1m off the northern boundary which would reduce the potential overbearing impact of development along the common boundary. Considering the existing relationship of Sunray with Wheats Cottage and the amendments made to the proposal it is not considered that the extension would exacerbate existing overshadowing impacts that this property already experiences, nor would it result in an overbearing impact either. Windows are not proposed at first floor and ground floor windows that are proposed would be screened by the existing 1.8m high boundary wall which is considered to be acceptable and would not result in any overlooking impact. Officer have considered the potential impact of overshadowing Wheats Cottage's private amenity space, however given this property benefits from a reasonably sized curtilage it is not considered that the impact of the development would be so severe as to warrant withholding permission on this basis.

Consideration has been given to the addition of a first-floor window in the eastern elevation, however given the distance between this and Home Cottage to the east it is not considered any adverse impact would arise. In addition, comments in relation to the impact on Washtub Cottage are noted, however given this property is in excess of 25m from the northern boundary of the site (across Washtub Lane) it is not expected that any impact on this property would occur either. Therefore, whilst comments received from third parties are noted, having given them due consideration and in light of the conclusions above it is considered that the

amended proposal would comply with Policy DM6 and DM5 of the DPD in this regard.

### Impact on Ecology

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

Comments from third parties in relation to the potential impact on trees are noted – concern is raised in relation to two trees that are in the garden of Wheats Cottage which the neighbouring occupiers considers are within falling distance of the development (one cherry and one holly). These trees, along with any other in the application site, are not afforded protection by virtue of being located within a Conservation Area and are not covered by any TPO. As such they could be removed without the requirement for prior consent from the LPA. Therefore, whilst comments from third parties in relation to trees being felled within the application site are noted, no prior consent would have been required for this. The trees within the garden of Wheats Cottage are noted, however given the extension is proposed to be off set from the boundary and the existing 1.8m high brick boundary wall is proposed to be retained it is considered unlikely that this extension would adversely impact these trees. This is particularly as their roots are likely already constrained by the existing boundary wall here and Sunray's existing single storey range which would be replaced by the proposed extension.

Considering this, it is not considered that the proposal would result in an ecological or tree impact that would warrant withholding permission. The proposal is therefore considered to comply with Policy DM7 of the DPD and Core Policy 12 of the Core Strategy in this regard.

### Other Matters

Comments received from third parties have also raised concerns in relation to potential subsidence resulting from the extension, however the extension would be in place of an existing single storage range on the property which will already have foundations (albeit likely needing improvement to support a two-storey extension) such that the risk from subsidence is not considered likely. Furthermore, comments have also been received in relation to the extension blocking surrounding views of the nights sky/skyline from Washtub Lane, however loss of a view is not a material consideration in the assessment of planning applications.

## **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 referred to these implications and added suitable expert comment where appropriate.

## **9.0 Planning Balance and Conclusion**

Overall, it is considered that the proposal as amended, would on balance accord with the Council's heritage, householder design and amenity policies, advice contained within the Council's LDF DPDs and Section 16 of the NPPF. The proposal would not unduly harm the character and appearance of the street scene, the significance of the property as a NDHA (subject to conditions) or result in any adverse amenity or ecological impact. Thus, there are no material reasons why this application should not be permitted.

## **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 out except in complete accordance with the following approved plans/submitted documents:

- Revised Red Line Site Location Plan (21.12.22)
- Revised Existing and Proposed Floor Plans (21.12.22)
- Revised Proposed Elevations (21.12.22)
- Revised Sections (21.12.22)
- Proposed Site Plan (21.12.22)

Reason: So as to define this permission.

### **03**

No development above damp-proof course shall take place until manufacturers details (and samples upon request) of the following external facing materials (including colour/finish) have been submitted to and approved in writing by the local planning authority:

- Bricks
- Roof Tiles
- Dormer Cheeks

Development shall thereafter be carried out in accordance with the approved details.

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



## 04

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

- External windows, doors (including roof windows) and their immediate surroundings, including details of glazing and glazing bars.
- Dormer Windows
- Verges and eaves

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

## 05

Prior to first occupation of the extension hereby permitted, the existing lean-to uPVC porch on the southern elevation (as annotated on the plans: Revised Existing Elevations (21.12.22)) must be demolished and the southern elevation made good in accordance with the approved plan: Revised Proposed Elevations (21.12.22).

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

## **Informatives**

### 01

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

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as less than 100m<sup>2</sup> of floorspace is proposed.

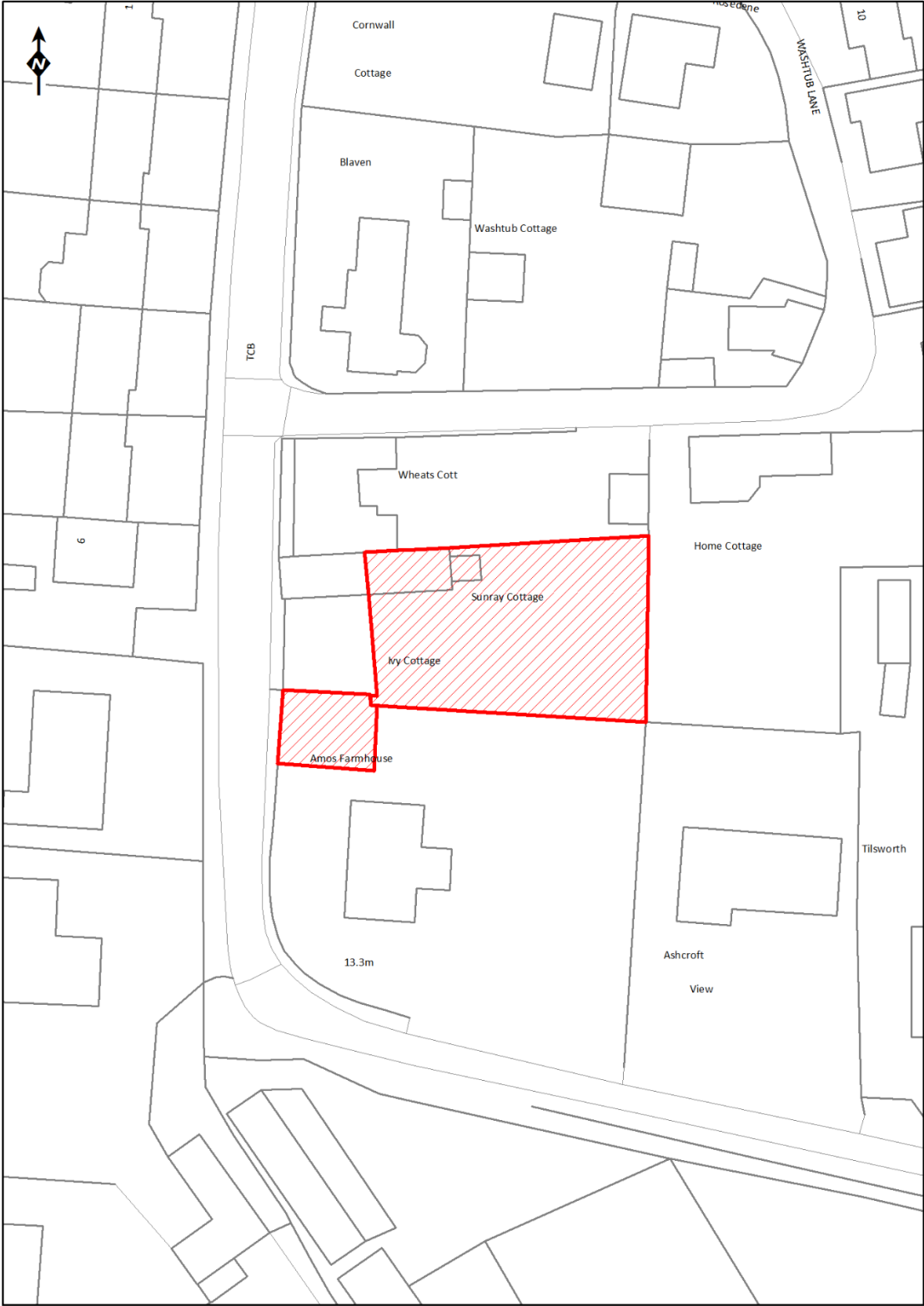
### 02

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

## **BACKGROUND PAPERS**

Application case file.

Committee Plan - 22/02122/HOUSE



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Report to Planning Committee 19 January 2023

Director Lead: Matt Lamb, Planning & Growth

Lead Officer: Lisa Hughes, Business Manager – Planning Development x5565

Report Summary	
<b>Report Title</b>	Temporary Vaccination Centre, Brackenhurst (Nottingham Trent University), Southwell
<b>Purpose of Report</b>	To seek approval from Members for the under enforcement of the temporary use of the auditorium at Brackenhurst for vaccination purposes by the NHS
<b>Recommendations</b>	To seek Member’s approval to: <ul style="list-style-type: none"> <li>(a) under enforce the temporary breach of planning control at Brackenhurst Campus, Southwell to facilitate the vaccination timetable to be imposed by the NHS; and</li> <li>(b) for this to be up until 31<sup>st</sup> December 2023; and</li> <li>(c) during weekends only</li> </ul>

## 1.0 Background

Members will be aware the Government introduced temporary permitted development rights under Schedule 2, Part 12A (Development by Local Authorities and Health Service Bodies) of the Town and Country Planning (General Permitted Development) (England) Order 2015 in 2021 to facilitate a number of developments and uses as a result of the Covid-19 pandemic. One of these rights enabled the health service to provide vaccination centres in non-health related buildings (health centres fall within Use Class E – Commercial, Business and Service). This permitted development right expired on 31<sup>st</sup> December 2022.

NHS England has contacted the Council to advise an extension of this right is required to facilitate vaccinations in Spring and Autumn 2023. The only site within NSDC required is Brackenhurst Campus – Nottingham Trent University, Southwell. The vaccinations are proposed to be continued within the auditorium building at weekends and is likely to be required for up to a maximum of 15 weeks. The Use Class of the auditorium would fall within F1 – Learning and non-residential institutions. Therefore, a change of use *might* be involved (from Class E to F1).

Members will be aware the definition of development under Section 55 of the Town and Country Planning Act 1990 includes “... or the making of any material change in the use of any buildings or other land.” The test is therefore whether the use of the auditorium and for the number of occasions anticipated is a material change in use or

not. Officers consider that due to the use only being required at weekends for up to 15 weeks per annum, in a location where there will be general toing and froing day-to-day, whilst there is likely to be an increase in traffic movements, the overall character of the campus and the auditorium area in particular is unlikely to (or have) changed. Therefore, formal planning permission is not required.

However, even if Members' conclusion was that it was material or if the number of weekends required was increased, it is considered that it would be reasonable to under enforce to enable NHS England to deliver the boosters necessary for the health of the community in Southwell and wider afield. This decision to under enforce would be subject to planning complaints not being received that are not outweighed by the benefits of this service i.e. consideration to expediency.

NHS England has asked regions to ensure checks have been undertaken to ensure that respective centres can remain open. Confirmation was needed prior to the end of the last calendar year and an informal letter of comfort was provided with the caveat this report was to be provided for Members to consider.

## **2.0 Proposal/Options Considered and Reasons for Recommendation**

NHS England has indicated that due to the temporary nature of the requirement that site owners are reluctant to apply for planning permission for a change of use of land/buildings. This would be the route required if the temporary use was considered to be material and the NHS required formal confirmation. In this case, for the reasons given above it is not considered necessary.

## **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. Any documents that contain confidential information or personal information about individuals should not be included in this list.

## **PLANNING COMMITTEE – 19 JANUARY 2023**

### **Appeals Lodged**

1.0 Members are advised that the appeals listed at Appendix A to this report have been received and are to be dealt with as stated. If Members wish to incorporate any specific points within the Council's evidence, please forward these to Planning Services without delay.

2.0 Recommendation

That the report be noted.

### **Background papers**

Application case files.

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

Lisa Hughes

Business Manager – Planning Development

**Appendix A: Appeals Lodged (received between 20 November 2022 and 4 January 2023)**

Appeal reference	Application number	Address	Proposal	Procedure	Appeal against
APP/B3030/C/22/331007 3	22/00098/ENFB	1 Third Avenue Edwinstowe NG21 9NU	Without planning permission, operational development consisting of the erection of a fence enclosing the North and West elevations of the property (as shown within photographs 1 and 2 and highlighted red on the site location plan) and the erection of an outbuilding located forward of the principal elevation of the property (as shown within photograph 3 and highlighted green X on the site location plan).	Written Representation	Service of Enforcement Notice

APP/B3030/C/22/331242 7	22/00181/ENFB	Land At Southern Barn Manor Farm Gainsborough Road Langford Newark On Trent NG23 7RW	Without planning permission, operational development on the Land comprising of the construction of a permeable surfacing comprising layer of loose hardcore and change of use of section of former agricultural land to storage for trailers	Written Representation	Service of Enforcement Notice
APP/B3030/W/22/33124 35	22/01530/FUL	Southern Barn Manor Farm Gainsborough Road Langford Newark On Trent NG23 7RW	Retrospective planning application for permeable surfacing comprising layer of loose hardcore and change of use of section of former agricultural land to storage for trailers	Written Representation	Refusal of a planning application

**Planning Committee – 19 JANUARY 2023**

**Appendix B: Appeals Determined (20 November 2022 and 4 January 2023)**

App No.	Address	Proposal	Application decision by	Decision in line with recommendation	Appeal decision	Appeal decision date
21/02261/FUL	81 Lincoln Road Newark On Trent NG24 2BU	Proposed alterations to No.81 Lincoln Road and erection of new dwelling	Planning Committee	Committee Overturn	Appeal Allowed	21st November 2022
20/01452/OUTM	Land Off A17 Coddington Nottinghamshire	Development of site for distribution uses (Use Class B8) including ancillary offices and associated works including vehicular and pedestrian access, car parking and landscaping.	Planning Committee	Committee Overturn	Appeal Allowed	29th November 2022
21/02677/FUL	Land At Main Street Maplebeck	Construction of a timber stable and manege for private use, including change of use of part of site from agricultural to recreational use.	Delegated Officer	Yes	Appeal Allowed	15th December 2022
21/02191/FUL	Glen Holt Gainsborough Road Girton NG23 7HX	Erection of two storey dwelling (retrospective application)	Delegated Officer	Yes	Appeal Allowed	22nd November 2022
22/01233/HOUSE	Ronnington 84 Kirklington Road Rainworth Nottinghamshire NG21 0JX	Two storey front, side and rear extensions. Loft conversion with dormers to side and rear	Delegated Officer	Yes	Appeal Allowed	22nd December 2022
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)	Delegated Officer	Yes	Appeal Dismissed	22nd November 2022



22/00022/ENFC	1 Bayford Drive Newark On Trent NG24 2GS	Without planning permission, the undertaking of operational "development" - that being the erection of an outbuilding forward of the principal elevation (subject of refused retrospective planning application reference 22/00280/HOUSE and shown in Image 1).	Not Applicable	Not Applicable	Appeal Dismissed	3rd January 2023
22/00280/HOUSE	1 Bayford Drive Newark On Trent NG24 2GS	Erection of home gym (retrospective)	Delegated Officer	Yes	Appeal Dismissed	3rd January 2023
22/00368/LDC	26 The Lawns Collingham Nottinghamshire 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	Delegated Officer	Yes	Appeal Dismissed	3rd January 2023
22/00728/HOUSE	Trent Holme Cottage High Street North Clifton Nottinghamshire NG23 7AR	Proposed replacement side and rear extension	Delegated Officer	Yes	Appeal Dismissed	13th December 2022
22/00954/FUL	36 Bullpit Road Balderton Nottinghamshire NG24 3LY	Proposed 2no. dormer bungalows and demolition of existing car port / part of existing garage and outbuilding	Delegated Officer	Yes	Appeal Dismissed	14th December 2022

Agenda Item 65

Recommendation

That the report be noted.

Background papers

Application case files.

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

Lisa Hughes  
Business Manager – Planning Development



## Appeal Decision

Site visit made on 11 October 2022

**by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 NOVEMBER 2022**

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**Appeal Ref: APP/B3030/W/22/3292692**

**Land east of Newlink Business Park, Newark, Nottinghamshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Tritax Acquisition 39 Limited against the decision of Newark & Sherwood District Council.
  - The application Ref 20/01452/OUTM, dated 31 July 2020, was refused by notice dated 3 November 2021.
  - The development proposed is described as: 'development of site for distribution uses (Use Class B8) including ancillary offices and associated works including vehicular and pedestrian access, car parking and landscaping'.
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### Decision

1. The appeal is allowed and planning permission is granted for development of the site for distribution uses, including ancillary offices and associated works including vehicular and pedestrian access, car parking and landscaping at Land East of Newlink Business Park, Newark, Nottinghamshire, in accordance with the terms of the application, Ref 20/01452/OUTM, dated 31 July 2020 and the plans submitted with it, subject to the conditions in the attached schedule.

### Preliminary Matters

2. For clarity and precision, I have taken the address in the banner heading from the application form appeal form, inserting 'Nottinghamshire' as it is included on the Council's decision notice. I have also taken the description in the banner heading above from the application form. However, in the Decision I have not referred to 'Use Class B8' due to the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (the amended UCO) coming into force on 1 September 2020, amending the Town and Country Planning (Use Classes) Order 1987 (as amended) (the UCO). Consequently, the use classes listed in the GPDO, including B8 have now been superseded and incorporated within Class E (Commercial, Business and Service) of the amended UCO. In this instance, no party will be prejudiced through the implications of the amended UCO or the introduction of Class E.
3. Outline planning permission is sought, but with all matters reserved, except for access. I have determined the appeal on this basis.

### Background and Main Issue

4. The Council's decision notice sets out one reason for refusal relating to the principle of development, through its location. Consequently, the Council has confirmed<sup>1</sup> it would not defend its reason for refusal due to the findings

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<sup>1</sup> Letter received by email dated 8 July 2022

contained within a draft Nottinghamshire Core & Outer HMA Logistics Study, June 2022 (the draft study). Accordingly, the Council has not submitted evidence on this matter. Nonetheless, I have maintained this matter as a main issue due to the number of concerns raised by interested parties from the original planning application consultation and additional comments through the notification of this appeal.

5. Accordingly, I identify that the main issue on this appeal is, whether the site is an appropriate location for the proposed development, having particular regard to the effect of safeguarding the countryside.

## Reasons

6. The site lies in Landscape Character Zone: ES PZ 4 Winthorpe Village Farmlands. The landscape condition here is defined as moderate and landscape sensitivity is also described as moderate. The policy zone has a landscape action of conserve and create. The appellant submitted a Landscape and Visual Assessment Impact Assessment<sup>2</sup> (LVIA) with the application to which I have had regard. I also viewed the site from the majority of locations identified in the LVIA and am satisfied that I saw everything I need to assess the impact of the development.
7. The proposed development comprises the erection of a commercial storage and distribution warehouse unit with ancillary offices. The site includes the A17 and the bridge linking land to the north and east to accommodate a proposed access and pedestrian infrastructure, including a new vehicle access from a new roundabout junction on the A17. An extension to the public footpath/cycleway network is also envisaged, with a pedestrian route potentially connecting the existing public right of way to the north of the site and the existing building to the west.
8. Spatial Policy 3 (Rural Areas) of the Amended Core Strategy 2019 (ACS) 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. ACS Core Policy 9 (Sustainable Design) requires a high standard of sustainable design that protects and enhances the natural environment and contributes to the distinctiveness of the locality and requires development that is appropriate in form and scale to the context.
9. ACS Policy 13 (Landscape Character) requires the landscape character of the surrounding area to be conserved and created. Policies DM5 (Design) of the Allocations and Development Management Development Plan Document, 2013 (ADM) requires the local distinctiveness of the District's landscape and character of built form to be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development.
10. ADM Policy DM8 (Development in the Open Countryside) states that 'small scale employment development' will only be supported where it can demonstrate the need for a particular rural location and a contribution to providing or sustaining rural employment to meet local needs in accordance with the aims of Core Policy 6. Whilst the site is located outside of Newark Urban Area as defined in the development plan, the proposed development is not considered to comply with any of the exceptions listed. In addition,

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<sup>2</sup> Landscape and Visual Impact Appraisal by Barry Chin Associates dated March 2020

Paragraph 174 of the National Planning Policy Framework (the Framework) requires planning decisions to recognise the intrinsic character and beauty of the countryside.

11. There is little doubt that the proposed development represents a departure from the development plan. Additionally, as the site is currently undeveloped, I accept that the harm from this proposed development to landscape character, visual amenity and potentially the loss of some best and most versatile agricultural land would be permanent. However, it is not known if the land on site would comprise either Grade 3a or 3b in the Agricultural Land Classification and thus could be of moderate quality.
12. For the reasons given above, I conclude that the proposed development would conflict with the strategic and character and appearance aims of ACS Spatial Policy 3, ACS Core Policies 9 and 13, ADM Policies DM5 and DM8. There would also be conflict with Framework, particularly paragraph 174.

### **Other Matters**

13. I have had regard to a number of objections received from interested parties, including local residents and Coddington Parish Council, expressing a wide range of concerns including, but not limited to the following: highways safety; flooding; loss of trees, water table loss of potential public rights of way; wildlife; noise; effect on Coddington and potential future development, amongst other things. However, I note that these matters were considered where relevant by the Council when it determined the planning application. Whilst I can understand the concerns of the interested parties, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.
14. Whilst Section 72(1) of the Act sets out that in the exercise of planning functions that requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the area, this statutory duty does not extend to the setting of a conservation area. On the evidence before me, I agree with the Council's observations with regard to Coddington Conservation Area and Winthorpe Conservation Area, where there would be limited and no intervisibility respectively, resulting in overall neutral effects. In the absence of substantive evidence to the contrary, I find that the proposed development would conserve the heritage assets in a manner appropriate to their significance, in line with the Framework.

### **Planning Balance**

15. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires this appeal to be determined in accordance with the development plan unless material considerations indicate otherwise.
16. Whilst ACS Spatial Policy 2 sets out the employment land requirements for the District and provides a strategy for distributing growth. It sets out a minimum employment land requirement of 83.1ha with 51.9ha of the total to be provided within the Newark Area, with the Employment Land Availability Study 2019 confirming that there is sufficient supply of employment land for the Newark area.
17. However, the findings within the draft study has identified a current supply of 800,000m<sup>2</sup> through existing permissions and allocations in the study area, but

with an overall need identified for 1,486,00m<sup>2</sup> to 2040 with some of this demand expected to be met in Newark along the A1 and A46 corridors. Consequently, the draft study confirms that there is a very significant shortfall of 686,000m<sup>2</sup> of land for large scale logistics development in the study area, which includes Newark and Sherwood. Whilst the draft study does not form part of the existing development plan and is still in draft form, it nonetheless forms a material consideration of very significant weight in the determination of this appeal.

18. The adverse impacts of the development would relate to character and appearance and potentially the loss of some best and most versatile agricultural land, both of which would create significant and moderate harm respectively. However, the significant harm to landscape character could be notably reduced through appropriate layout and landscaping, particular in the area of the site adjacent to the existing development, which is similar in scale and appearance to the proposed development. In any event, such considerations would be for a reserved matters stage and could be secured by means of a suitably worded condition.
19. Weighing against the above impacts, the scheme would provide much-needed large scale logistics development, which has been identified as being a resilient sector with particular demand in the e-commerce, automation and electric vehicles. All of which require large, modern facilities to cope with the flow of goods in the most efficient way. The draft study estimates that up to 9000 jobs could be generated across the study area through the delivery of schemes similar to the proposed development across the study area. This is something that the proposed development would contribute directly towards.
20. Sustainable development has three dimensions. The proposed development would involve a loss of greenfield land but in considering the environmental role, this is balanced against the very significant benefits to the economic and social roles through the construction of the proposed development, the support of a resilient business sector and the generation of a notable number of job opportunities, particularly available to those in the study area of the draft study.
21. In my view the benefits of the proposed development clearly outweigh the conflicts with the development plan. I conclude therefore that these are material considerations which mean that in this case the proposed development can be determined other than in accordance with the development plan. I therefore conclude that any adverse impacts of granting planning permission in this instance would not outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposed development is suitable for the site.

### **Conditions**

22. I have considered what planning conditions would be appropriate, making amendments and minor corrections, where necessary, to ensure clarity and compliance with the tests contained within Paragraph 56 of the Framework and the Planning Practice Guidance. In addition to conditions relating to the time limit for implementation, for reasons of certainty a condition requiring the development to be undertaken in accordance with approved plans/documents is necessary. I have taken this list of plans from the evidence submitted by the appellant, as no such list is provided in the Officer Report and only 2no. plans

are listed on the Council's decision notice. Given the reference to various other plans in the list of suggested conditions, it is necessary to include them for the avoidance of doubt.

23. A pre-commencement condition relating to the submission of a Reserved Matters application is reasonable and necessary for the avoidance of doubt and to define the permission. Pre-commencement conditions for contamination; a Construction Environmental Management Plan; Construction Method Statement; Drainage; Arboriculture; Highways (new roads); Archaeology are all reasonable and necessary in the interest of the living conditions of neighbouring occupiers, highways safety and the environment.
24. Pre-occupation conditions are reasonable and necessary for the new roundabout; footway and cycle facilities; a travel plan; cycle Parking in the interest of highways matters and sustainable travel options as an alternative to a motor vehicle.
25. Other conditions have been included surrounding the maximum parameters set out in the parameter plan; a Biodiversity/Landscape Environmental Management Plan; lighting scheme; arboriculture works; landscaping scheme; transport and parking appraisal; archaeological works; public rights of way and sustainability features are all reasonable and necessary to ensure acceptable effects on ecology, character and appearance, highway safety, archaeology, access and the environment.

### **Conclusion**

26. For the reasons given above, I conclude that the appeal should be allowed.

*W Johnson*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

#### **Time Limit**

1) Applications for approval of reserved matters shall be made to the Local Planning Authority not later than 1 year from the date of this permission. The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

#### **Drawings**

2) The development hereby permitted shall be carried out in accordance with the following plans and documents:

- Site Location Plan 16-233-SGP-XX-XX-DR-A-110001 Rev. A
- Existing Site Plan 16-233-SGP-XX-XX-DR-A-110002
- Parameters Plan 16-233-SGP-XX-XX-DR-A-111002 Rev. C
- Illustrative Site Layout Plan 16-233-SGP-XX-XX-DR-A-F018-001 Rev. E
- Illustrative Landscape Masterplan 2047/20-01 Rev. B
- Illustrative Landscape Sections 2047/20-02 Rev. A

### **Pre-Commencement**

3) Details of the appearance, landscaping, layout and scale ('the reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before development begins and the development shall be carried out as approved.

4) Development other than that required to be carried out as part of an approved scheme of remediation or for the purposes of archaeological or other site investigations linked to this planning permission must not commence until Parts A to D of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until Part D has been complied with in relation to that contamination.

#### Part A: Site Characterisation

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

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

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

#### Part B: Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part



2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

#### Part C: Implementation of Approved Remediation Scheme

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

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

#### Part D: Reporting of Unexpected Contamination

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

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

5) No development shall be commenced until a Construction Environmental Management Plan (CEMP) incorporating a Reasonable Avoidance Measures Statement (RAMS) and timetable has been submitted to and approved in writing by the Local Planning Authority. The scheme shall identify appropriate measures for the safeguarding of protected and locally important species and their habitats and shall include:

- a) an appropriate scale plan showing protection zones where construction activities are restricted and where protective measures will be installed or implemented;
- b) details of protective measures (both physical measures and sensitive working practices) to avoid impact during construction. This shall include the precautionary measures listed by Nottinghamshire Wildlife Trust in their letter dated 18/09/2020) and the pre-construction survey work and / or mitigation measures as summarised in paragraphs 4.24 and 4.27 of the Ecological Appraisal (July 2020 by fpcr);
- c) a timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed (such as the bird nesting season);
- d) details of a person responsible for the management of the protection zones. Development shall be carried out in accordance with the approved details and timetable.

6) No development shall commence on site (including any site clearance/preparation works), until a Construction Method Statement has been submitted to the Local Planning Authority for approval in writing. Details shall

provide the following, which shall be adhered to throughout the construction period:

- a) Details of construction access
  - b) The parking of vehicles of site operatives and visitors
  - c) Loading and unloading of plant and materials
  - d) Storage of oils, fuels, chemicals, plant and materials used in constructing the development
  - e) The erection and maintenance of security hoarding, including any decorative displays and facilities for public viewing
  - f) Wheel-wash washing facilities and road-cleaning arrangements
  - g) Measures to control the emission of dust and dirt during construction
  - h) A scheme for recycling/disposing of waste resulting from site preparation and construction works
  - i) Measures for the protection of the natural environment
  - j) Hours of work on site, including deliveries and removal of materials
  - k) Full details of any piling technique to be employed, if relevant
  - l) Location of temporary buildings and associated generators, compounds, structures and enclosures, and
  - m) Routing of construction traffic
- 7) No part of the development hereby approved shall commence until a detailed surface water drainage scheme based on the principles set forward by the approved Link Engineering Flood Risk Assessment (FRA) ref. LE19105-NEW-LE-GEN-XX-RP-CE-FRA01 dated July 2020, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to occupation of the development.

The scheme to be submitted shall:

- a) Demonstrate that the development will use SuDS throughout the site as a primary means of surface water management and that design is in accordance with CIRIA C753.
- b) Limit the discharge rate generated by all rainfall events up to the 100 year plus 40% (for climate change) critical rain storm 5 l/s rates for the developable area.
- c) Provision of surface water run-off attenuation storage in accordance with 'Science Report SCO30219 Rainfall Management for Developments' and the approved FRA
- d) Provide detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm

durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods.

e) For all exceedance to be contained within the site boundary without flooding new properties in a 100year+40% storm.

f) Details of STW approval for connections to existing network and any adoption of site drainage infrastructure.

g) Evidence of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure long term.

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

a) A plan showing details and positions of the ground protection areas.

b) Details and position of protection barriers.

c) Details and position of underground service/drainage runs/soakaways and working methods employed should these runs be within the designated root protection area of any retained tree/hedgerow on or adjacent to the application site.

d) Details of any special engineering required to accommodate the protection of retained trees/hedgerows (e.g. in connection with foundations, bridging, water features, hard surfacing).

e) Details of construction and working methods to be employed for the installation of drives and paths within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.

f) Details of timing for the various phases of works or development in the context of the tree/hedgerow protection measures.

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

9) No part of the development hereby permitted shall take place until details of the new roads have been submitted to and approved in writing by the Local Planning Authority including layout, street lighting, drainage and outfall proposals, and any proposed structural works. The development shall be implemented in accordance with these details.

10) No development shall take place until written schemes of archaeological investigation and mitigation have been submitted to and approved in writing by the Local Planning Authority. These schemes shall include the following:

a) An assessment of significance and proposed mitigation strategy (i.e. preservation by record, preservation in situ or a mix of these elements).

b) A methodology and timetable of site investigation and recording

c) Provision for site analysis

d) Provision for publication and dissemination of analysis and records

- e) Provision for a programme of community based outreach
- f) Provision for archive deposition
- g) Nomination of a competent person/organisation to undertake the work

The schemes of archaeological investigation must only be undertaken in accordance with the approved details.

### **Pre-Occupation**

11) No part of the development hereby approved shall be occupied / brought into use unless or until the new roundabout junction with the A17 has been provided as shown in principle on the drawings no. Drawing no's 17146-010 rev. E dated July 2019 as clarified by 17146 - SK200930.1 'Proposed Roundabout Layout Deflection Radii' dated September 2020 to the satisfaction of the Local Planning Authority.

12) No part of the development hereby approved shall be occupied / brought into use unless or until the extension of footway and cycle facilities from the Long Hollow Lane roundabout to the proposed site have been provided as shown in principle on the drawing no. no. 17146-010 rev. E Proposed Roundabout Layout and Pedestrian/Cycle Access Improvements' dated July 2019.

13) No part of the development hereby permitted shall be occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall set out proposals (including targets, a timetable and implementation) to promote travel by sustainable modes which are acceptable to the Local Planning Authority and shall include arrangements for monitoring of progress of the proposals. For the avoidance of doubt, the Travel Plan shall include the following proposals:

- a) prior to the occupation of the development, details of a daily or more frequent return shuttle bus service to connect the development and travel hubs such as Newark's train stations and the main bus stops within Newark shall be submitted and approved in writing by the Local Planning Authority. This bus service shall be operational upon practical completion of the unit(s) and reviewed after at least three months, six months and after twelve months, and thereafter every twelve months and maintained for a period for a minimum period of 10 years from the commencement of the use unless, either a commercial bus service passing within 400 metres of the site comes into operation, or the bus service is proven to be no longer viable. If a commercial service does come into operation, or the bus service is shown to be no longer viable, then the applicant shall seek the written approval of the Local Planning Authority that the service is no longer required;
- b) car usage minimisation including the provision of electrical charging points for cars and other vehicles and the use of car sharing.
- c) details of the ride home facility for members of staff travelling to the site by sustainable modes of transport.

The Travel Plan shall be implemented in accordance with the timetable set out in that plan.

14) No part of the development hereby permitted shall be brought into use until provision has been made within the application site for parking of cycles in accordance with details submitted to and approved in writing by the Local Planning

Authority. The cycle stands shall be located near to the main entrance to the development, be covered and that area shall not thereafter be used for any purpose other than the parking of cycles.

### **Other**

15) Reserved matter submissions shall be in accordance with the maximum parameters defined on Drawing No 111002 Rev C 'Parameters Plan' and Location Plan Drawing No 110001 Rev A.

16) No site clearance works including shrubbery removal shall take place and no tree shall be lopped, topped, felled or otherwise removed during the bird nesting period (beginning of March to September inclusive) unless a precautionary pre-start nesting bird survey has been carried out by a qualified ecologist/ornithologist and agreed in writing by the Local Planning Authority.

17) Any subsequent reserved matters application(s) shall be accompanied by a Biodiversity/Landscape Environmental Management Plan (LEMP). This shall include:

- a) purpose, aims and objectives of the scheme;
- b) a review of the site's ecological potential and any constraints;
- c) description of target habitats and range of species appropriate for the site;
- d) selection of appropriate strategies for creating/restoring target habitats or introducing target species. This shall include but not be limited to the provision of bat boxes;
- e) selection of specific techniques and practices for establishing vegetation;
- f) sources of habitat materials (e.g. plant stock) or species individuals;
- g) method statement for site preparation and establishment of target features;
- h) extent and location of proposed works;
- i) aftercare and long term management;
- j) the personnel responsible for the work;
- k) timing of the works;
- l) monitoring;
- m) disposal of wastes arising from the works.

All habitat creation and/or restoration works shall be carried out in accordance with the approved details and timescales embodied within the scheme.

18) Any subsequent reserved matters application(s) shall be accompanied by the submission of a detailed lighting scheme. The detailed lighting scheme shall include site annotated plans showing lighting positions for the external spaces, facades, and structures they illuminate; a horizontal and vertical illuminance plan to include:

- a) Details of light intrusion, source intensity, and upward light; and
- b) Details of the lighting fittings including their design, colour, intensity and periods of illumination.

No external lighting works shall be installed within any part of the application site other than in accordance with the approved details or in accordance with any alternative external lighting scheme first submitted to and agreed in writing by the Local Planning Authority.

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

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

20) No landscape works shall take place until the Local Planning Authority has approved in writing the full details of every tree, shrub, hedge to be planted (including its proposed location, species, size and approximate date of planting) and details of tree planting pits including associated irrigation measures, tree staking and guards, and structural cells.

21) The approved landscaping scheme shall be carried out within 6 months of the first occupation of any building or completion of the development, whichever is soonest. If within a period of 7 years from the date of planting any tree, shrub, hedgerow or replacement is removed, uprooted, destroyed or dies then another of the same species and size of the original shall be planted at the same place. Variations may only be planted on written permission of the Local Planning Authority.

22) Any subsequent reserved matters application(s) shall be accompanied by the submission of a Transport and Parking Appraisal in order to assess the level of on-site parking required for staff and visitors. This identified level of on-site parking shall be demonstrated on the submitted plans and shall also include for provision

within the site for a shuttle bus stop/parking bay. Development shall be carried out and retained in accordance with the approved details.

23) The archaeological site work must be undertaken only in full accordance with the approved written schemes referred to in the above Condition. The applicant/developer shall notify the Local Planning Authority of the intention to commence at least fourteen days before the start of archaeological work in order to facilitate adequate monitoring arrangements. No variation shall take place without prior consent of the Local Planning Authority.

24) Reports of the archaeologist's findings (required by the above condition) shall be submitted to the Local Planning Authority and the Historic Environment Record Officer at Nottinghamshire County Council within 6 months of the works hereby approved being commenced.

25) The development will require the diversion of existing public rights of way and no part of the development hereby permitted or any temporary works or structures shall obstruct the public right of way until approval has been secured and the diversion has been constructed in accordance with a detailed design and specification first submitted to and approved in writing by the Local Planning Authority.

26) Any subsequent reserved matters application(s) shall include details of sustainability measures and environmentally sustainable features proposed and to be incorporated into the design of the development both during its construction and operation, which builds upon the aims of the submitted Energy and Sustainability Report 23/07/2020 (by Cudd Bentley).

**\*\*End of Conditions\*\***



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# Appeal Decision

Site visit made on 14 October 2022

**by K Savage BA(Hons) MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22 November 2022**

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**Appeal Ref: APP/B3030/W/22/3302044**

**Glen Holt, Gainsborough Road, Girton NG23 7HX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Lewis Birtle against the decision of Newark & Sherwood District Council.
  - The application Ref 21/02191/FUL, dated 6 October 2021, was refused by notice dated 29 December 2021.
  - The development proposed is a new dwelling.
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## Decision

1. The appeal is allowed and planning permission is granted for a new dwelling at Glen Holt, Gainsborough Road, Girton NG23 7HX in accordance with the terms of the application, Ref 21/02191/FUL, dated 6 October 2021, subject to the following conditions:
  - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: BGH/RE/19/003 Location Plan; BGH/RE/21/002 Rev B Proposed Elevations; BGH/RE/21/001 Rev A Proposed Plans, Proposed and Existing Block Plan; BGH/RE/19/VIS/001 Rev A Visibility Splays (with exception of reference to 'Tarmacadam surface to first 5m from edge of carriageway').
  - 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (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

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

Unless consent has firstly been granted in the form of a separate planning permission.
  - 3) Unless within 3 months of the date of this decision, the vehicle access is surfaced in a hard bound material (not loose gravel) for a minimum of 5 metres behind the highway boundary, and gates at the access point open inwards only and are back a minimum of 5.0 metres from the highway boundary, the use of the site shall cease and all equipment and materials



brought onto the land for the purposes of such use shall be removed until such time as the requirements of the condition are implemented.

Upon implementation of the works specified in this condition, those works shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 4) Unless within 3 months of the date of this decision, visibility splays of 2.4m x 215m are provided in accordance with the details shown on drawing BGH/RE/19/VIS/001 Rev A, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as the requirements of the condition are implemented.

The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.6m in height.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

### **Preliminary Matters**

2. The application was made retrospectively and I saw the dwelling already constructed on site. However, I noted some minor differences between the dwelling as built and the details shown on the plans, which I address below. For the avoidance of doubt, my assessment is based on the plans before me.
3. I have removed references to 'retrospective planning application' from the description of development as this does not refer to an act of development.

### **Background and Main Issue**

4. The appeal site is located within the open countryside some 1.3km north of the settlement of Girton. Planning permission was granted in December 2019 (Council Ref: 19/01934/FUL) for demolition of a bungalow and its replacement with a two storey dwelling and resurfacing of a driveway.
5. The dwelling constructed on site departs from the plans approved in 2019 in a number of respects, most notably in the replacement of a single storey side lean-to with a continuation of the two storey form on the southern side of the building. Two dormer windows have been added to the front roof slope, the ridge height has been raised by some 300mm and a number of changes have been made to the size, shape and position of windows and doors.
6. The Council also makes reference to the internal access and extent of land in use as residential curtilage, but indicates that these matters are separate to this appeal. Accordingly, I have confined my considerations to the dwelling itself and the works at the site entrance to form entrance walls and gates.
7. Having regard to the evidence before me, the main issue is the effect of the appeal scheme on the character and appearance of the area.

## Reasons

8. Policy DM8 of the Allocations & Development Management Development Plan Document (July 2013) (the ADMPD) sets out that new dwellings in the open countryside will only be granted where they are of exceptional quality or innovative nature of design, reflect the highest standards of architecture, significantly enhance their immediate setting and be sensitive to the defining characteristics of the local area.
9. The policy adds that permission will be granted where it can be demonstrated that the existing dwelling is in lawful residential use and is not of architectural or historical merit. To minimise visual impact on the countryside and maintain a balanced rural housing stock, replacement dwellings should normally be of a similar size, scale and siting to that being replaced.
10. The Council points out that, as the previous bungalow has been demolished, the proposal falls to be considered as a new dwelling, and would not accord with either of the criteria of Policy DM8. However, it concedes that the extant planning permission is a material consideration and that the main assessment to be made in this case is a comparison of the approved and proposed schemes, and whether the latter would have an acceptable effect on the character and appearance of the area.
11. The approved scheme is for a substantial, detached dwelling in the style of a traditional farmhouse, in red brick with a symmetrical, five bay front elevation, side gables, a shallow rear projection and a single storey side lean-to. In approving the dwelling, the Council accepted that it reflected *'the local vernacular and references the form of farmhouses in the vicinity of the area in terms of both design and scale, this being very similar to a dwelling close by.'*
12. The dwelling built on site is larger in size, with a wider two storey footprint in place of the approved single storey lean-to. As a result, the front elevation no longer has the symmetry of the approved scheme, as there is an additional bay of windows to one side and the front door, which is larger than approved, is offset from the centre of the front elevation. This has resulted in a slightly unbalanced appearance to the front elevation.
13. However, the dwelling is set a substantial distance into the site and is screened in large part from the road by trees, hedgerow and the front entrance gates. Consequently, views into the site are limited and fleeting for those driving past the site, with few pedestrians expected to see the dwelling given it is a main road with no footpaths and fast moving traffic. The detailed form of the front elevation, and in particular its lack of symmetry, is not obvious unless viewed from within the site itself. In terms of its effect on the wider character of the area, the enlarged dwelling still appears as a traditional farmhouse in its overall form and materials, which I saw to be of good quality.
14. The addition of two front dormers, though not aligned with the windows below, are nevertheless symmetrical on the roof slope and help to break up the enlarged expanse of the roof slope, whilst also adding a sense of verticality to the building to offset the horizontal expansion at first floor level, thus retaining an overall sense of proportion.
15. Overall, the appeal scheme increases the volume of the dwelling slightly in comparison to the approved scheme, but only by some 3.1% based on the

Council's figures. The footprint as built is negligibly larger and retains the approved L-shape. The eaves height is also unchanged, and the ridge is modestly increased by some 300mm. In the context of a detached dwelling standing by itself on a spacious plot, with no adjacent dwellings against which its scale would be judged, I find that no material harm arises from these modest enlargements which nevertheless retain the essential form and traditional character of a rural farmhouse.

16. For these reasons, I conclude that the appeal scheme preserves the character and appearance of the area, and no conflict therefore arises with the overall aim of Policy DM8 that dwellings in the countryside are sensitive to the defining characteristics of the local area. Nor would there be conflict with Core Policies 9 and 13 of the Amended Core Strategy (March 2019) or Policy DM5 of the ADMDPD, which together require development to a high standard of sustainable design that both protects and enhances the natural environment and contributes to and sustains the rich local distinctiveness of the District and protects landscape character.

### **Other Matters**

17. The dwelling as built has some differences from the plans. To the northern side elevation, a small lean-to extension has been added, as have a set of French doors and Juliet balcony. To the rear, two windows have been added in the shallow flank elevation of the closet wing and two dormer windows added to the main roof. For the avoidance of doubt, I have based my considerations on the plans before me, and it is the details on the plans that would form the basis of permission granted. It would be for the appellant and Council to directly address the implications of any outstanding differences between the plans before me and what has been built on site.
18. The Council did not refuse the application in respect of any other matter and I have no substantive evidence of material harm in any other respect.

### **Conditions**

19. As the development has already been commenced, it is not necessary to impose a time limit condition. However, as there are some differences between the elevational details as built and as shown on the plans, it is necessary to specify the plans which are approved, to provide certainty.
20. The Council refers to conditions imposed on the extant planning permission to secure changes to the site entrance to ensure adequate visibility along Gainsborough Road, and to ensure the entrance is hard surfaced and access gates open inwards. I agree that these are necessary to ensure highway safety. I have no firm indication that these works have already been undertaken to the satisfaction of the local planning authority under the previous permission, and therefore I shall re-impose them on this permission. I have amended the wording of these conditions to reflect the retrospective nature of the proposal and to ensure the conditions are enforceable if necessary.
21. The Council seeks the removal of various permitted development rights under Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), citing the risk to the openness of the countryside and flood risk from further alterations or extensions. In view of the size of the dwelling and site, extensions to the

dwelling could add substantially to its size, rendering it more prominent and out of scale with a traditional rural dwelling, as could sizeable outbuildings. To this end, I agree that there is justification for removing permitted development rights to construct extensions under Classes A and B and outbuildings under Class E. Given the original permission was acceptable, in part, on measures to reduce the impermeable area of the site to prevent an increase in flood risk, I consider the removal of rights under Class F to add hard surfacing are also justified in this case.

22. However, the extent of works permissible to the dwelling under Classes C, D and G is minor, and would not result in a substantial increase in scale or change in overall appearance. Thus, the removal of these rights is not justified.

### **Conclusion**

23. For the reasons set out, I conclude that the appeal scheme accords with the development plan, taken as a whole, and there are no material considerations which indicate permission should nevertheless be withheld.

24. Therefore, the appeal should be allowed.

*K. Savage*

INSPECTOR



## Appeal Decision

Site visit made on 31 August 2022

**by Ryan Cowley MPlan (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 21 NOVEMBER 2022**

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**Appeal Ref: APP/B3030/W/22/3291855**

**81 Lincoln Road, Newark NG24 2BU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Robert Chambers-Asman against the decision of Newark & Sherwood District Council.
  - The application Ref 21/02261/FUL, dated 18 October 2021, was refused by notice dated 19 January 2022.
  - The development proposed is alterations to No.81 Lincoln Road and erection of new dwelling.
- 

### Decision

1. The appeal is allowed and planning permission is granted for alterations to No 81 Lincoln Road and erection of new dwelling at 81 Lincoln Road, Newark NG24 2BU in accordance with the terms of the application, Ref 21/02261/FUL, dated 18 October 2021, subject to the conditions set out in the schedule at the end of this decision.

### Preliminary Matters

2. A number of the plans submitted by the appellant are titled 'Rev D', however the corresponding plans referred to in the Council's decision notice are titled 'Rev C'. The Council has however since confirmed that it is the 'Rev D' plans that were considered and presented to members of the Council's planning committee. I have therefore had regard to the 'Rev D' plans in this decision.
3. The Council altered the description of the development, including clarification that the proposal includes alterations to 81 Lincoln Road, and erection of a new dwelling. This description is more precise than that given on the application form. I have used this description in the banner heading and formal decision.

### Main Issue

4. The main issue is the effect of the proposed dwelling on the character and appearance of the area.

### Reasons

5. The appeal site comprises an existing pair of semi-detached two storey dwellings and associated curtilage. Both dwellings sit on elongated plots with vehicular access onto Lincoln Road. In the vicinity of the appeal site, Lincoln Road is characterised by a mix of semi-detached and detached two storey dwellings and bungalows. Plots are arranged side by side, albeit dwellings sit at an oblique angle to the road with varying spacing and distances from the

- footpath. The frontage is therefore staggered and not uniform. On the appeal site's side of the road, generous front and rear gardens are common.
6. There are examples however where rear garden spaces have been developed to provide additional dwellings. Notably, immediately to the north-east of the appeal site there is a collection of five dwellings located to the rear of existing properties fronting Lincoln Road. While these appear to have independent accesses onto Lincoln Road, their siting to the rear of existing dwellings and considerable set back from the road give them similar characteristics of 'backland' development, referred to by the parties and in Policy DM5 of the Allocations and Development Management Development Plan Document (ADM DPD), adopted July 2013. According to the Council these development date from the 1970s. Although such development does not prevail across a wide area it does help to define the pattern and density of development near to the appeal site.
  7. There is also another, more recent, example of this type of development further to the south-west which is more comparable to the appeal proposal. The spacing between dwellings and staggered frontage along Lincoln Road, particularly in the vicinity of the appeal site, opens views to the rear in places and introduces dwellings behind into the street scene. Consequently, other housing developments to the rear of properties along Winthorpe Road behind can also be glimpsed between dwellings.
  8. I saw on site that the rear garden space, in which the proposed dwelling would be located, has already been subdivided from the host property with mid-height boundary fencing. The existing garden space is expansive, and a large single storey garage structure sits at the bottom. The rear garden space is only partly enclosed along the northern boundary, with a low to mid-height fence, timber posts, string and a short wall separating the area of existing and proposed driveway from the adjacent property at 83 Lincoln Road. There is no formal boundary enclosure in place between the appeal site and the adjacent neighbour at 87c Lincoln Road. Along the rear boundary the site is enclosed by trees, and along the southern boundary is a mid-height fence.
  9. The proposed dwelling would be located a considerable distance into the rear garden space, directly behind the two existing dwellings. Generous front and rear garden space would separate the proposed dwelling from the shared boundary with the existing dwellings and the existing garage at the rear of the site. The proposed driveway runs along the side, providing separation to the northern boundary. Adequate separation would also be maintained to other dwellings around the site. The existing dwellings would both be left with commensurate front and rear garden space for their size, and comparable to or greater than that afforded to neighbouring plots to the north and opposite.
  10. The proposed dwelling would feature living accommodation within the roof space at first floor. While existing dwellings immediately to the north appear to be single storey only, the overall height of the proposal would be modest and not considerably out of keeping with or greater than surrounding dwellings.
  11. Due to these factors, and in the context of the character and appearance of the area described above, the proposal would not appear as an over-intensive form of development. It would sit within a spacious plot and remain in-keeping with the general character and density of existing development in the area.

12. In respect of the main issue, I therefore find that the proposal would not harm the character and appearance of the area. It is in accordance with Policy DM5 of the ADM DPD and Core Policy 9 of the Amended Core Strategy (the Core Strategy), adopted March 2019. These policies, amongst other things, seek to prevent inappropriate backland development and achieve a high standard of design that contributes to and sustains local distinctiveness.

### **Other Matters**

13. Any noise and disturbance associated with construction would be for a temporary period only, and I have attached a condition requiring the appellant to agree a construction method statement with the Council.
14. Adequate separation distances would be maintained between the proposed dwelling and neighbouring properties, sufficient to safeguard the living conditions of neighbouring occupiers from undue overshadowing or loss of privacy. A planning condition requiring details of boundary treatments be agreed with the Council and thereafter implemented prior to occupation of the proposed dwelling is also required and is attached, which would further protect the privacy of occupiers of neighbouring properties. While representations have been received requesting boundary treatments be installed prior to development commencing, there is no compelling reason before me that construction could not begin before they are installed.
15. The relationship between 83 Lincoln Road and the existing driveway to the side of 81 Lincoln Road already exists and this can be used currently for access to the rear. Both existing dwellings would retain access and parking to the front, and so there is no substantive evidence before me that the proposed driveway would be used other than by occupiers of the proposed dwelling for domestic purposes. Ultimately, the provision of a single dwelling to the rear would not result in significant intensification of the use of the existing driveway.
16. Concerns have not been raised by the Council or the local highway authority in respect of the adequacy of the proposed driveway as a means of vehicular access. Matters concerning the operation of construction traffic would be agreed through the construction method statement. Fire safety and access for fire appliances would be dealt with through the building regulations process and so cannot be given any weight. Any damage caused to other properties during construction would be a private matter between the parties involved.
17. The proposal would provide additional natural surveillance in this area and a planning condition would be required to secure appropriate boundary enclosures, which will aid in security of the appeal site and adjacent properties. There is otherwise no substantive evidence before me to demonstrate the proposal would result in additional crime.
18. I therefore find no harm in respect of the above matters, subject to appropriate planning conditions.

### **Conditions**

19. The Council have suggested conditions should the appeal be successful. I have considered these and amended where necessary in light of the national Planning Practice Guidance.

20. In addition to the required conditions I refer to above and the standard time limit condition, it is necessary to specify the approved plans as this provides certainty. For the proposed dwelling, external materials need to be approved in the interests of the character and appearance of the area. Likewise external materials of the proposed extension to No 81 are required to match those of the existing dwelling for the same reason.
21. I agree with the suggestion that permitted development rights should be removed for roof extensions or alterations to the proposed dwelling, to enable the local planning authority to safeguard the living conditions, particularly privacy, of occupiers of neighbouring properties.
22. Details of hard and soft landscape works are required to be agreed and those works implemented and maintained in the interests of the character and appearance of the area. The access, driveway, parking and turning area proposed are required to be implemented in accordance with the submitted plans prior to the occupation of the proposed dwelling in the interests of highway safety.
23. The Council has requested a condition to secure obscure glazing and restricted opening of a side facing rooflight. The submitted plans indicate this is a high-level window providing light to the ground floor corridor and so views to neighbouring properties could not be readily achieved. This condition is therefore not necessary.

### **Conclusion**

24. For the reasons given above and having had regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal is allowed.

*Ryan Cowley*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing 2101-04 Rev D Proposed Site Plan

Drawing 2101-05 Rev A Proposed Floor Plans

Drawing 2101-06 Rev A Proposed Elevations

Drawing 2101-08 Rev D Proposed Floor Plans

Drawing 2107-09 Rev D Proposed Elevations

Drawing 2101-10 Rev D Proposed Elevations



- 3) No development shall be commenced, including any works of demolition or site clearance, until a Construction Method Statement has been submitted to, and approved in writing, by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i) the parking of vehicles of site operatives and visitors;
  - ii) loading and unloading of plant and materials;
  - iii) storage of plant and materials used in constructing the development;
  - iv) wheel washing facilities;
  - v) a scheme for recycling/disposing of waste resulting from demolition and construction works;
  - vi) confirmation of hours of construction and deliveries to site.
- 4) Construction of the dwelling hereby permitted shall not commence above damp-proof course until details (and samples upon request) of the external facing materials to be used (including colour/finish) have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) The external facing materials to be used in the construction of the extension to 81 Lincoln Road hereby permitted shall match those corresponding materials on the existing dwelling, in terms of colour, type and finish.
- 6) The dwelling hereby permitted shall not be occupied until:
  - i) the access driveway is constructed to a width as shown on Drawing 2101-04 Rev D Proposed Site Plan;
  - ii) the new driveway is provided in a hard-bound material (not loose gravel) for a minimum distance of 5.0 metres behind the highway boundary. The surfaced driveway shall then be maintained in such hardbound material for the life of the development;
  - iii) the parking and turning areas are provided in accordance with approved Drawing 2101-04 Rev D Proposed Site Plan. The parking and turning areas shall not be used for any other purpose other than the parking and turning of vehicles.
- 7) No part of the development shall be brought into use until details of all the boundary treatments proposed for the site (which shall include treatment between the application site and the side elevation of the existing building at 83 Lincoln Road) including types, height, design and materials, have been submitted to and approved in writing by the local planning authority. The approved boundary treatments shall be implemented prior to the occupation of the new dwelling and shall then be retained as such for the life of the development.
- 8) Prior to first occupation of the dwelling hereby permitted, full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. These details shall include:

- i) full details of every tree, shrub, hedge to be planted (including its proposed location, species, size and approximate date of planting) and details of tree planting pits including associated irrigation measures, tree staking and guards, and structural cells. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species;
  - ii) car parking layouts and materials;
  - iii) other vehicle and pedestrian access and circulation areas; and
  - iv) hard surfacing materials.
- 9) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwelling or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. The approved hard landscaping scheme shall be completed prior to first occupation or use of the dwelling hereby permitted.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), and in relation to the dwelling hereby permitted only, other than the development expressly authorised by this permission, there shall be no development under Schedule 2, Part 1 of the Order in respect of:
- i) Class B: The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.
  - ii) Class C: Any other alteration to the roof of a dwellinghouse.



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## Appeal Decision

Site visit made on 29 November 2022

**by G Bayliss BA (Hons) MA MA MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 15 December 2022**

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**Appeal Ref: APP/B3030/W/22/3300572**

**Holme Farm, Maplebeck, Newark NG22 0BS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr M Combellack against the decision of Newark & Sherwood District Council.
  - The application Ref 21/02677/FUL, dated 21 December 2021, was refused by notice dated 25 February 2022.
  - The development proposed is the construction of a timber stable and manege for private use, including change of use of part of site from agricultural to recreational use.
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### Decision

1. The appeal is allowed and planning permission is granted for the construction of a timber stable and manege for private use, including change of use of part of site from agricultural to recreational use at Holme Farm, Maplebeck, Newark NG22 0BS in accordance with the terms of the application, Ref 21/02677/FUL, dated 21 December 2021, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: RHA2015-0140a Site Plan as Proposed, RHA2015-0141a Block Plan, RHA2015-0142a Ménage Plan as Proposed, RHA2015-0143a Stable Plans as Proposed, RHA2015-0145a Stable Elevations as Proposed, RHA2015-0146a Indicative Drainage Plan, RHA2015-0147a Menage Section as Proposed.
  - 3) The materials to be used on the development hereby approved shall accord with and be retained in accordance with the materials stated on the approved plans and within the application.
  - 4) There shall be no burning of used bedding or manure from the site on any part of the site.
  - 5) The development hereby permitted shall only be used for the personal/private use of the occupiers of Holme Farm only and shall not be used for any commercial purposes, schooling or for private livery.

### Application for costs

2. An application for costs was made by the appellant against the Council. This is the subject of a separate Decision.

### **Preliminary Matters**

3. In the absence of a site address on the planning application form I have taken this from the planning appeal form.
4. A revised description of development was agreed by the Council and the appellant. This is reflected in the banner heading and I have determined the appeal on this basis.
5. Since the date of refusal, the appellant has received planning permission on the same site for the construction of a timber stable and manege for personal use, including change of use of part of site from agricultural to recreational use (re-submission of 21/02677/FUL). The approved development constitutes the appeal scheme with an amended stable plan comprising 4 stalls, a hay store and a tack room. The appeal scheme stable would comprise a building of the same form and scale but with 6 stalls. The Council considers that the appeal scheme would be materially different to that approved by virtue of increasing the number of stalls within the stable building, and thus the number of animals that could be accommodated. It considers that a greater number of animals would be beyond the scope of what could reasonably be considered to constitute domestic equestrian use on the site. The Council also considers that the appeal scheme would fail to provide space to store hay, tack and other paraphernalia for the animals which would lead to further applications for buildings that would add visual clutter into a valued landscape.

### **Main Issues**

6. Taking the above into consideration, the main issues are: (i) whether the scale of the proposed development would constitute domestic equestrian use; and (ii) the effect of the proposed development on the area's landscape character.

### **Reasons**

#### *Scale of the proposal*

7. Policy DM8 of the Newark & Sherwood Allocations & Development Management Development Plan Document 2013 (DPD) relates to development in the countryside and allows domestic equestrian uses and associated buildings provided that the design criteria in Policy DM5 (DPD) are met. The policy provides no guidance on what scale of equestrian use is acceptable for domestic equestrian use.
8. Although the size of the stable would remain the same between the approved scheme and the appeal scheme, the appellant wishes to have 6 stalls rather than the 4 which have been approved. The appellant is initially looking to house two animals for private use, but numbers may increase in the future. Although both parties discuss the number of animals in relation to the number of stables, there is no indication that the appellant would intend to have more animals than the number of stalls and I have no evidence as to why six stalls would exceed reasonable domestic use.
9. The proposal would replicate the stable development in the adjacent field which received planning permission for private use in 2021 and is in separate ownership. This stable building is of the same size as the appeal scheme and comprises six stalls, the same number as the appellant is now seeking.

10. It is unclear why the Council is treating the appeal scheme differently to the adjoining stable development which is almost identical. During the consideration of this application, there was an absence of details regarding the proposed use and number of animals. However, despite this, the Council considered that an appropriately worded condition would ensure that there would be no adverse impacts on the character of the area. There is insufficient evidence that the number of animals or stalls in this application was a concern in relation to the proposed private use.
11. The appellant wishes to have the same number of stalls as the adjoining development and there is nothing compelling before me to explain why I should treat the appeal scheme differently. In particular, the Council has presented no evidence why the extra 2 stalls within the building would go beyond reasonable domestic equestrian use.
12. The appellant has also drawn my attention to the High Court Decision *Davison v Elmbridge BC* [2019] EWHC 1409, which concluded that the Council should take a neighbouring development into account as a material consideration for consistency in decision making. In my view, the decision on the adjoining site is a material consideration as it is sufficiently closely related to the issues that regard should be had to it. It is apparent that the adjoining approval did not form part of the Council's consideration.
13. I therefore conclude that the scale of the proposed development would constitute domestic equestrian use. This would comply with Spatial Policy 3 of the Plan Review of the Newark & Sherwood Local Development Framework Core Strategy & Allocations Policy (Amended Core Strategy) 2019 (CS) and DPD Policies DM5 and DM8. It would also accord with the National Planning Policy Framework (the Framework) which seeks to ensure that the countryside is protected from unsustainable development.

*Effect on landscape character*

14. The approved scheme would be located at the far end of an access track in the corner of a field and alongside the adjoining stable and manege. The site is part of the 'Mid Nottinghamshire Farmlands' Landscape Character Area and the 'Maplebeck Village Farmlands with Ancient Woodlands' policy zone identified in the Newark and Sherwood Landscape Character Assessment Supplementary Planning Document (SPD). CS Policy 13 requires new development to positively address the implications of the relevant landscape policy zones. The SPD requires, amongst other things, that proposals conserve the character of Maplebeck Village Farmlands by limiting development in this area due to the likelihood of a high impact on the character of the policy zone. Horse culture infringing into fields is listed as one of the drivers for change.
15. The Council has accepted through the approved scheme that the size and form of the stable is acceptable and complies with CS Policy 13. The Council is concerned, however, that in relation to the appeal scheme, the removal of the tack room and hay store from the stable building would result in future applications for buildings which along with other horse paraphernalia would add visual clutter to the landscape.
16. However, the appellant is currently only proposing to accommodate two animals and there would be adequate space within the stable building to house tack and feed if this was required. Alternatively, this could be brought onto the

site. Also, if more animals were to be accommodated in the building, and there was a need to provide additional storage, then the appellant would need to apply for planning permission for a separate building or extension, and the Council would reach a view on this matter at this time. Suggesting that permitting the appeal scheme would lead to further applications for buildings and that these would add visual clutter would be speculation. The Council has raised no concerns about the adjoining site which has 6 stalls and there is no identified tack room or hay store on its approved drawings. Again, there is a need for a consistent approach with the adjoining development.

17. I therefore consider that the proposed development would not have an adverse effect on the area's landscape character. It would comply with CS Policies 3, 9 and 13, and DPD Policies DM5 and DM8 and the SPD. It would also accord with the Framework which seeks to ensure that development is sympathetic to local character including the surrounding built environment and landscape setting.

### **Other Matters**

18. Maplebeck Conservation Area is near to the appeal site. I am aware of my statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Part of the setting of the Conservation Area is the rural landscape immediately adjacent to it, of which the appeal site is part. The Council considers that the appeal scheme would have a neutral impact on the setting and significance of the Conservation Area, and I agree with that conclusion.
19. The Council refers to an application for the erection of an agricultural storage building on land adjacent to the appeal site which has recently been refused. However, this development would be unrelated to this appeal proposal and is not therefore relevant to the matters currently before me.

### **Conditions**

20. A condition requiring the development to be carried out in accordance with the approved plans is necessary in the interests of certainty.
21. A Condition regarding materials is required in the interests of the visual amenity of the area. A condition relating to burning of bedding or manure is required to protect residential amenity. Finally, the condition restricting the use of the development is required in order to limit the impact on the open countryside.
22. I have made some changes to the Council's suggested conditions in the interests of clarity and consistency, and to ensure compliance with the Framework and Planning Practice Guidance.

### **Conclusion**

23. For the reasons given above, having considered the development plan as a whole and taking into account all other matters raised, I conclude that the appeal is allowed.

*G Bayliss*

INSPECTOR

## Appeal Decision

Site visit made on 6 December 2022

**by John Whalley**

**an Inspector appointed by the Secretary of State**

**Decision date: 22 December 2022**

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**Appeal ref: APP/B3030/D/22/3307670**

**84 Kirklington Road, Rainworth, Mansfield NG21 0JX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal of planning permission.
  - The appeal is made by Mr T Austin and Miss E Dennett against the decision of Newark and Sherwood District Council.
  - The application, ref. 22/01233 dated 22 June 2022, was refused by a notice dated 5 September 2022.
  - The development proposed is the construction of two storey front, side and rear extensions and a loft conversion with dormers to side and rear.
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### Decision

1. The appeal is allowed and planning permission is granted for the construction of a two storey front, side and rear extensions and a loft conversion with dormers to side and rear at 84 Kirklington Road, Rainworth, Mansfield NG21 0JX in accordance with the terms of the application, Ref: 22/01233, dated 22 June 2022, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Existing Floor Plans - Elevations and Location Plan ref: 2022-048 dated 23/05/2022; Proposed Floor Plans – Elevations – Block Plan ref: 2022-048(2) rev3 dated 23/05/2022.

### Main issue

2. The main issue in this appeal is the effect of the proposed extensions to No. 84 upon the appearance of the street scene.

### Reasons

3. The appeal dwelling, No. 84 Kirklington Road, is a semi-detached 2 storey house in a group of 3 pairs of semi-detached houses. As built, the 6 houses appeared to have been uniformly hipped roofed equally spaced houses. Substantial alterations and additions to Nos. 80, 82 and 86 subsequently lost much of that uniformity, particularly caused by the reduction in the gap between Nos. 80 and 82 and by the changes in roof structures and form.
4. The resistance by the Council to the appeal proposed extensions to No. 84 would seem to come too late to avert changes that have, effectively, taken

place, whether by the implementation of permitted development rights or other permissions. In view of the present position, I do not accept the view of the Council that the Appellants' proposal would result in an incongruous, prominent feature when viewed from Kirklington Road. The "terracing" effect that worried the Council caused by the widened frontage to the house as proposed would not, as the Council suggested significantly reduce the gap between the adjoining dwelling such as to create a terracing effect through a visual coalescence. An open gap of almost 1m to the shared boundary with No. 86 would remain, as would a further larger gap to the side wall of No. 86. The small reduction in the gap between Nos. 84 and 86 would not, in my view, be significantly detrimental.

5. As to the Council's concern that there would be an unbalancing impact upon the adjoining semi-detached dwelling, the hipped roof at No. 86 has been replaced by a hip to gable roof extension. The appeal project would match that by building a gable wall facing the side of No. 86. In my view, the appeal scheme would produce no significant detriment to the street scene.
6. Although the Council's objections referred to what they saw as consequent non-compliance with a number of local and national policies drawn up to ensure the application of sound design principles, it follows from my conclusion on the merits of the appeal that there is no policy objection to granting planning permission for the No. 84 improvement scheme.
7. In concluding that planning permission should be granted for the appeal extension, I note that no adverse effects on neighbouring houses' amenities were identified. For the reasons given above, the appeal succeeds. The general condition limiting the duration of the permission is applied, (s.91 of the Act), as is a condition defining the amended scheme.

*John Whalley*

INSPECTOR





Report to Planning Committee 19<sup>th</sup> January 2023

Director Lead: Matt Lamb, Planning & Growth

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

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

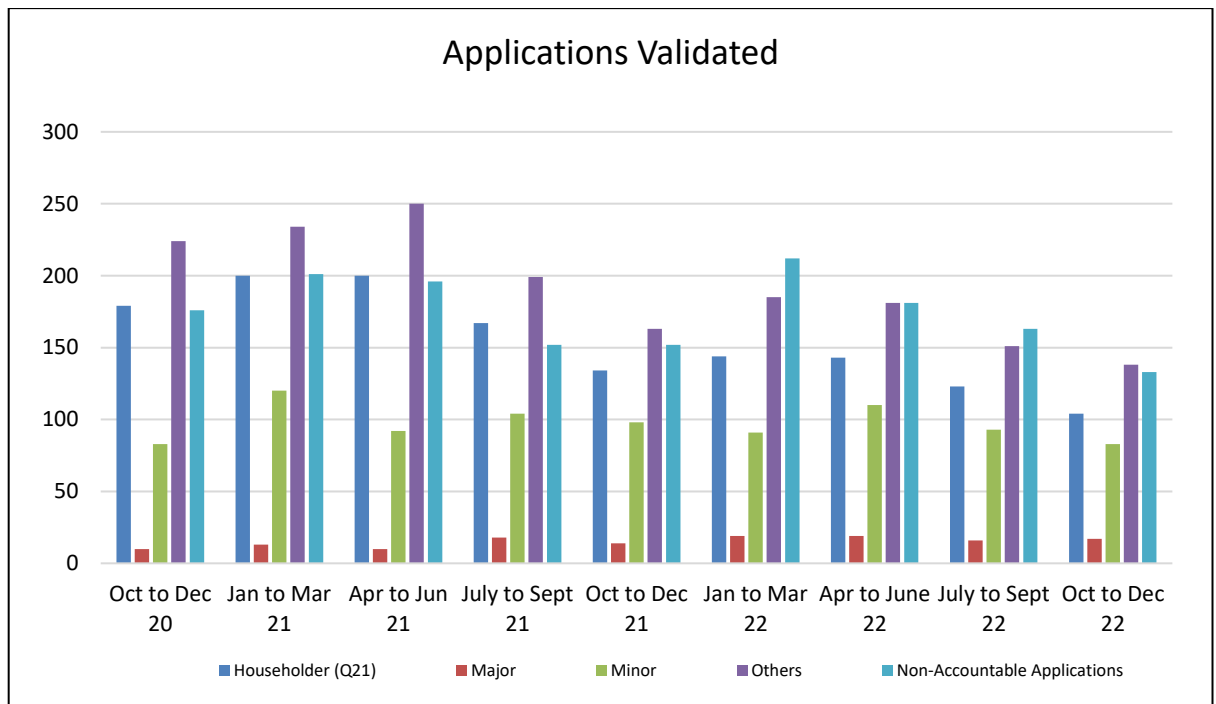
## 1.0 Background

1.1 The Planning Department undertakes a number of activities including the processing of planning applications and associated appeals, planning enforcement, conservation and listed building advice, offering 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 October 2020 up until December 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 third quarter of 2022/23, a total of 670 applications were received. This, compared to the same quarter in 2021/22 shows a reduction from 770 applications or an approximate 13% decrease in application

workload. 670 applications is lower than during the pandemic in 2020/21 when 873 applications were received in the same quarter, however seasonal trends show a reduction in corresponding quarters from previous years. This reduction in application numbers is comparable with reductions reported across the country. Compared to the previous quarter, all application numbers have decreased with the exception of works to trees and Major category applications.



2.2 'Major' applications are those with 10 or more dwellings, sites of 1 hectare or more, or provision of 1,000m<sup>2</sup> 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

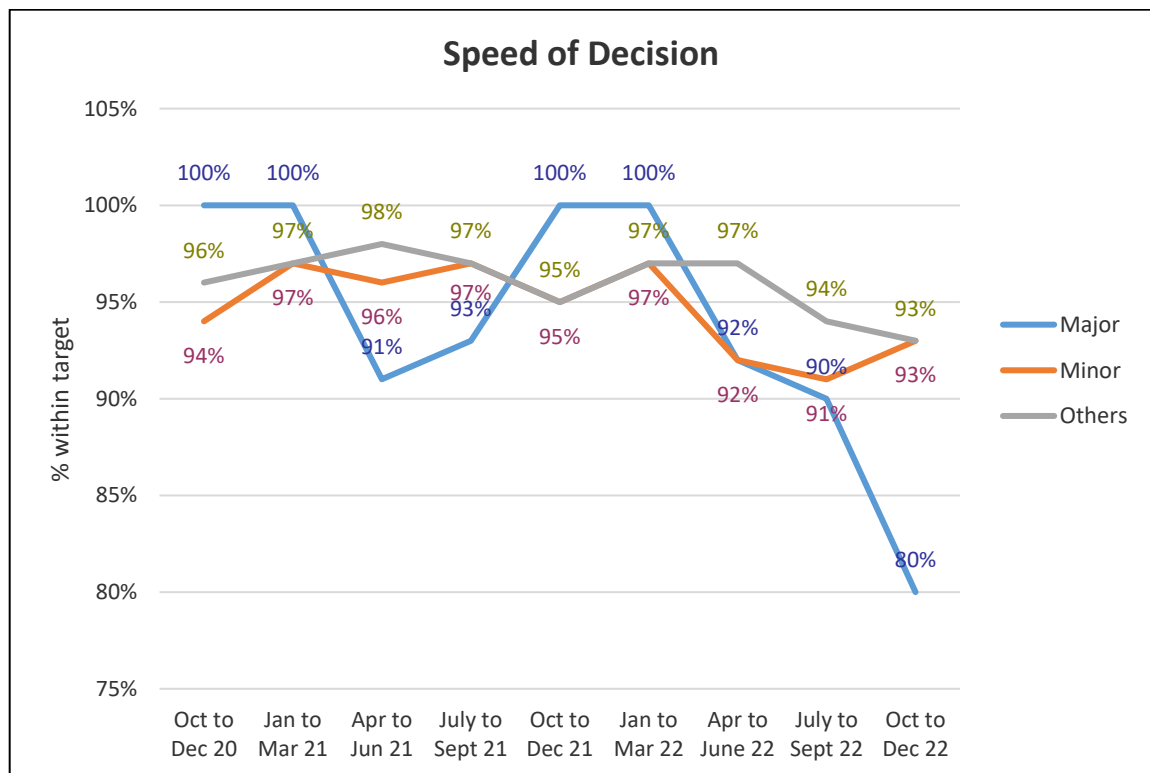
3.1 Government (DLUHC) monitor planning authorities on their speed of making decisions in relation to major and non-major applications. The target at national level is to determine 60% of major applications within the statutory period of 13 weeks or subject to the agreement of a time extension over a rolling two-year period. From October 2020 to December 2022, 94% of major applications have been determined within these timescales (this is the same as previously presented). Overall, 104 majors have been determined during the October 2020 to December 2022 period.

For non-majors, the target set nationally is 70% over a two-year period. 96% of non-major applications over this same time period have been determined. Overall, for non-majors, 2140 applications determined (October 2020 to December 2022).

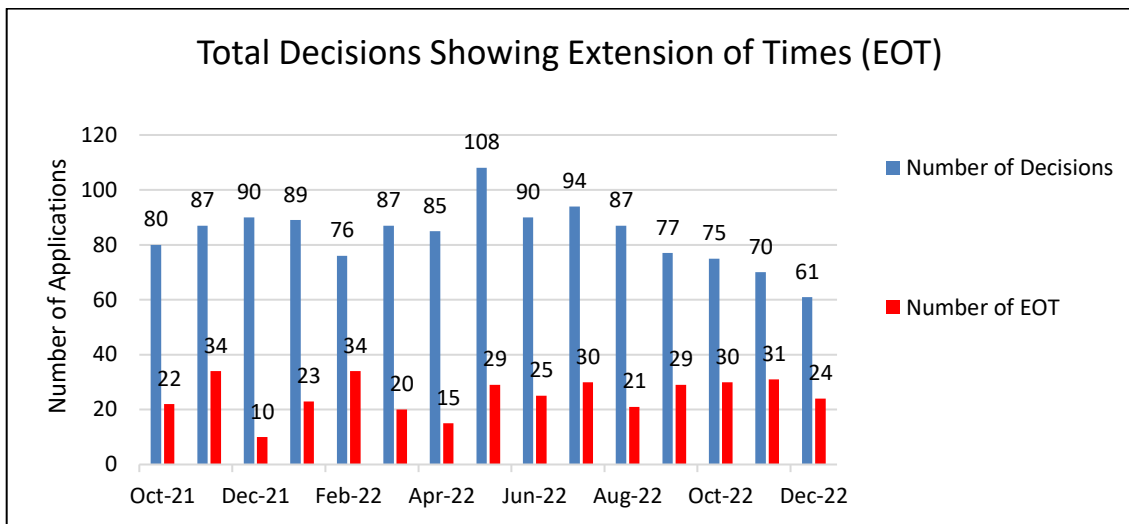
These targets are challenging when taking account, in accordance with the National Planning Policy Framework, to work positively and proactively with applicants in determining applications i.e., trying to find solutions as opposed to refusing a planning application that might be amended.

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 the associated administration.

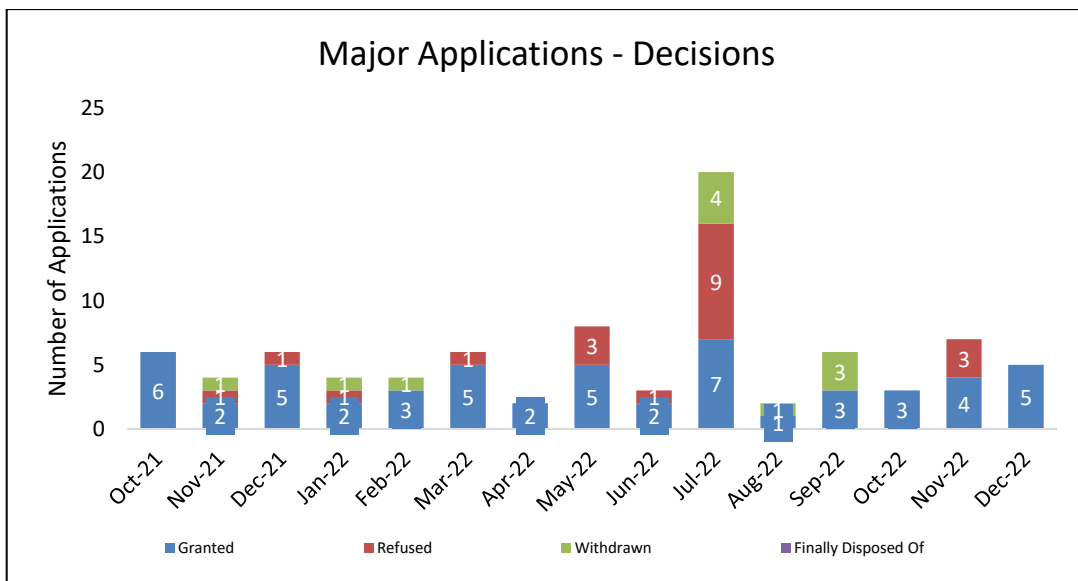
3.3 The following graph relates to the percentage of planning applications determined within set timescales.

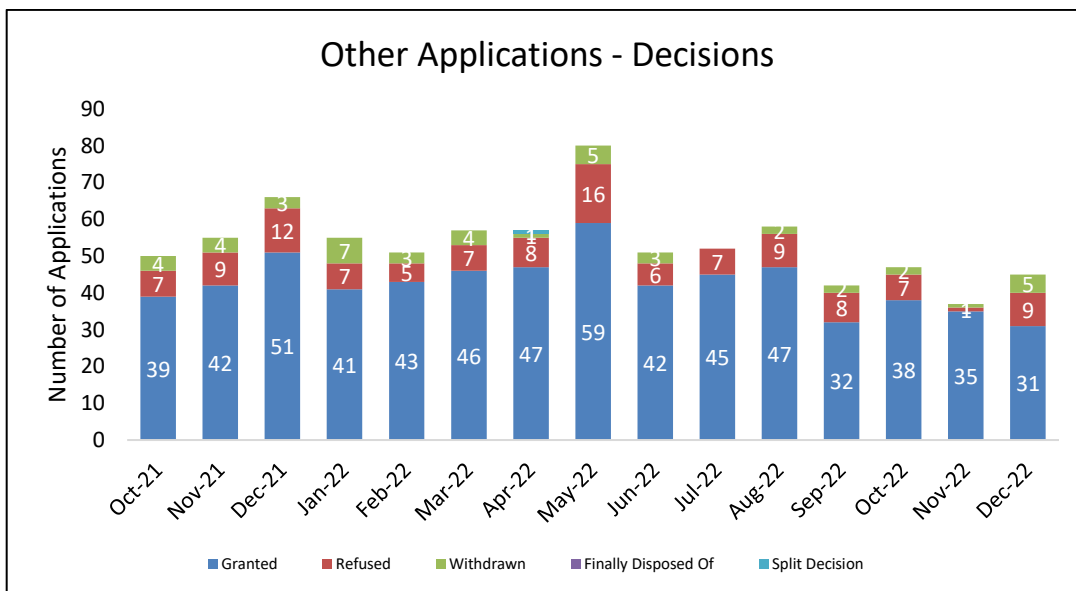
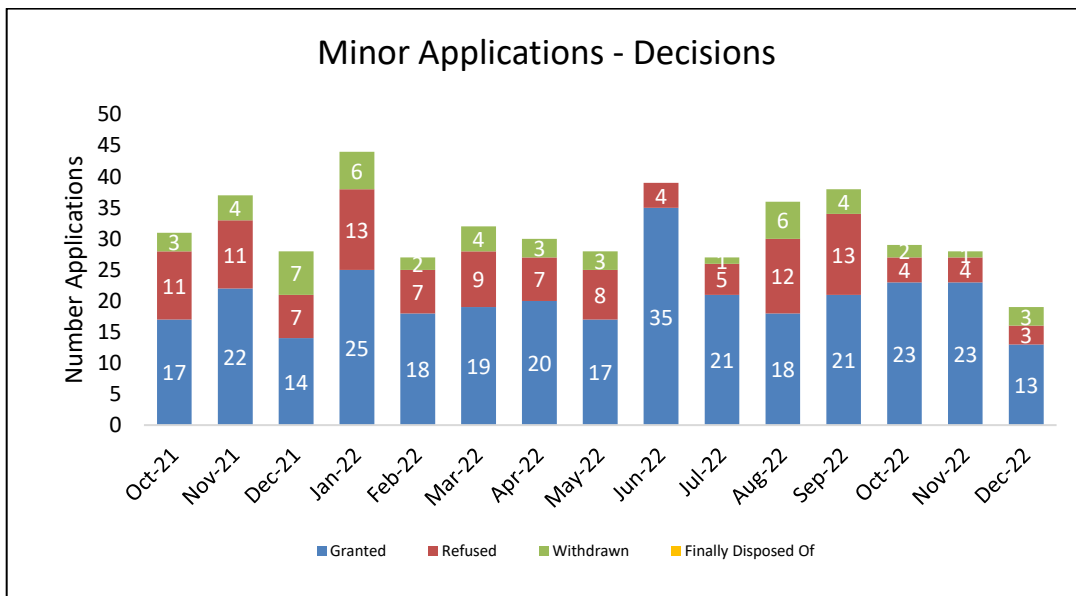


- 3.4 For major applications, performance over the previous quarter has dropped to 80%. 3 applications out of 15 decisions have resulted in this change. Minors is at 93%, an increase of 2 percent compared to the previous quarter. Other applications have also dropped slightly to 93%, from 94%. Performance has dipped in a couple of categories, this is likely due to a vacancy within the team. However, all applications meet and/or exceed both national and local performance targets.
- 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. The quarter again represented a 10% increase compared to the previous quarter, from 31% to 41%. 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 October to December 2021 is similar and represents a level of consistency regarding seasonal trends. For minors the numbers represent a 10% reduction from the corresponding period in 2021/22 and as previously reported, other applications continue to reduce, albeit not as significantly as the previous quarter. 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 can 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 (approved) cumulatively across the major (71%), minor (65%) and other (85%) categories respectively between October 2021 and December 2022. Withdrawals (14 in the third 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.





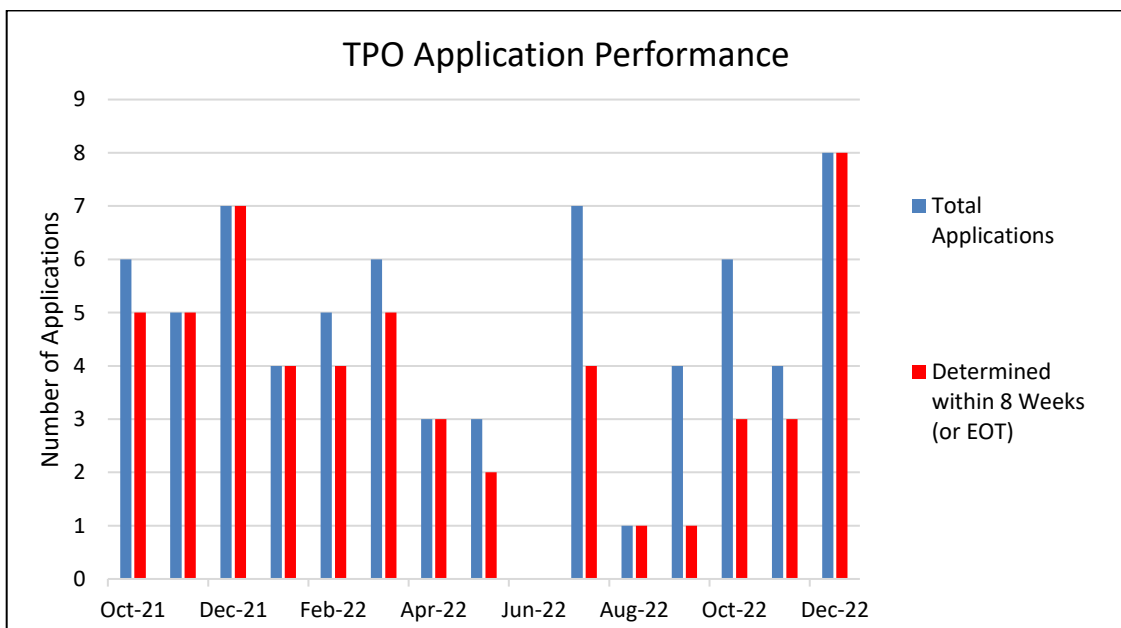
#### 4.0 Tree Applications

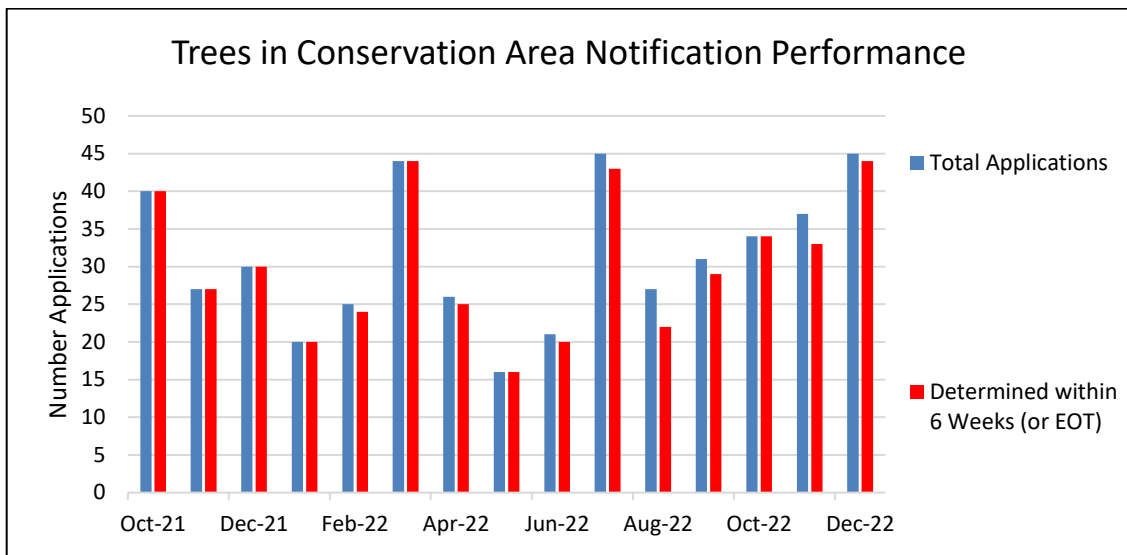
4.1 Trees are a valued amenity contribution to the character of the district. Those that are subject to a Tree Preservation Orders (TPOs) or within a Conservation Areas require consent from the Council before works are commenced. In relation to unprotected trees within a Conservation Area, the consent 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 has seen a slight increase and have no consistency, making resourcing more difficult. 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 a number of factors, including time taken around our proactive approach with negotiations between ourselves and agent/applicants regarding amendments to proposed works to bring in line with BS3998.2010. This British Standard gives general recommendations for tree work as well as guidance on management options for established trees. This has consequentially seen delays regarding time taken to reply and the agent/applicant’s availability to meet on site. Additionally, further engagement has been required to seek clarity of proposals due to vague description of works. Training is being undertaken with the Technical Support team who validate the applications to seek appropriate descriptions of work from the outset.





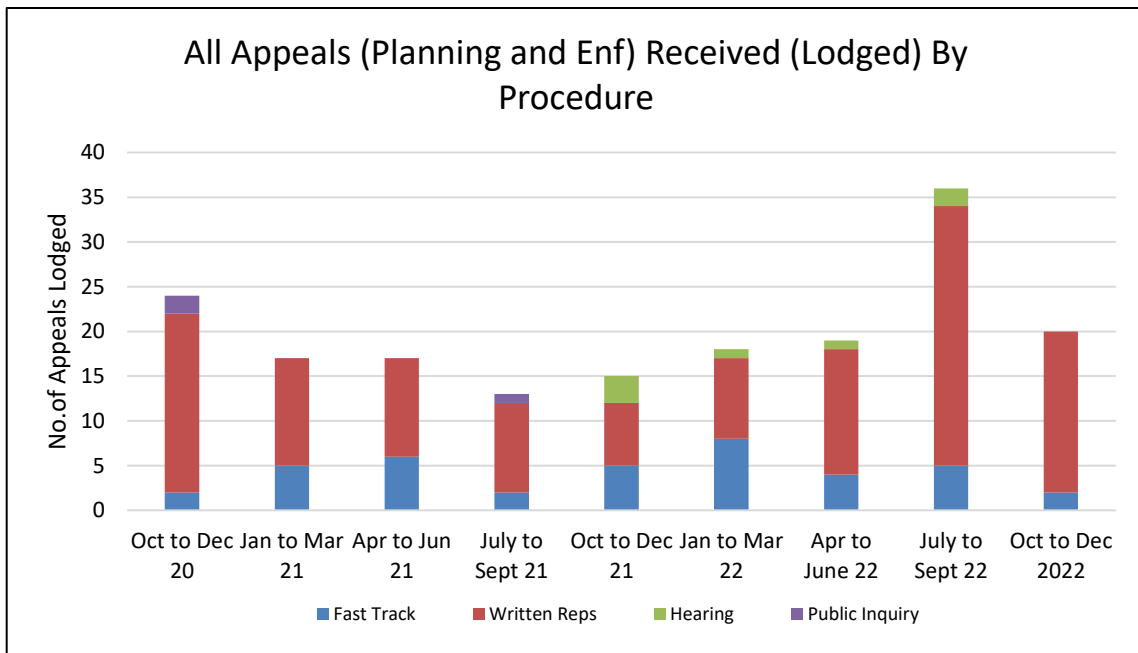
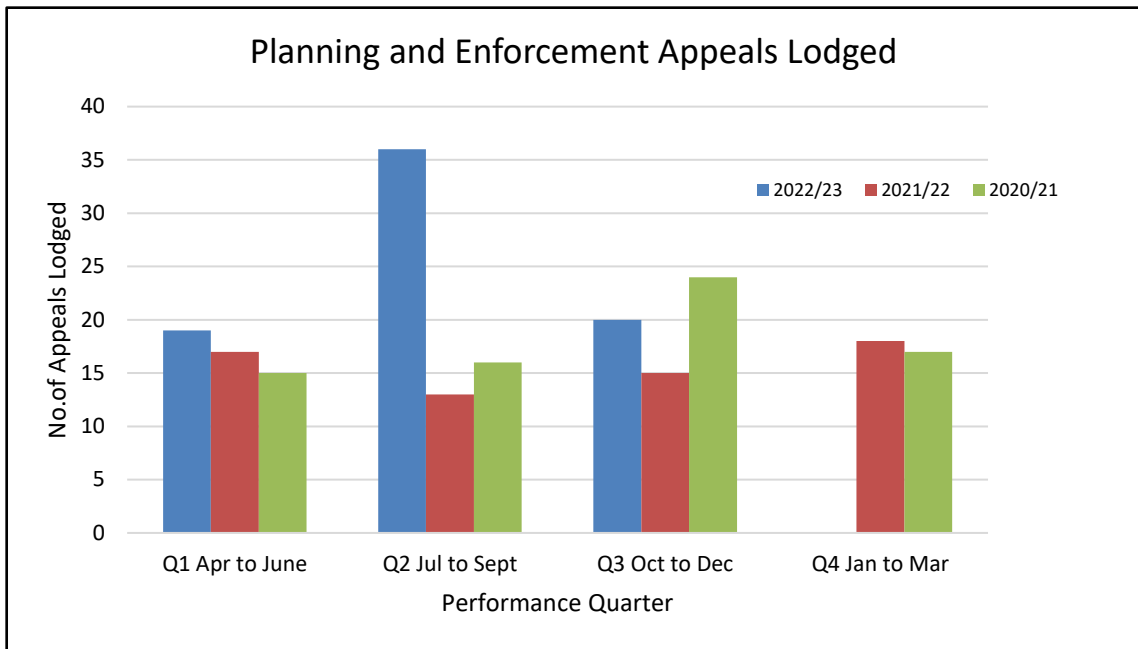
4.3 It is important to note, decisions issued during October to December 2022, regarding works to trees in conservation area represented an 11% increase in numbers compared to the previous quarter. Seasonal trends confirm Q2 and Q3 tend to experience an increase in the number of decisions, often contributed to by the time of year (leaf drop and prior to the appearance of buds). Furthermore, 96% of notifications were decided within the statutory 6 weeks period, an increase of 5% compared to the previous quarter.

4.4 Turning to works to trees protected by Tree Preservation Order (TPO), through negotiations during assessment, refusals continue to be low and represent only 15% of decisions made during the monitoring period. The Planning Technical Support Manager acknowledges negotiations can have an impact on performance regarding speed of decision. However, it is anticipated through working with customers and agreeing appropriate works (rather than refusal), will lessen any possible impact on the team owing to possible submission of appeals due to a decision of refusal. Overall, 78% of applications are decided within the statutory 8 weeks period (or agreed extension of time) and it is also hoped that ongoing engagement with agents who regularly submit applications for tree works within the District gain an understanding of the appropriate approach to tree works which we hope will result in 'better' applications submitted in the future.

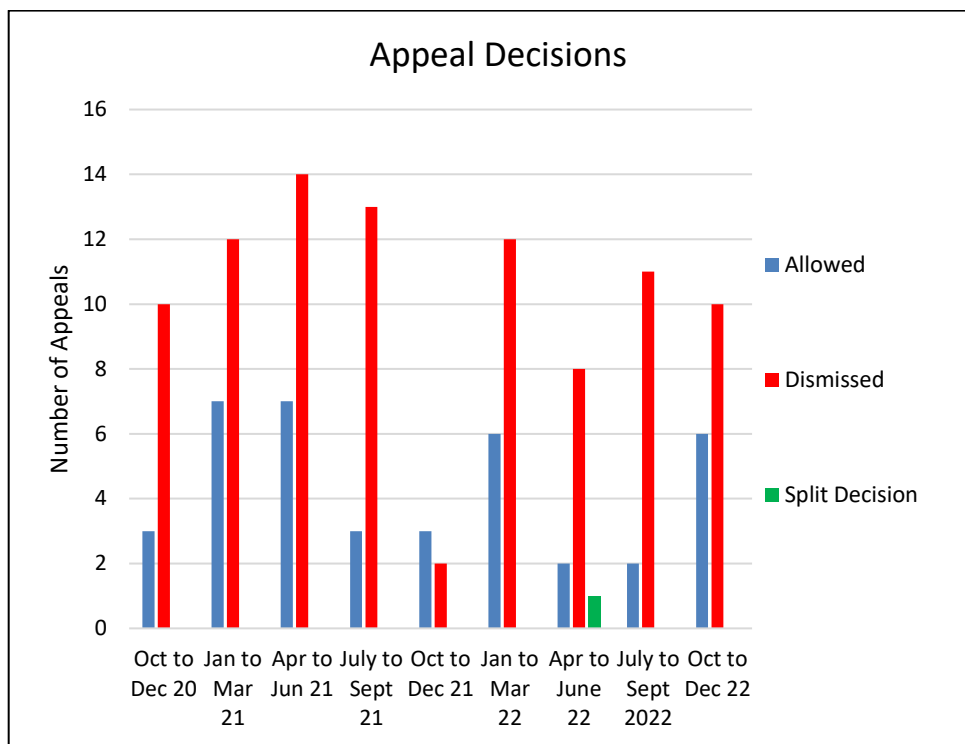
## 5.0 Appeals

5.1 The charts below show the number of appeals against planning applications and enforcement notices that have been submitted 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. Numbers continue to be high and to date, the overall number lodged has surpassed the total yearly number of appeals lodged during 2020/21 and 2021/22. The majority of these, fortunately are written representation appeals.





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 slight increase in the number of decisions issued by the Inspectorate compared to the previous quarter, from 13 to 16, continuing the trend from Q1 of 2022/23. The number dismissed continues to exceed the number allowed and for the monitoring period between April to December 2022, number allowed is 25%, in 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 37.5% of all appeals being allowed, however as reported above, the overall figure (25%) for the monitoring period is below the Governments previous target of 33%.



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 the thresholds.

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.

## 6.0 Updates

6.1 Staffing – Since the previous report was presented, there have been further changes to staffing. Jared Pailing has joined us as Trainee Planner in Development Management.

Isabel Verheul will be leaving the authority and the recruitment process is currently taking place to seek replacement resource on a full-time basis. Additionally, we are in the process of recruiting to the post of Planning Assistant Apprentice. An update on progress will be provided in the next quarters report.

- 6.2 Within Land Charges, Leah Sumner has recently started with us and whilst training is undertaken, the service is being delivered with support from officers within the Support team.
- 6.3 We are currently asking for public comments on our draft Planning Application Local Validation Checklist. The Checklist provides the basis on which we validate all planning applications. Simply, it is a tick list to help individuals make sure they have submitted everything necessary to make a planning application and is intended to make the process of submitting a planning application easier for everyone.
- 6.4 We are required, by Government, to review and consult on our Local Validation Checklist for Planning applications every two years. This will ensure our Checklist is up to date and reflect current planning policies in accordance with Local and National Guidance. Our draft Local Validation Checklist is open to public consultation for eight weeks from 19<sup>th</sup> December 2022 to 13<sup>th</sup> February 2023. The Checklist will then be presented to Planning Committee on 20<sup>th</sup> April 2023 for final approval before coming into effect on 20<sup>th</sup> April 2023.

Further information is available on our website at [www.newark-sherwooddc.gov.uk/validationchecklists](http://www.newark-sherwooddc.gov.uk/validationchecklists)

## **7.0 Implications**

In writing this report 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 19 January 2023

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Richard Marshall, Senior Planner (Enforcement), Richard.marshall@newark-sherwooddc.gov.uk

Report Summary	
<b>Report Title</b>	Quarterly planning enforcement activity update report
<b>Purpose of Report</b>	<p>To update Members as to the activity and performance of the planning enforcement function over the third 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 that period.</p>
<b>Period covered</b>	1 October 2022 – 31 December 2022
<b>Recommendation</b>	That Planning Committee accept the contents of the report and note the ongoing work of the planning enforcement team.

## 1.0 Background

This report relates to the third quarter from the 1 October to the 31 December 2022 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 where Notices that have been complied with.

Schedule A outlines the enforcement activity for Q3 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 detail 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 Q3 and since the adoption of the policy in September 2020 (<https://www.newark-sherwooddc.gov.uk/media/newark-and-sherwood/images-and-files/planning-policy/pdfs/planning-enforcement-plan/Planning-Enforcement-Plan---Adopted-September-2020.pdf>).

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 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 seemingly increasing. Officers are actively investigating cases that include the creation of reservoirs and new dwellings without planning permission, unauthorised works to Listed Buildings and illegal works to protected trees. Whilst the complexity of cases are not necessarily revealed within the figures provided, they nevertheless occupy a large amount of officer time and it is a credit to the ongoing commitment of the team that in addition to managing these complex cases, officers are continuing to complete investigations that relate to more ‘standard’ matters that are raised, as demonstrated within chart 1.

Members will note the continuing positive trend of cases being closed where the breach has been resolved, as shown within chart 2, which ultimately 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.

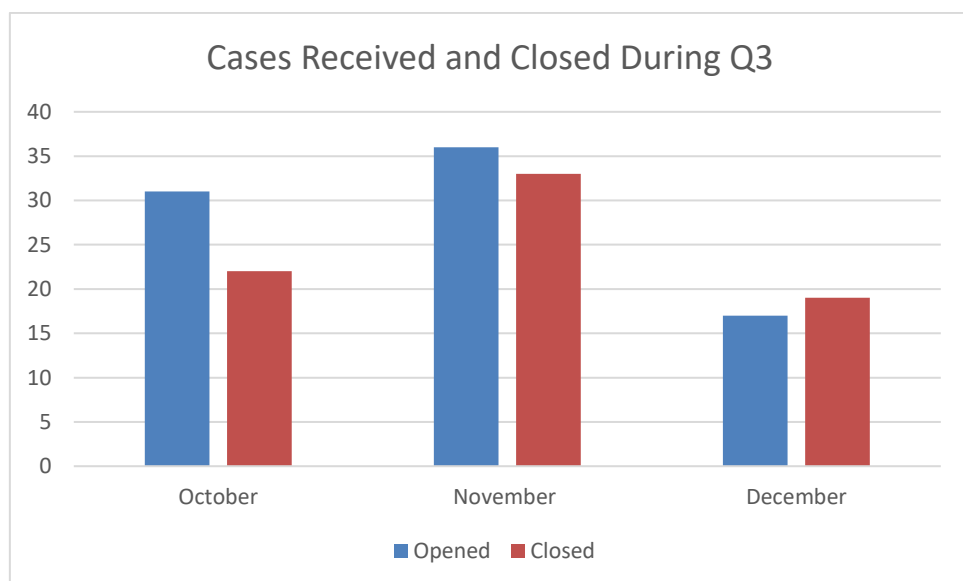


Chart 1 – Case numbers received and closed in Q3

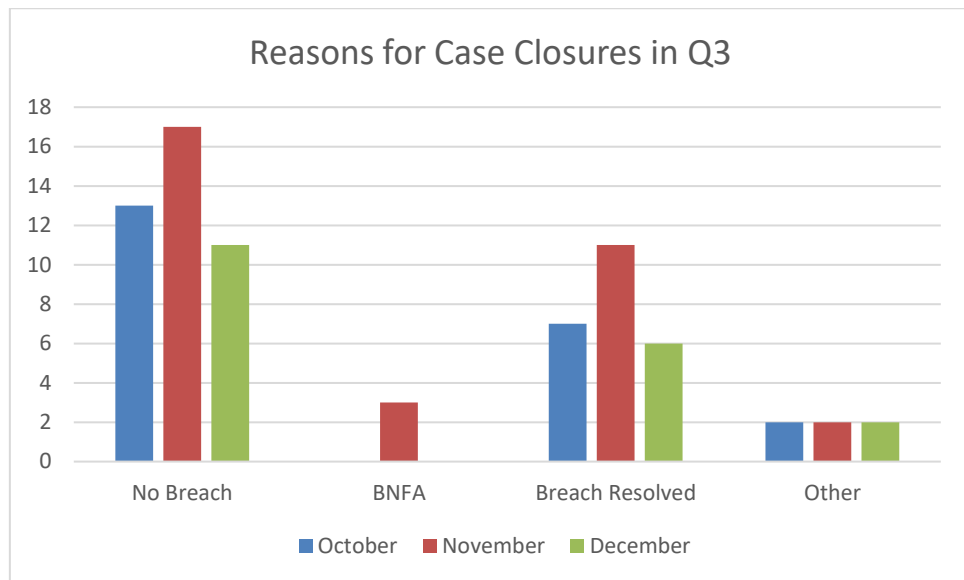


Chart 2 – Reason that enforcement cases have been closed during Q3 of 2022/2023

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 below that despite the consistently high number of enforcement cases being dealt with, and the previously explained complexity of those matters investigated, the enforcement team has been working with continued commitment to achieving the highest standard of attainment and has reached close to (98.7%) a 100% compliance with the targets set within the PEP.

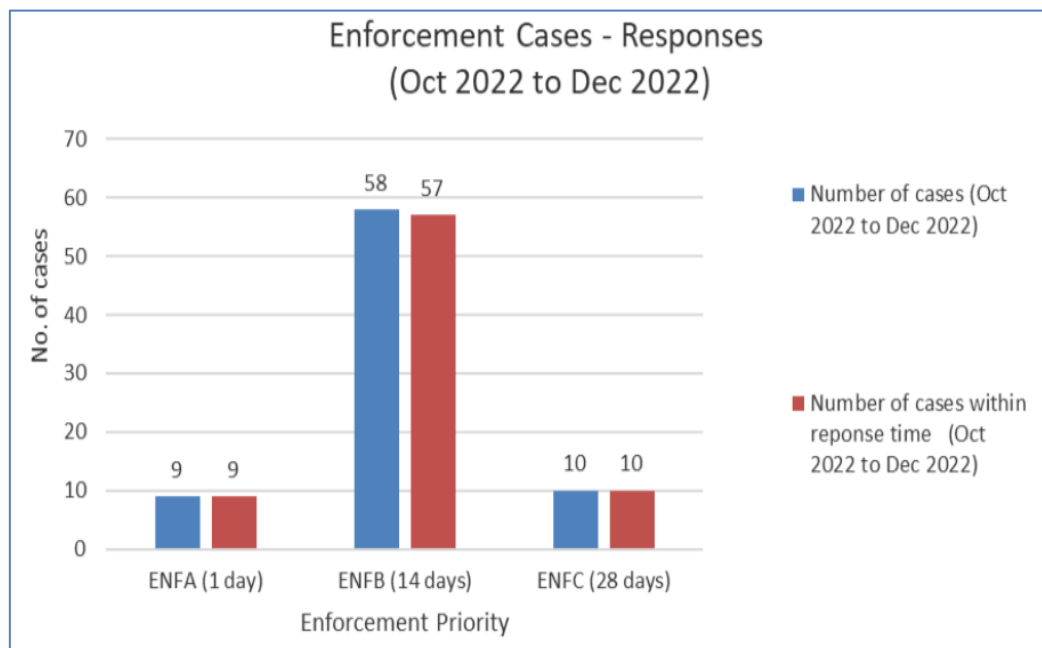


Chart 3 – Response Times in Q3 of 2022/2023

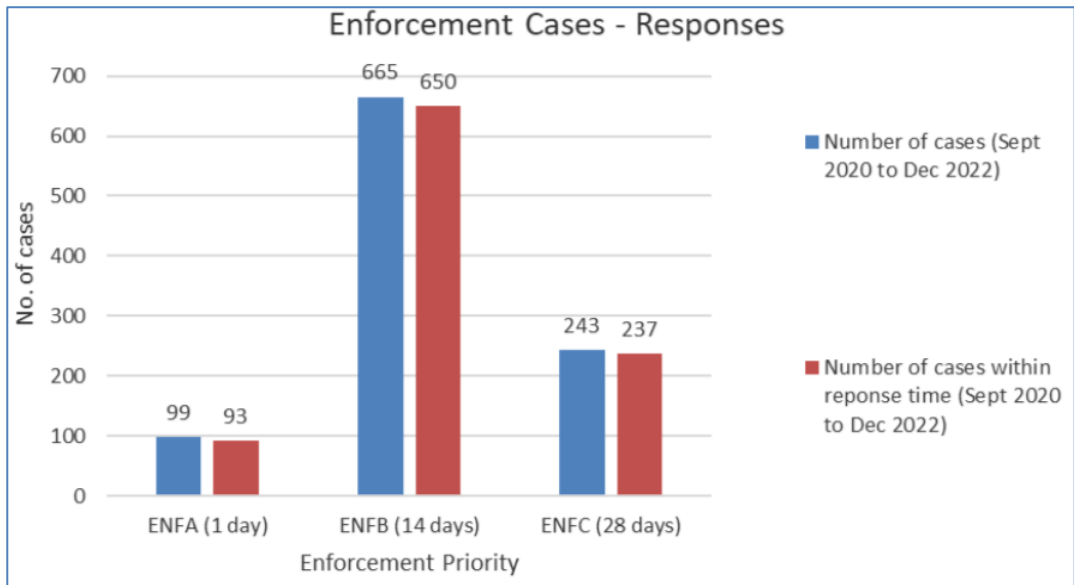


Chart 4 – Response Times Since September 2020

### 3.0 Outcomes in Quarter 3

	October	November	December	Total
<b>Notices Issued</b>	<b>2</b>	<b>3</b>	<b>1</b>	<b>6</b>
<b>Notices Complied With</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>2</b>
<b>Appeals Lodged</b>	<b>3</b>	<b>0</b>	<b>2</b>	<b>5</b>
<b>Appeals Determined</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Table 1 – Details of planning enforcement notices issued and complied with during Q3 of 2022/2023. Also included are details of appeals relating to enforcement notices.

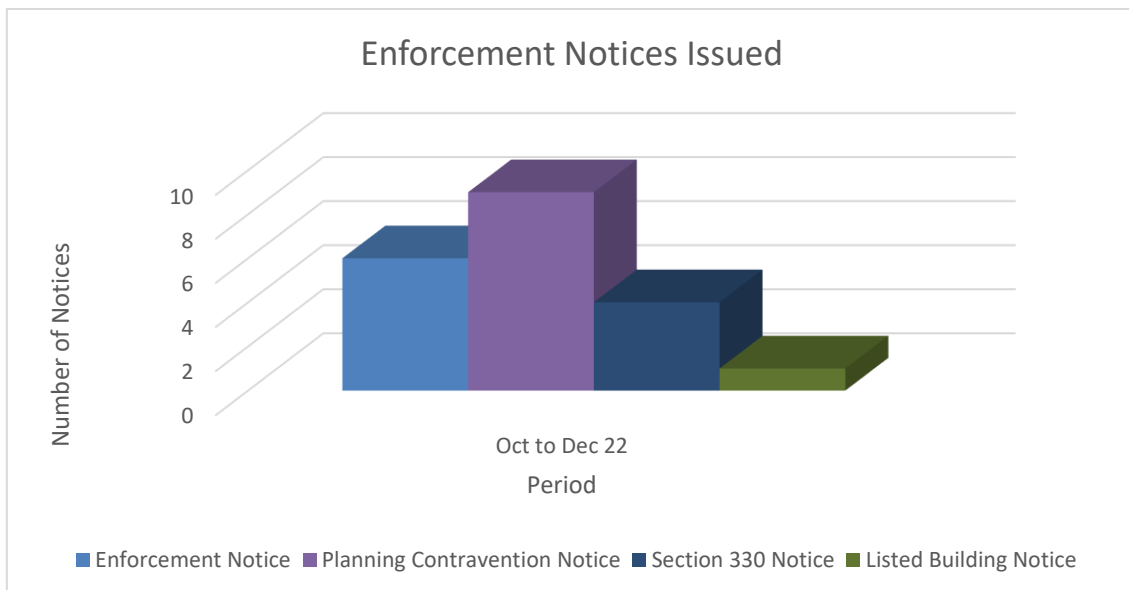


Chart 5 – Notices Served During Q3

### SCHEDULE B. FORMAL ACTION TAKEN

Enforcement Ref: 20/00045/ENF

**Site Address:** Greaves Lane, Edingley

**Alleged Breach:** Untidy Land, Unauthorised Residential Use of an Agricultural Barn, Unauthorised Reservoir

**Action To Date:** Two Enforcement Notices, Section 215 Notice, ('untidy land'), two Injunctions

**Background:** The planning enforcement team, in collaboration with colleagues in the legal department, are dealing with a range of issues on agricultural land.

Officers are seeking an injunction scheduled for March 2023 to prevent the ongoing use of an agricultural building for residential occupation, following continued non-compliance with a planning Enforcement Notice and the refusal of a recent Lawful Development Certificate application.

Additional complaints have regularly been received about the general untidy condition of the land. A Section 215 Notice (untidy land notice) was issued in April 2021. The Notice requires substantial actions to improve the condition of the land, including the removal of a number of scrap vehicles and caravans, dismantling of structures and the removal of a substantial amount of waste and scrap from the land.

The requirements of the S215 were not met within the prescribed time frame and the Council have therefore sought to prosecute the owner of the land for failing to comply. The case is due to be heard in the Courts in February 2023.

A retrospective application for planning permission to retain an unauthorised reservoir was submitted and refused. Concurrently a planning enforcement notice was issued to require the infilling of the reservoir and the regrading of the land. An appeal against the Enforcement Notice was made to the Planning Inspectorate, and the appeal dismissed.

The Council has applied for an injunction requiring the reservoir to be emptied and then removed with the land reinstated to its former condition. An interim injunction was granted by the Court in November 2022. The interim injunction requires the reservoir to be emptied in accordance with the Structural Report, engagement and consultation with partner agencies (Environment and Internal Drainage Board) to ensure safe emptying by the 30<sup>th</sup> January 2023.

The application for a full injunction, for the removal of the reservoir and reinstatement of the land, is listed with the Courts along with the residential injunction application, for the end of March 2023.





**Unauthorised Reservoir**



**Untidy Land**

**Enforcement Ref:** 21/00320/ENFB

**Site Address:** London Road, Newark

**Alleged Breach:** Unauthorised installation of a new shopfront

**Action To Date:** Enforcement Notice

**Background:** Officers were made aware that a new shopfront using incongruous, modern materials had been installed without planning permission, within the Newark Conservation Area and nearby to several listed buildings. The design and materials are considered to be contrary to local and national planning policies. Efforts to work cooperatively with the occupant to obtain a revised scheme were not engaged with, and a planning Enforcement Notice has been issued, requiring the previous shopfront to be reinstated.



**Enforcement Ref: 22/00238/ENFB**

**Site Address:** London Road, Balderton

**Alleged Breach:** Unauthorised Fence and Gates

**Action To Date:** Enforcement Notice

**Background:** A retrospective application was submitted at the request of Officers, who had been notified that a set of tall black gates and fencing had been erected adjacent to the highway, requiring planning permission. The application was refused and a planning Enforcement Notice has been issued requiring the railings atop the wall to be removed and the gate to be reduced to no more than 1 metre in height, in accordance with permitted development legislation.



### **SCHEDULE C: EXAMPLES OF BREACHES RESOLVED WITHOUT FORMAL ACTION**

**Enforcement Ref: 22/00215/ENFB**

**Site Address:** North End, Farndon

**Alleged Breach:** Unauthorised Use of Land for Camping and Caravanning

**Background:** Officers received complaints that for an extended period of time persons had been residing in motorhomes and caravans on an open parcel of land next to the river Trent. Vehicle movements, a lack of facilities and an increase in antisocial behaviour and litter were said to be resulting from the use.

The land is owned by a nearby public house, though they did not endorse or advertise the land as a camping site, which was popular amongst the caravanning community as a convenient location. The public house readily agreed to block vehicular access to the land by erecting a low fence, which has now resolved the problem.



**Enforcement Ref:** 22/00177/ENFB

**Site Address:** Mansfield Road, Clipstone

**Alleged Breach:** Change of Use of Shop for use as Car Sales

**Background:** Officers received complaints regarding the use of the forecourt of a closed retail premises for the sale of vans. Officers identified a point of contact for the landowner and issued a Planning Contravention Notice regarding the unauthorised use. The landowner agreed to cease using the forecourt for this use and the issue has now been resolved.



#### **SCHEDULE D – NOTICES COMPLIED WITH DURING QUARTER**

**Enforcement Ref:** 21/00270/ENFB

**Site Address:** Fiskerton Road, Bleasby

**Action To Date:** Planning Enforcement Notice Issued

**Background:** Officers were asked to investigate a parcel of agricultural land that had been used as a camping site since the onset of the Covid-19 pandemic. Although there were some short-term allowances for this introduced during the pandemic, the long-term use required planning permission. An application was submitted but refused on flood risk and highway

safety grounds, and a corresponding Enforcement Notice was issued requiring the use to cease. Site monitoring has confirmed that the Notice has been complied with.

**Enforcement Ref: 18/00034/ENF**

**Site Address:** Cockett Lane, Farnsfield

**Action To Date:** Enforcement Notice Issued

**Background:** Officers received a large number of complaints about the use of a large parcel of agricultural land for use as a storage and processing site of waste and construction materials including aggregates. The land had been regraded and large plant machinery was leading to noise disturbance across the locality, with an unsafe highway access point for such a use.

A joint investigation alongside Nottinghamshire County Council planning enforcement Officers – in their capacity as the minerals authority for the area - resulted in numerous LDC applications being received by NSDC, which sought to confirm that these uses of the site were lawful by virtue of the passage of time. These applications were all refused as evidence was present from historic enforcement investigations which refuted the claims of lawful use. Nottinghamshire County Council issued an Enforcement Notice requiring the use of the land as a minerals processing site to cease. This was complied with, returning the issue to NSDC to enforce against an unauthorised storage use. Officers issued an Enforcement Notice which was upheld at appeal, requiring the unauthorised use to cease and the land to be returned to its former condition.

Further site visits have confirmed that this has been complied with and the matter resolved after extensive effort from Officers.



**Before**



**After**

#### **4.0 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.

**5.0 RECOMMENDATION**

**That the Planning Committee considers the contents of the report and identifies any issues it wishes.**

Background Papers

None

For further information please contact Richard Marshall (Senior Planner - Enforcement).

**Matt Lamb**  
**Director – Planning Development**