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Tuesday, 29 August 2023

**Chairman: Councillor A Freeman
Vice-Chairman: Councillor D Moore**

Members of the Committee:

**Councillor A Amer
Councillor C Brooks
Councillor L Dales
Councillor P Harris
Councillor J Lee
Councillor K Melton
Councillor E Oldham
Councillor P Rainbow**

**Councillor S Saddington
Councillor M Shakeshaft
Councillor M Spors
Councillor L Tift
Councillor T Wildgust**

MEETING: Planning Committee

DATE: Thursday, 7 September 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.

AGENDA

Page Nos.

1. Apologies for Absence
2. Declarations of Interest by Members and Officers
3. Notification to those present that the meeting will be recorded and streamed online
4. Minutes of the meeting held on 10 August 2023

Part 1 - Items for Decision

- | | | |
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| 5. | Tesco Express, Kirklington Road, Rainworth, Nottinghamshire, NG21 0AE - 22/01298/FUL | 4 - 23 |
| 6. | Land At The Bungalow, Moor Lane, East Stoke - 23/01128/FUL Site Visit – 11.20 – 11.30am | 24 - 40 |
| 7. | The Willows, Station Road, Bleasby, NG14 7GH - 23/01016/HOUSE | 41 - 49 |
| 8. | 2 St Marys Drive, Edwinstowe, NG21 9LY - 23/00668/HOUSE Site Visit - 10.30am – 10.45am | 50 - 60 |
| 9. | Proposed Permitted Development Rights Consultation | 61 - 94 |
| 10. | Stronger performance of local planning authorities supported through an increase in planning fees: government response | 95 - 110 |

Part 2 - Items for Information

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| 11. | Appeals Lodged | 111 - 113 |
| 12. | Appeals Determined | 114 - 115 |

Part 3 - Exempt and Confidential Items

13. Exclusion of the Press and Public

There are none.

Agenda Item 4

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, 10 August 2023 at 4.00 pm.

PRESENT: Councillor A Freeman (Chairman)
Councillor D Moore (Vice-Chairman)

Councillor A Amer, Councillor C Brooks, Councillor L Dales, Councillor P Harris, Councillor K Melton, Councillor E Oldham, Councillor P Rainbow, Councillor S Saddington, Councillor M Shakeshaft, Councillor L Tift and Councillor T Wildgust

ALSO IN ATTENDANCE: Councillor P Farmer and Councillor S Michael

APOLOGIES FOR ABSENCE: Councillor J Lee (Committee Member) and Councillor M Spoor (Committee Member)

24 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

The Chairman advised the Committee of a blanket of other registerable interests declared on behalf of Councillors L Dales, A Freeman and K Melton as appointed representatives on the Trent Valley Internal Drainage Board for any relevant items.

The Chairman then declared other registrable interests for all members of the Planning Committee for Application No. 23/00715/FUL.

Councillor P Harris also declared having a personal interest as a member of the Bishops Diocese of Southwell.

Councillor L Dales declared a personal interest in Application No. 23/00715/FUL Annexe, the Cottage, Winthorpe and would not take part in the debate or vote.

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

The Chairman informed the Committee that the Council was undertaking an audio recording of the meeting and that it was being live streamed.

26 MINUTES OF THE MEETING HELD ON 6 JULY 2023

AGREED that the Minutes of the Meeting held on 6 July 2023 were approved as a correct record and signed by the Chairman.

27 CHESTNUT LODGE, BARNBY ROAD, BALDERTON - 23/00963/FULM

The Committee considered the report of the Business Manager – Planning Development, which sought to update Members on the application for a proposed change of use to residential caravan site for gypsy/travellers (19 No. pitches), relocation of 2 no. existing pitches, construction of 1 no. managers dwelling, an

amenity building and creation of new access (resubmission).

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

This development had been part of the site visits earlier in the day and the proposal is particularly contentious, and the aspects being raised could only be viewed on site.

A Schedule of Communication was circulated prior to the meeting which detailed correspondence received following publication of the Agenda from Planning Officers including from the Ward Councillor.

Councillor Bett, on behalf of Barnby-in-the-Willows Parish Council spoke against the application in accordance with the view of the Parish Council contained within the report.

Members noted that largely the application was identical to the previous application, although the Manager's dwelling now having been amended from a 5 bedroom house to a 3 bedroom chalet bungalow.

AGREED (with 6 votes For and 6 Votes Against, the Chairman used his casting vote for Approval) that planning permission be approved subject to the Conditions detailed at Section 10.0.

Prior to consideration of the following item on the Agenda, the Chairman adjourned the meeting for 5 minutes in order for Members to take a comfort break.

28 TESCO EXPRESS, KIRKINGTON ROAD, RAINWORTH - 22/01298/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought to update Members on the application for a proposed retail unit with parking and amended site entrances.

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

This development had had a previous site visit as the impact of the proposed development was difficult to visualise.

The Committee were concerned over access, not enough parking and too crowded in the cage rolling area.

Councillor Amer joined the meeting and therefore could not vote on this application.

The Committee in proposing by Cllr Melton and seconded by Cllr Harris that the application be deferred for Officers to consider the scheme in the context of there being no control over delivery hours, and also with consideration to amending condition 7a requiring a permeable surface as a condition.

AGREED (unanimously) that planning permission be deferred.

29 HIGHFIELDS SCHOOL, LONDON ROAD, BALDERTON - 22/01726/FULM

The Committee considered the report of the Business Manager – Planning Development, which sought to update Members on the application for residential development comprising of 87 no. dwellings, including the removal of TPO trees (resubmission).

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

A Schedule of Communication was circulated prior to the meeting which detailed correspondence received following publication of the Agenda from Planning Officers including from the Ward Councillor.

The Committee referred to previous applications, noting a lower density is needed in order to prevent the removal of the more mature trees and encouraging play in the area.

AGREED (unanimously) for refusal for the reason(s) set out at Section 10.0 of this report.

Following the refusal, Councillor Moore asked the District Councillor in their capacity as a Nottinghamshire County Councillor to request that the field is kept as a play area.

30 WESTWOOD FARM, MAIN STREET, THORNEY - 23/00927/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought to update Members on the part retrospective application for erection of two new dwellings.

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

The Parish Council having been consulted along with the Highways Agency who were against the application. The Committee were content that adding new builds would not be in character with the area and harmful to the countryside.

AGREED (unanimously) that Planning Permission is refused for the reasons detailed at Section 10.0.

31 HUTCHINSON ENGINEERING SERVICES LTD, GREAT NORTH ROAD, WESTON - 23/00770/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought to update Members on the application for a proposed change of use of agricultural land to proposed turning area, long term staff parking area and electric vehicle charging points.

Members considered the presentation from the Business Manager – Planning

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

This development had been part of the site visits earlier in the day and there were particular site factors which are significant in terms of the weight attached to them relative to other factors if they would be difficult to assess in the absence of a site inspection.

District Councillor Michael addressed the meeting being in favour of an expansion to the existing business with Highways also have supported.

Councillor Laughton, on behalf of Weston Parish Council spoke in favour of the application in accordance with the view of the Parish Council contained within the report and advised the Committee that Hutchinson Engineering had been in operation for 50 years on that site.

The Chairman indicated that time had expired for the business of the meeting, the Members voted unanimously as at Rule 30.2 that the motion for the meeting would continue for a further hour.

AGREED (with 7 votes For, 6 votes Against) that planning permission be refused for the reasons detailed at Section 10.0.

Councillor Melton and Councillor Saddington left the meeting.

Prior to consideration of the following item on the Agenda, the Chairman adjourned the meeting for 5 minutes in order for Members to take a comfort break.

32 SOUTH BARN, 4 REDMAY FARM, CHURCH LANE, SOUTH SCARLE - 23/00829/HOUSE

The Committee considered the report of the Business Manager – Planning Development, which sought to update Members on the application for erection of a timber pergola.

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

District Councillor Farmer spoke in favour of the application and in accordance with the view of the Parish Council contained within the report.

The Committee understood that only the top would be visible and that it would be permanently fixed to the house.

In accordance with paragraph 13.5 of the Planning Protocol, as the motion was against Officer recommendation, a recorded vote was taken.

| Councillor | Vote |
|-------------------|-------------|
| A Amer | For |
| C Brooks | For |
| L Dales | For |
| A Freeman | For |

| | |
|--------------|--------|
| P Harris | For |
| J Lee | Absent |
| K Melton | Absent |
| D Moore | For |
| E Oldham | For |
| P Rainbow | For |
| S Saddington | Absent |
| M Shakeshaft | For |
| M Spors | Absent |
| L Tift | For |
| T Wildgust | For |

AGREED (unanimously) that planning permission be approved against the Officer recommendation with planning conditions relating to time for commencement, in accordance with plans, materials, for the following reasons:

considered to be of a size and scale to not impact upon amenity and due to its location would have miniscule impact upon the conservation area and is therefore considered acceptable on its merits.

33 ANNEXE, THE COTTAGE, WINTHORPE - 23/00715/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought to update Members on the application for a change of use to an open use comprising holiday let (Sui Generis) or independent dwelling (C3) and external alterations. Subdivision of land associated with The Cottage, 45 Gainsborough Road, Winthorpe including retention of railings, gates and gate posts at a reduced height.

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

The detached building/garage is sited to the north side/rear of the host dwelling. This was originally permitted as a ‘garage block’ and comprises of a garage and self-contained living accommodation currently used as holiday-let accommodation, noting that holiday lets are favourable for the area.

AGREED (unanimously) that planning permission be approved subject to the conditions detailed at Section 10.0.

Having declared a personal interest, Councillor Dales left the meeting during the debate and vote of the above item.

34 PERMITTED DEVELOPMENT RIGHTS: SUPPORTING TEMPORARY RECREATIONAL CAMPSITES, FILM-MAKING AND PRISON FENCING

The Committee considered the report of the Director - Planning & Growth providing the latest permitted development right.

AGREED that the contents of the report and the permitted development right changes be noted.

35 APPEALS LODGED

AGREED that the report be noted.

36 APPEALS DETERMINED

AGREED that the report be noted.

37 DEVELOPMENT MANAGEMENT PERFORMANCE REPORT

The Committee considered the report of the Director – Planning & Growth relating to the performance of the Planning Development Business Unit over the three-month period April to June 2023. In order for the latest quarter's performance to be understood in context, in some areas data going back to April 2021 was provided. The performance of the Planning Enforcement team was provided as a separate report.

The services it assists in the delivery of Community Plan Objectives:

- Deliver inclusive and sustainable economic growth
- Create more and better-quality homes through our roles as landlord, developer and planning authority
- Enhance and protect the district's natural environment

AGREED that the report be noted. Further information in relation to tree applications and their considerations was requested.

38 QUARTERLY PLANNING ENFORCEMENT ACTIVITY UPDATE REPORT

The Committee considered the report of the Business Manager – Planning Development updating Members as to the activity and performance of the planning enforcement function over the first quarter of the current financial year.

The report provided 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 the period covered 1st April 2023 – 30th June 2023.

AGREED that the contents of the report and the ongoing work of the planning enforcement team be noted. Further information on how developments are considered to be breaches, but not expedient to take action is requested as part of the next performance report as well as the process for enforcement investigations. Member questioned whether the public and ward members could be consulted/notified of breaches.

Meeting closed at 8.00 pm.

Chairman



Report to Planning Committee 7 September 2023

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Amy Davies, Planner, Ex 5851

| Report Summary | | | |
|---------------------------|---|--------------------------|---|
| Application Number | 22/01298/FUL | | |
| Proposal | Proposed retail unit with parking and amended site entrances | | |
| Location | Tesco Express, Kirklington Road, Rainworth, NG21 0AE | | |
| Applicant | Mr K Nijjar | Agent | Alan McGowan Architects - Mr Alan McGowan |
| Registered | 30 June 2022 | Target Date | 25 August 2022 |
| | | Extension of Time | 18 August 2023 |
| Web link | 22/01298/FUL Proposed retail unit with parking and amended site entrances Tesco Express Kirklington Road Rainworth Nottinghamshire NG21 0AE | | |
| Recommendation | That planning permission is APPROVED subject to the conditions outlined at the section 11.0 of this report | | |

This application is being referred to the Planning Committee for determination by the local ward member, Councillor Claire Penny due to the following concerns and objections:

- **Pedestrian safety within the car park and accessing the store via vehicle entrances, and to those travelling along Kirklington Road and Southwell Road East.**
Pedestrians use this site as a cut through. An additional retail unit with more cars will create more danger for pedestrians due to the rise in cars accessing the car park from either entrance.
- **Lack of space to manoeuvre delivery vehicles**
Delivery vehicles are currently unable to access the existing car park at certain times and end up on the road obstructing the highway. An additional retail unit will exacerbate this issue.
- **The central reservation and size of the pavements**

The central reservation is much smaller than shown on the plans. A high number of pedestrians use this reservation to cross the road at very busy traffic periods. Pavements are also very narrow in this area.

- **Safety of children on Kirklington Road**

There is a children's centre/social hub and park and play area opposite the proposed site entrance. An additional retail unit with more cars will put children at greater risk.

There are currently three supermarkets located close to the site and residents do not want another retail store.

1.0 Background

Members will recall this application being presented to Planning Committee in August, where it was deferred following discussion to enable officers to re-evaluate the proposal in the context of Condition 11 not being enforceable.

Condition 11, as previously recommended, sought to restrict deliveries to the retail unit to between certain hours and outside of store opening hours. However, as no such restrictions apply to the existing adjacent store (currently occupied by Tesco Express), concerns were raised over the enforceability of this condition, as deliveries to both units would take place from the same part of the site, which would make it difficult for officers to identify whether there was a potential breach or not.

Whilst the applicant, via their agent, has confirmed they would be happy to adhere to the terms of Condition 11, due to this condition not being enforceable, it is not [legally] possible to attach it. The applicant's agent had sought to demonstrate that vans to the site would be identifiable by the 'Heron' logo but as the planning permission, if approved, would apply to the land and not a specific retailer, such a condition cannot be imposed. It is also not lawful to impose a condition to restrict hours of delivery to Tesco store as this also, would not be lawful.

Members also raised concerns regarding the car parking space along the proposed roll cage route from the delivery bay to the new store entrance and the need for it to be empty at delivery times to enable deliveries to take place as proposed. Revised plans have now been received showing a delineated roll cage/pedestrian route between the delivery bay and new store entrance, resulting in one less parking space than the previous scheme (now 13-spaces). The proposal has therefore been re-evaluated in light of this revision, with strikethrough text used to represent parts of the report no longer accurate and bold text used to indicate new wording.

2.0 The Site

The application relates to a fenced off area to the southeast of the former Robin Hood Hotel located on the corner of Kirklington Road and Southwell Road East in the settlement of Rainworth. The ground floor of the former Robin Hood Hotel building is currently in use as a Tesco Express, with its car park sited adjacent to the application site and accessed off Southwell Road East to the west. The application site comprises an unused car park and includes several trees and groups of trees. There is an existing, currently unused, vehicular access off Kirklington Road.

St Simon and St Jude's Church is located to the south of the site and has been identified as Non-Designated Heritage Asset. The site is in Flood Zone 1 where there is a low probability of flooding.

The site has the following constraints:

- Trees;
- Drainage – ground not suitable for infiltration; and
- Adjacent Non-Designated Heritage Asset.

3.0 Relevant Planning History

Application Site and Former Robin Hood Hotel building (upper floor)

20/02209/FULM - Conversion of the first floor of the existing building into 4 apartments, comprising 1x3 bed unit, 2x2 bed units and 1x studio, plus the erection of a two storey apartment building to the east side of the existing building to provide a further 8 x 1 bed apartments. The proposed new building would include a hip roof with slightly elevated eaves and would be linked to the existing building by a double height glazed entrance. Application Withdrawn.

Part of Application Site and Former Robin Hood Hotel building (upper floor)

19/02237/FUL - Conversion of first floor space into 6 apartment units, 5 x one Beds and 1 x Studio, external entrance and fire exit staircase introduced on the facade facing the existing car park. Refused 30.04.2020.

Former Robin Hood Hotel building (ground floor)

11/01795/FUL – External alterations to facilitate permitted change of use (A4 to A1). Approved 16.02.2012.

4.0 The Proposal

The application proposes the erection of a 269m² retail unit with associated staff office/store for Heron Foods. The unit would be L-shaped and constructed of bricks, with aluminium glazed windows and a 30-degree pitch profiled zinc/aluminium roof. It would be served by a ~~1211~~-space car park with additional parking provision for disabled vehicles adjacent to the store (~~1413~~-spaces in total). Separate customer vehicular and pedestrian accesses would be provided off Kirklington Road, while deliveries would be directed to use the existing access off Southwell Road East, which is proposed to be widened, and the delivery bay outside the existing Tesco store. **A delineated roll cage/pedestrian route is also proposed between the delivery bay and new store entrance.**

Revised Plans

Revised plans were received during the course of the planning application to address concerns regarding design, highway safety, parking and impacts on trees. For the avoidance of doubt, the assessment outlined below is based on the following plans and supporting information:

- 0003B Location and Block Plans *received 11 May 2023*
- ~~Swept Path Proposed Plans REV A 1-100 received 20 July 2023~~
- ~~0013J Amended Site Plan 500 received 20 June 2023~~
- ~~0014L Proposed Site Plan 200 received 26 June 2023~~
- **Swept Path Proposed Plans REV B 1-100 received 23 August 2023**
- **0013K Amended Site Plan 500 received 23 August 2023**
- **0014M Proposed Site Plan 200 received 23 August 2023**
- 0015J Amended Roof Plan *received 20 June 2023*
- 0016J Amended Ground Floor Plan *received 20 June 2023*

- 0017G Amended Proposed Elevations *received 17 April 2023*
- Arboricultural Impact Assessment, Method Statement and Tree Protection Plan prepared by Ramm Sanderson dated November 2022 (Ref: RSE_6574_R1_V1_ARB) *received 29 November 2022*
- RSE_6574_TCP V1 Tree Constraints Plan *received 29 November 2022*
- RSE_6574_TPP V1 Tree Protection Plan *received 29 November 2022*
- NG210AE-03-XX-DR-A 0004 Existing Plans *received 29 June 2022*
- NG210AE-03-XX-DR-A 0005 Existing Plans *received 29 June 2022*
- Design and Access Statement prepared by Alan McGowan Architects Ltd dated June 2022

5.0 Departure/Public Advertisement Procedure

Occupiers of 8 properties have been individually notified by letter of the submitted and revised schemes. Site notices have also been displayed near to the site.

Site visits undertaken 28 July 2022 and May 2023.

6.0 Planning Policy Framework

The Development Plan

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

Spatial Policy 1 – Settlement Hierarchy
 Spatial Policy 2 – Spatial Distribution of Growth
 Spatial Policy 9 – Sustainable Design
 Core Policy 8 – Retail & Town Centres
 Core Policy 12 – Biodiversity and Green Infrastructure
 MFAP1 – Mansfield Fringe Area

Allocations & Development Management DPD

Policy Ra/DC/1 – Rainworth District Centre Boundary
 Policy DM1 – Development within Settlements Central to Delivering the Spatial Strategy
 Policy DM5 – Design
 Policy DM7 – Biodiversity and Green Infrastructure
 Policy DM10 – Pollution and Hazardous Materials
 Policy DM11 – Retail and Town Centre Uses
 Policy DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

- National Planning Policy Framework 2021
- Planning Practice Guidance
- National Design Guide – Planning practice guidance for beautiful, enduring and successful places September 2019
- Nottinghamshire Highway Design Guide –
<https://www.nottinghamshire.gov.uk/transport/roads/highway-design-guide>

7.0 Consultations

NB: Comments below are provided in summary - for comments in full please see the online planning file.

(a) Statutory Consultations

NCC Highways –

The applicant has revised the proposal and some significant changes have been made to satisfy the highway safety concerns listed in our previous reports. These have now been either satisfactorily addressed or the information provided now allows the Highway Authority to make an informative decision and request any outstanding details to be conditioned.

On the basis of the available information, the Highway Authority is content with the proposed development. In coming to this conclusion, the Authority has considered issues of highway access, capacity and safety, parking, servicing and sustainability and we would like to withdraw our previous objection subject to the [recommended] conditions.

Note: The Highway Authority has been asked to comment on the latest revised plans received on 23 August 2023, with any comments received, reported as a Late Item.

(b) Parish Council

Rainworth Parish Council – Object (same response submitted in response to the submitted and revised schemes)

Concerns regarding:

- Pedestrian safety within the car park
- Lack of space to manoeuvre delivery vehicles
- Removal of central reservation to facilitate access
- Safety of children on Kirklington Road

(c) Representations

Environmental Health Officer – No objection

Tree and Landscape Officer –

Landscaping condition including 10 years maintenance

Tree protection condition

No objection provided the above two conditions are added

2 representations have been received objecting to the scheme, which can be summarised as follows:

- There are too many shops available for residents already with some struggling to survive.
- The scheme raises traffic and safety concerns for public and children.

8.0 Comments of the Business Manager – Planning Development

The key issues in assessing this proposal relate to the

1. Principle of Development
2. Impact on Character

3. Impact on Residential Amenity
4. Highway Safety and Parking
5. Trees and Ecology

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

Spatial Policy 1 'Settlement Hierarchy' of the Amended Core Strategy (Adopted March 2019) identifies Mansfield Fringe Area as a Service Centre and a focus for housing and employment growth in the District. Between 2013 and 2033, 30% of the overall housing growth is expected to be delivered within the Service Centres, including 10% of Service Centre growth within Rainworth (Spatial Policy 2 'Spatial Distribution of Growth'). This growth is expected to increase demand for services and facilities to meet the community's day-to-day needs.

The site lies within the defined built-up area of Rainworth, a Service Centre in the District's settlement hierarchy. Policy MFAP1 of the Amended Core Strategy DPD outlines that the provision of new housing and employment opportunities and the provision of new community infrastructure appropriate to the size of the settlement will be supported in principle. The site also lies within the District Centre Boundary, which was defined through the Allocations and Development Management DPD to promote the strength of Rainworth as a Service Centre. Both Core Policy 8 of the Amended Core Strategy DPD and Policy DM11 of the Allocations and Development Management support new and enhanced retail provision within existing centres, which promote the 'town centre first' approach reflecting national retail policy.

Retail impacts only need to be considered where sites are located outside of defined local centers and so a retail impact assessment is not required for this proposal in line with Policies CP8 and DM11 of the development plan.

Councillor Penny's comments regarding over provision of supermarkets in the area have been noted, however, whether the proposal would introduce a competing retail/food store is not a material planning consideration.

Impact on Character

Core Policy 9 'Sustainable Design' of the Amended Core Strategy (Adopted March 2019) 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 Allocation and Development Management DPD.

The site used to form part of the Robin Hood Hotel car park but has been fenced off and left

undeveloped since the ground floor of the building changed to a Tesco Express over ten years ago. Sections of the fence are now missing, and the former car park has been left unkempt. The site also attracts littering and, overall, has a negative impact on the visual amenity of the area.

The design of the proposed retail unit has been negotiated and amended during the application process to ensure it complements the site in terms of its position, form, and scale and would include materials and architectural features to complement adjacent buildings including the Former Robin Hood Hotel and St Simon and St Jude's Church. The amended proposed Site Plan also incorporates a dedicated pedestrian access, leading from Kirklington Road to the store entrance, and tree planting to compensate for tree loss and provide appropriate landscaping. Notwithstanding the submitted details, it is considered appropriate, should permission be granted, to impose conditions requiring details of materials and architectural features to be submitted to and agreed in writing by the Local Planning Authority prior to being used in the development to ensure the building takes the form and quality envisaged. Subject to such conditions, the proposed development would be successfully assimilated with the site and surrounding area, and sensitively redevelop a vacant and prominent site with the village.

Overall, the proposed development would accord with the relevant provisions of Core Policy 9 and Policy DM5 of the DPD and be acceptable in this regard.

Impact on Residential Amenity

Policy DM5 of the Allocations & Development Management DPD requires development proposals to have regard to their impact on the amenity or operation of surrounding land uses and where necessary mitigate for any detrimental impact.

There are no residential properties adjoining the application site. The proposed opening hours of the retail unit are noted as 8am to 8pm Monday to Saturday and 8am to 4pm on Sunday/Bank Holiday, which fall comfortably within the existing opening hours of the adjacent Tesco Express store, which is open from 6am to 11pm, 7 days a week. The Council's Environmental Health Officer has raised no objections to the proposal.

Rainworth Parish Council's concerns regarding the safety of young children have been noted and the scheme amended to secure safe access and egress and pedestrian priority. Further details are outlined in the 'Highway Safety and Parking' section below.

Highway Safety and Parking

Spatial Policy 7 'Sustainable Transport' of the Amended Core Strategy DPD requires development proposals to ensure that vehicular traffic generated does not create new, or exacerbate existing on street parking problems, nor materially increase other traffic problems. Opportunities to enhance the pedestrian environment should also be explored. Policy DM5 'Design' of the Allocations & Development Management DPD requires parking provision for vehicles and cycles to be based on the scale and specific location of the development.

Access and parking arrangements have been the subject of lengthy discussions and negotiations during the planning application process. Rainworth Parish Council's concerns regarding access and pedestrian safety have been noted and addressed through revisions to the scheme, as outlined within Nottinghamshire County Council Highway Authority's comments received on 15 May 2023.

These comments are copied in *italics* under relevant sub-headings below followed by a summary of amendments and details provided and/or required where relevant.

Amended red line boundary and layout

Highways - Proposed layout confusion has been clarified and only one layout has now been submitted.

The red line boundary has been amended to include the existing Tesco Express car park and entrance, to enable the existing and proposed units to share the Southwell Road East access and Tesco delivery bay for deliveries. This is possible as the site is in single ownership with the units leased to operators on a medium to long term basis.

The decision to utilise the existing Southwell Road East access for deliveries has enabled the proposed Kirklington Road site entrance to become a dedicated customer entrance, with a separate pedestrian access leading up to the store front. Nottinghamshire County Council has raised no objections to this revised layout (see **Delivery vehicle swept path analysis etc.** commentary below for further comments regarding delivery arrangements).

Kirklington Road access

Highways - The proposed access, however, is still presented in such way that it could be read as both a dropped kerb access and a radii access to the site. A dropped kerb access would be preferred in this location as it would prioritise pedestrian movements on the footway in accordance with NPPF and would be more suitable for the size of the proposed unit, especially as delivery vehicles will not be permitted to use this access. If a radii kerb access is to be installed, this would result in changes to the existing TRO on Kirklington Road outside the access and any additional cost of changing the existing TRO will have to be covered by the applicant.

This comment concerns the specific design of the proposed vehicular access off Kirklington Road and potential changes to the 'Traffic Regulation Order' on Kirklington Road i.e., the existing double yellow lines along this section of the highway. This is somewhat out of the applicant's control and would be the subject of a Section 278 Agreement with the Highway Authority¹. The Highway Authority has therefore recommended a condition to secure further details before the development can begin but has, in principle, accepted a vehicular access can be provided in this location to serve the proposed development.

Kirklington Road pedestrian central refuge

Highways - Pedestrian central refuge on Kirklington Road near the access is now shown on all the newly submitted plans. This refuge is to remain as existing and, for clarification, it is not proposed to be removed.

Despite being consulted on revisions, Rainworth Parish Council still believe the pedestrian central refuge will be removed to facilitate access, however, this is not the case, and the scheme has been amended accordingly to clarify. Before the scheme was amended to enable the existing and proposed retail units to share the Southwell Road East access for deliveries, the Highway Authority was concerned that delivery lorries would cut across part of the pedestrian central refuge when turning right out of the Kirklington Road access (see comments regarding swept path analysis

¹ A section 278 agreement is a section of the Highways Act 1990 that allows developers to enter into a legal agreement with Nottinghamshire County Council, in their capacity as Highway Authority, to make permanent alterations or improvements to a public highway, as part of a planning approval.

below). To confirm, it was never proposed to remove this element of the highway, which is out of the applicant's control.

Delivery vehicle swept path analysis etc.

Highways - As the previously submitted swept path analysis revealed the lack of space for a delivery vehicle to manoeuvre within the site to enter and exit the highway in forward gear, the applicant has put forward a proposal to use an existing access and delivery bay for current Tesco Extra store on the adjacent site. The red-line location plan was amended in order to accommodate this proposal, and this seems a reasonable solution for the size of the proposed unit. Please note that signs should be erected at the access to the new store prohibiting HGVs to enter the site via the access off Kirklington Road once the store becomes operational. All deliveries must be carried out from the delivery bay adjacent to current Tesco Extra. A delivery method statement should be provided by the applicant, which should secure this arrangement. This can be conditioned.

Concerns regarding lack of space to manoeuvre delivery vehicles in front of the current Tesco Express have been noted, however, the Highway Authority considers the revised layout reasonable for the size of the existing and proposed units and has highlighted no concerns regarding delivery vehicle manoeuvrability.

The 002 Swept Path Analysis *received 17 April 2023* illustrated there was sufficient space for delivery vehicles to enter and leave the site via the widened Southwell Road East access but did not illustrate how delivery vehicles would manoeuvre within the site. Ahead of June Planning Committee the applicant, via their agent, confirmed that tracking would mirror that which enabled the Tesco store to be approved and provided an updated swept path drawing to reflect this. However, this drawing illustrated potential conflicts between the lorry turning area and proposed tree planting. The scheme was therefore withdrawn from the June Planning Committee Agenda to allow the applicant time to address this conflict.

Revised Swept Path Analysis *received 20 July 2023 (and updated 23 August)* illustrates there is sufficient space for delivery vehicles to enter and leave the site via the widened Southwell Road East access in a forward gear without interfering with proposed tree planting (see image below).

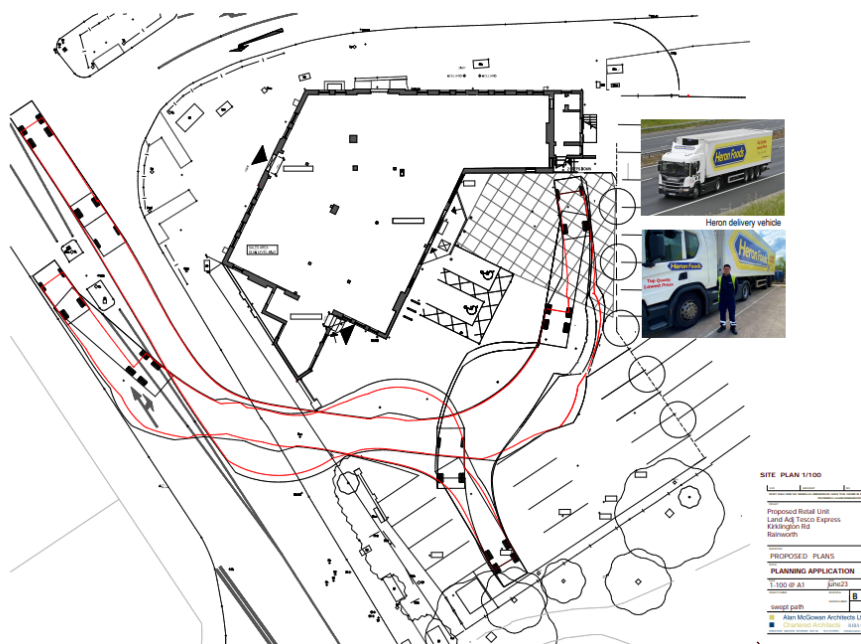


Figure 1 Swept Path Analysis REV B received 23 August 2023

Highways has confirmed this is acceptable. The Council's Tree Officer has also confirmed this is acceptable, subject to a condition to secure lorry proof tree guards, i.e., metal guards that rest on the ground and wrap around tree trunks to protect trees. Such guards are widely used in public areas (**see 0014M Proposed Site Plan 200 received 23 August 2023 for an indicative tree guard image**). Condition 09 requires full details of all proposed tree planting to be submitted to and approved in writing by the LPA prior to first occupation of the retail unit including details of such tree guards.

The end user, Heron Foods, has confirmed the store would receive 1 delivery a week from Head Office along with about three, third party fresh deliveries, e.g., milk and bread, that would come on smaller vehicles throughout the week. **It is understood that all Heron delivery vehicles are tracked and branded as shown on the revised Swept Path Analysis drawing received 23 August.** Regarding the transfer of goods to the store from delivery vehicles once on site, this would be by foot with products pushed across in roll cages. The delineated roll cage route is shown on revised plans received **23 August and would double-up as a pedestrian route/crossing between the two stores. This revised proposal would result in one less parking space than the previous scheme, the impact(s) of which are considered under the 'Parking provision' sub-heading below. Consideration has been given to whether delivery times could be restricted to certain hours, however, as no such restrictions apply to the existing store currently occupied by Tesco Express, who utilise the same delivery bay and entrance, it is not considered such a condition would be enforceable. Consequently, delivery times to the store would be unrestricted. Notwithstanding this, it is not considered that the additional delivery trips that would be generated as a result of this store would cause any harm, over and above the existing situation, that would warrant refusal.**~~20 & 22 June and 20 July would result in one parking bay being unavailable at the time of delivery. In view of this, it is considered appropriate, should permission be granted, to impose a condition requiring deliveries to take place outside of opening hours of the proposed store, when the car park should theoretically be empty. It is also considered appropriate, should permission be granted, to restrict delivery times further to fall inside of the opening hours of the existing Tesco store (i.e., 6am to 11pm), to ensure deliveries etc. take place during existing active hours. The proposed store opening hours are 8am to 8pm Monday to Saturday and 8am to 4pm on Sundays, Public or Bank Holiday. Consequently, it is considered reasonable to restrict store deliveries and collections to between the hours of 6am-8am and 8pm-11pm, which Heron Foods has confirmed would be workable. Any future occupier of the store, i.e., not Heron Foods, would have to adhere to the agreed restrictions or apply to change them, at which point the Local Planning Authority would consider the impacts of such proposed changes.~~

Parking provision

Highways - The applicant has submitted further details regarding current off-street parking use for similar sites with comparable off-street provision and requirements previously approved by neighbouring Local Planning Authorities to justify their level of proposed off-street parking for this site. The information provided is helpful and clarifies the proposal. Therefore, on the basis of the submitted details, and after thorough consideration of the submitted details and the proposed site, the Highway Authority is now content with the justification of the number of the off-street parking bays for this site. The amended red line plan also allows for the current Tesco Extra car park, with access off Southwell Road East, to be used for the proposed store, which secures additional parking if required.

The originally submitted scheme proposed 14 parking bays, which falls short of the numbers recommended in Nottinghamshire County Council's Highway Design Guide i.e., 24 off-street parking

spaces for food retail or 17 spaces for non-food retail. Following confirmation of the end user, Heron Foods, Highways requested parking surveys of existing nearby Heron Foods stores to demonstrate parking provision would meet demand over the course of a typical day, however, the applicant was unable to meet this specific request. Instead, details of existing provision at nearby Heron Foods were confirmed as follows:

Newark = 13 spaces, Aspley (Nottingham) = 6 spaces, Mansfield = 11 spaces

Google Maps shows all of the above stores are similar in size to the proposed, if not slightly larger, and sited adjacent to other commercial businesses and/or local convenience stores. Consequently, the existing stores appear to share parking provision with other stores, similar to what is proposed for this site.

Following **the latest** revisions, the scheme would provide ~~15~~**13** spaces which, when added to the existing Tesco spaces, would provide ~~31~~**30** spaces overall to serve the two stores (which is ~~17~~**18** spaces short of the recommended amount for two new food retail stores). Notwithstanding the shortfall, the Highway Authority is satisfied with the proposed parking provision and has withdrawn their previous objection. It is noted that opening hours of the stores would overlap, although the existing Tesco Express store would be open earlier and later than the proposed Heron Foods store (see 'Impact on Residential Amenity' for details of opening hours). It is also anticipated that some customers would make one visit to shop at both stores, given their proximity and open pedestrian access between the two sites. Indeed, it is not uncommon for retail stores such as this to be sited close together to enhance customer convenience. Given the proposed provision would **match or** exceed the number provided at other stores in similar locations in Nottinghamshire, and Highways no longer object to the scheme, the proposed parking provision is considered acceptable. There is no evidence to suggest that the demand for spaces at any time of day would exceed overall provision across the two sites and lead to unacceptable levels of on-street parking in the vicinity.

Pedestrian access to store

Highways - The location of the store front has also been amended to face the highway and thus, better accommodates pedestrian movements and encourage trips to the store on foot. The new pedestrian access will be directly off the footway along Kirklington Road and is shown as "delineated" access on the submitted plan. It should be noted that the access should be level with the footway to comply with current accessibility regulations. The existing vehicular access will require reinstating to a footway with a full height kerb. This can be conditioned.

The new pedestrian access off Kirklington Road would be formed by repurposing the old vehicular access to the Former Robin Hood Car Park. Following revisions, this would be sited directly in front of the store entrance to ease pedestrian access and reduce the potential for pedestrian-vehicular collisions within the car park. Concerns regarding pedestrian safety have been noted, and consideration was given to incorporating a dedicated pedestrian route across the wider site (broadly where trees are proposed to be planted). However, this arrangement had to be discounted as it would have left insufficient space for delivery and customer vehicles to manoeuvre into their respective bays. **Notwithstanding this, and following further revisions, the proposal would include a delineated roll cage route that would double-up as a pedestrian route/crossing between the two stores, which would enhance pedestrian safety.** Overall, it is considered that the proposed car park would be no more unsafe than any other retail car park where pedestrians and vehicles mix. Furthermore, proposed landscaping would obscure the pedestrian desire line across ~~the current~~ **other parts of the** car park and prevent drivers from using the site as a "rat run" between Kirklington

Road and Swallow Road East (see Site Plan 1/200 (Rev L) including Landscaping details enclosed below).

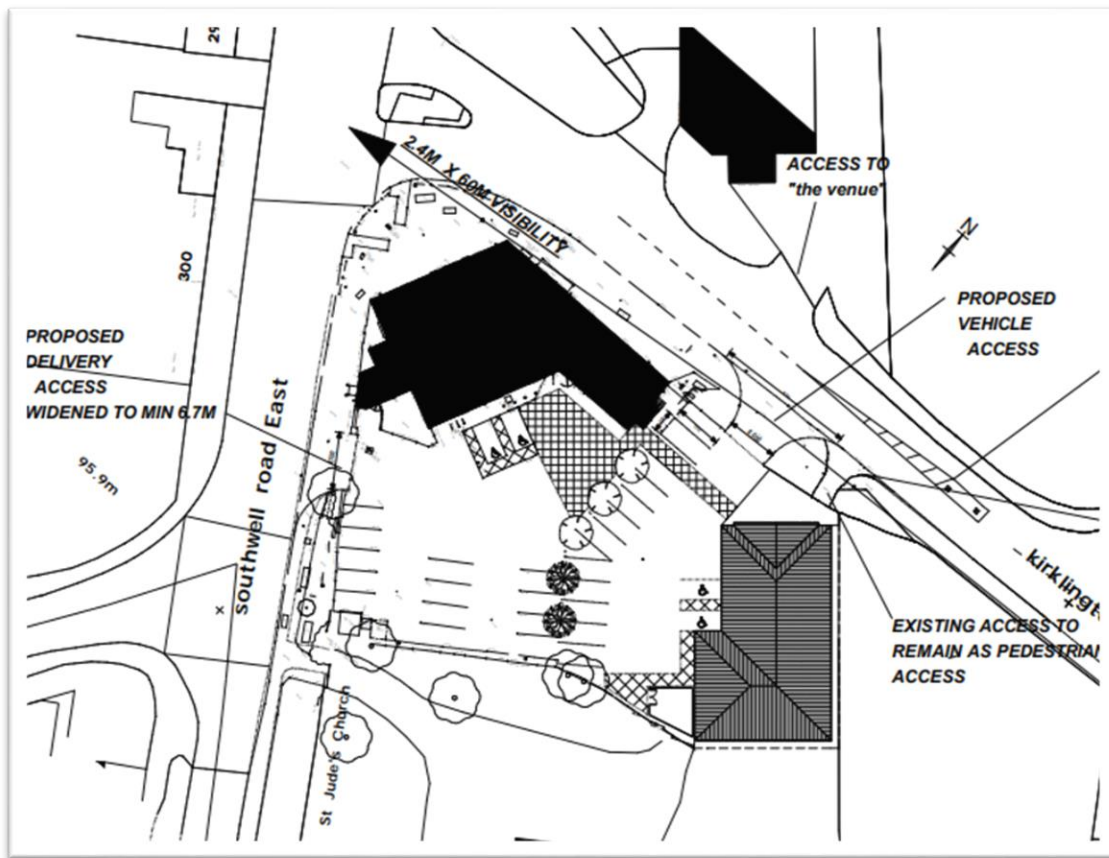


Figure 2 Site Plan 1/500 received 23 August 2023

Works to reinstate the existing vehicular access to a footway with a full height kerb can be secured by condition on an approved application in accordance with Highways advice.

Amended Swallow Road East access

Highways - There are no exact details of the amendments to the existing access off Swallow Road East. However, any design changes of the existing access can be conditioned as any works to both accesses will require a Section 278 Agreement with the Highway Authority to carry out off-site works; therefore, a separate technical approval for both accesses will be carried out at a later date. This is a separate process to planning.

The revised plans indicate the existing access off Swallow Road East would be widened as part of the proposed development. This is welcomed as it would improve the useability of this access and reduce instances of vehicles having to wait on the highway while others exit the site before entering. This would also be the subject of a Section 278 Agreement with the Highway Authority and noted to the applicant as part of an approved application.

Car park layout and landscaping

Highways - It is noted that there is no form of physical separation proposed between the two car parks i.e., the proposed site and existing Tesco Extra site except for the projected tree planting scheme. Although this is not a highway safety concern, the applicant may want to consider a knee-high fence, or similar, between the two car parks, with only gaps left large enough to accommodate pedestrians and deliveries, in order to prevent this retail site to become a "rat-run" or a "shortcut"

from Kirklington Road and Southwell Road East for other motorists in the interest of the safety of the users of the car-park / retail units.

The proposed tree planting has been discussed and agreed with the Council's Tree Officer as noted under the 'Trees and Ecology' section below. The Tree Officer has recommended conditions to secure the planting, maintenance, and protection of the trees, which would address the above concerns.

Taking all of the above into account, and subject to the recommended conditions, it is considered the proposed development accords with the relevant provisions of Spatial Policy 7 and Policy DM5 of the DPD and is therefore acceptable in this regard.

Trees and Ecology

Core Policy 12 of the Amended Core Strategy DPD seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM5 of the Allocations & Development Management DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced. The NPPF also requires planning decisions to minimise impacts and provide net gains for biodiversity.

The application is supported by an Arboricultural Impact Assessment, Method Statement and Tree Protection Plan prepared by Ramm Sanderson dated November 2022 (Ref: RSE_6574_R1_V1_ARB) that identifies a number of trees for removal. All trees and group (of trees) to be removed were assessed as low quality (Category C), as such, there will be a low reduction in amenity value on the site as a result of these losses. Indicative landscaping is shown on the Amended Proposed Site Plans (drawing nos. 0013J & 0014L) to compensate for this loss, comprising of one tree every two parking spaces along the boundary between the existing and proposed car parks. The Council's Tree Officer has considered the submitted and revised details and raised no objection subject to conditions to secure tree protection, full details of tree planting, and landscape maintenance. It is also considered appropriate to impose a condition requiring details of other site enhancement measures, such as the provision of suitably sited bat and bird boxes, to be submitted to and agreed in writing by the Local Planning Authority. Subject to the recommended conditions, the proposed development would meet the relevant aims of Core Policy 12 and Policy DM5 of the DPD and the NPPF and is therefore acceptable in this regard.

Flood Risk and Drainage

The application site is located within Flood Zone 1, as shown on the Environment Agency's Flood Map for Planning and is therefore at low risk of fluvial flooding.

The proposal involves the erection of a building on an existing area of hardstanding and would result in no significant increase in surface water run-off. **Condition 07 requires all new hard surfaces to be constructed with provision to prevent the discharge of surface water to the public highway (i.e., appropriate drainage) as well as being permeable.** The application form indicates wastewater would be appropriately disposed of via the existing drainage system, which is considered an acceptable drainage solution for this site.

9.0 Implications

In writing this report and in putting forward recommendations officers have considered the

following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

10.0 Conclusion

The proposed development is acceptable and would enhance retail provision within the centre of Rainworth to serve its growing population. The proposed new building has been appropriately sited and designed and overall, the proposed development would have a positive impact on visual amenity. There would be no adverse impacts on the amenities of existing or future residents in accordance with Policy DM5 'Design' of the Allocations & Development Management DPD.

Subject to appropriately worded conditions, whilst there is an overall parking shortfall, it is considered the development would not result in harm to highway safety, nor would it create new, or exacerbate existing, on street parking problems, nor materially increase other traffic problems in accordance with Spatial Policy 7 'Sustainable Transport' of the Amended Core Strategy DPD and Policy DM5 'Design' of the Allocations & Development Management DPD.

It is therefore recommended that this application is approved subject to the conditions outlined below.

11.0 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 reference:

- 0003B Location and Block Plans *received 11 May 2023* (red line boundary)
- ~~Swept Path Proposed Plans REV A 1-100 received 20 July 2023~~
- ~~0013J Amended Site Plan 500 received 20 June 2023~~
- ~~0014L Proposed Site Plan 200 received 26 June 2023~~
- **Swept Path Proposed Plans REV B 1-100 received 23 August 2023**
- **0013K Amended Site Plan 500 received 23 August 2023**
- **0014M Proposed Site Plan 200 received 23 August 2023**
- 0015J Amended Roof Plan *received 20 June 2023*
- 0016J Amended Ground Floor Plan *received 20 June 2023*
- 0017G Amended Proposed Elevations *received 17 April 2023*
- RSE_6574_TPP V1 Tree Protection Plan *received 29 November 2022*

Reason: So as to define this permission and ensure adequate protection of trees.

03

Notwithstanding the submitted plans, no part of the development hereby approved shall commence until details of works to install the new vehicular access off Kirklington Road and reinstate the existing redundant access as footway, as indicatively shown on the submitted plans, have been first submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details prior to the development being brought into use and retained for the lifetime of the development.

Reason: To enable vehicles to enter and leave the public highway in a slow and controlled manner, in the interests of general highway safety, and to ensure that the vehicular and pedestrian accesses are provided at an appropriate point in the development.

04

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

- (a) Bricks
- (b) Brickwork specification
- (c) Roof covering

Reason: In the interests of visual amenity

05

No development shall be commenced in respect of the features identified below, until details of the design, specification, fixing and finish and/or scaled 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 in accordance with the approved details.

- (a) External windows, doors, and their immediate surroundings, including details of glazing and glazing bars
- (b) Treatment of window and door heads and cills
- (c) Ridges, verges, and eaves
- (d) Rainwater goods

Reason: In the interests of visual amenity.

06

Notwithstanding the submitted plans, no part of the development hereby approved shall be brought into use until the existing access off Southwell Road East is widened and upgraded in accordance with the details to be first submitted and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and to ensure that the vehicular and pedestrian accesses are provided at an appropriate point in the development.

07

No part of the development hereby permitted shall be brought into use until the new access off Kirklington Road and widened access off Southwell Road East, parking, and turning areas are:

- a) surfaced in a permeable hard bound material (not loose gravel) in accordance with the details on the approved plans; and
- b) constructed with provision to prevent the discharge of surface water to the public highway in accordance with the details to be first submitted and approved in writing by the Local Planning Authority.

The surfaced accesses, parking, and turning areas shall thereafter be maintained in such hard bound material and provision to prevent the discharge of surface water to the public highway retained for the lifetime of the development.

Reason: To reduce the possibility of deleterious material being deposited on the public highway (loose stones etc.) and to ensure surface water from the site is not deposited on the public highway causing dangers to road users

08

Once the retail store hereby approved becomes operational, there shall be no HGV access between the Application Site and Kirklington Road. All deliveries and general HGV access shall take place only off Southwell Road East via the delivery access as shown on the approved plans reference:

- ~~— Swept Path Proposed Plans REV A 1-100 received 20 July 2023; and~~
- ~~— 0014L Proposed Site Plan 200 dated June 2022 (incl. no HGV access signage)~~
- **Swept Path Proposed Plans REV B 1-100 received 23 August 2023**
- **0013K Amended Site Plan 500 received 23 August 2023**
- **0014M Proposed Site Plan 200 received 23 August 2023**

The signage shall remain in place for the lifetime of the development.

Reason: In the interest of highway safety

09

Prior to first occupation of the retail unit hereby approved, full details of all proposed tree planting shall be submitted to and approved in writing by the Local Planning Authority. This will include planting and maintenance specifications, including cross-section drawings, use of lorry proof guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier, and defect period. The approved planting scheme shall thereafter be carried out within the first planting season following approval of the submitted details.

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 in the first suitable planting season.

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.

10

The retail unit hereby approved shall not be open to members of the public outside the following hours: -

8am to 8pm Monday to Saturday
8am to 4pm on Sundays, Public or Bank Holiday

Reason: In the interests of residential amenity.

~~11~~

~~In relation to Condition 09, delivery and collection vehicles to the retail unit hereby approved shall only arrive and leave the site between the hours of 6am – 8am and 8pm – 11pm.~~

~~Reason: To ensure deliveries take place outside of store opening hours and in the interests of residential amenity.~~

~~12-11~~

No gates shall be erected at the access to the development from the public highway.

Reason: To protect the free and safe passage of traffic, including pedestrians, in the public highway.

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

The proposed development has been assessed and it is the Council's view that CIL IS PAYABLE on the development hereby approved as is detailed below. Full details about the CIL Charge including, amount and process for payment will be set out in the Regulation 65 Liability Notice which will be sent to you as soon as possible after this decision notice has been issued. If the development hereby approved is for a self-build dwelling, residential extension or residential annex you may be able to apply for relief from CIL. Further details about CIL are available on the Council's website: www.newark-sherwooddc.gov.uk/cil/ or from the Planning Portal: www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil

02

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

03

Access requirements and access Re-instatement Works

In order to carry out the off-site works required you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act. Please contact the Highway Authority on hdc.north@nottsc.gov.uk or please call 0300 500 80 80 and ask for Highways Development Control Team for Newark and Sherwood for further details.

04

Building Works shall not project over the highway

No part of the proposed building/wall or its foundations, fixtures and fittings shall project forward of the highway boundary.

05

Prevention of Mud on the Highway

It is an offence under S148 and S151 of the Highways Act 1980 to deposit mud on the public highway and as such you should undertake every effort to prevent it occurring.

06

Signs

Non-statutory signs are not permitted within the limits of the public highway.

07

Traffic Regulation Orders

Depending on the final design of the access, the application may affect the existing TRO on Kirtlington Road. Any required amendments to the existing Traffic Regulation Order shall be completed before the development is brought to use to provide safe access/off-site mitigating works. The developer should note that the Order can be made on behalf of the developer by Nottinghamshire County Council at the expense of the developer. This is a separate legal process, and the Applicant should contact the Highway Authority's Customer Services on 0300 500 8080 for further information and guidance.

08

Nesting birds are protected by the Wildlife and Countryside Act 1981 (as amended). It is an offence to intentionally or recklessly kill, injure or take any wild bird; take, damage or destroy its nest whilst in use or being built; and/or take or destroy its eggs. Normally it is good practice to avoid work potentially affecting nesting birds during the period 1st March to 31st August in any year, although

birds can nest either side of this period.

09

In relation to Condition 09, 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

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 - 22/01298/FUL



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Report to Planning Committee 7 September 2023

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Yeung Browne, Planner, Ex 5893

| Report Summary | | | |
|--------------------|---|-------------|-----------------------------------|
| Application Number | 23/01128/FUL | | |
| Proposal | Proposed four-bedroom family bungalow on Brownfield Site | | |
| Location | Land at The Bungalow, Moor Lane, East Stoke | | |
| Applicant | Mr Salmon | Agent | Place For Humans - Joe Robertshaw |
| Web Link | https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage | | |
| Registered | 04.07.2023 | Target Date | 28.08.2023 |
| Recommendation | That planning permission is refused as reasons set out in Section 10. | | |

In line with the Council’s Scheme of Delegation, as the Parish Council’s support is contrary to the Officer recommendation to refuse, the local ward members, Councillors Neil Allen, Simon Haynes and Jack Kellas have been notified. Councillors Neil Allen and Simon Haynes have requested to call-in this application to Planning Committee with the following reasons for referral:

- Dispute the site is within the countryside
- The loss of protected trees and reduced space on the other trees could be mitigated by re-planting of trees
- The application is supported by the Parish Council.

1.0 The Site

The application site relates to an area of land to the north of Moor Lane and to the south west of a property known as The Bungalow which is set back from the lane. The site is enclosed by a metal palisade fence with a vehicular access to the south of the site from Moor Lane.

The Council has served a Tree Preservation Order (N401) on the walnut trees to the front of the site.

Since the refusal of a previous application (22/00917/FUL), the site has been cleared of caravans and steel containers.

2.0 Relevant Planning History

22/01360/FUL - Proposed four-bedroom family bungalow (re-submission of 22/00917/FUL). Refused 26.08.2022 for the following reasons:

01

In the opinion of the Local Planning Authority, the proposed development would result in an additional dwelling within the open countryside outside of the main built-up area of East Stoke. Together Spatial Policy 3 of the 2019 Amended Core Strategy (ACS) and Policy DM8 of the Allocations and Development Management DPD (2013) strictly control and limit the types of development in the countryside to a number of exceptions such as the design being of exceptional quality. It is considered that the proposal as put forward is not of exceptional quality, nor truly outstanding nor does it reflect the highest standards in architecture. The proposal would also result in unnecessary suburban encroachment into the open countryside which would result in an uncharacteristic form of development that would have an adverse impact on landscape character and the rural setting of the village.

The proposal does not therefore represent a sustainable form of development and is contrary to Spatial Policy 3 (Rural Areas) and Core Policy 13 (Landscape Character) of the ACS (2019) and Policies DM5 and DM8 of the Newark and Sherwood Allocations & Development Management DPD (2013) which represent the relevant parts of the Development Plan as well as National Planning Policy Framework (2021) particularly paragraph 80, which is a material planning consideration.

02

The applicant has failed to demonstrate that existing landscape features on the site would be retained, protected or improved, through the submission of an arboricultural survey and impact assessment. In addition, the applicant has failed to provide an ecological survey prior to the determination of the application therefore the Local Planning Authority is unable to determine if there would be any adverse impacts on the ecological value of the site and whether these can be avoided, compensated for or mitigated.

As such the Local Planning Authority is unable properly assess the impact the development would have and whether these impacts would be adverse on the ecological value of the site or to the longevity of the existing trees. The proposal is therefore in conflict with Core Policy 12 of the Amended Core Strategy and policy DM5 of the Allocations and Development Management DPD as well as the NPPF which is a material planning consideration.

22/00917/FUL - Proposed detached dwelling. Refused 06.07.2022 with the following reasons:

01

In the opinion of the District Council, the proposed development would result in an additional dwelling within the open countryside outside of the main built up area of East Stoke. Policy DM8 of the Allocations and Development Management DPD (2013) and strictly controls and limits the types of development in the countryside to amongst other things occupation for an essential need by a rural worker and a design being of exceptional quality. It is considered that the proposal as put forward is not of exceptional quality, truly outstanding or reflects the highest standards in architecture. The proposal would also result in unnecessary suburban encroachment into the open

countryside which would result in an uncharacteristic form of development that would have an adverse impact on landscape character and the rural setting of the village.

The proposal does not therefore represent a sustainable form of development within the District and is therefore contrary to Spatial Policy 3 (Rural Areas) and Core Policy 13 (Landscape Character) of the Amended Core Strategy (2019) and Policy DM5 and DM8 of the Newark and Sherwood Allocations & Development Management DPD (2013) and paragraph 80 of the National Planning Policy Framework (2021).

02

Paragraph 180 of the NPPF (2021) states "Development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate."

The applicant has failed to demonstrate that existing landscape features on the site would be retained, protected or improved, through the submission of an arboricultural survey. In addition the applicant has failed to provide an ecological survey prior to the determination of the application therefore the Local Planning Authority is unable to determine if there would be any adverse impacts on the ecological value of the site.

As such the Local Planning Authority is unable assess the impact the development would have and whether these impacts would be adverse on the ecological value of the site or to the longevity of the existing trees. The proposal is therefore in conflict with Core Policy 12 of the Amended Core Strategy and policy DM5 of the Allocations and Development Management DPD as well as the NPPF which is a material planning consideration.

21/02483/PIP - Application for permission in principle for residential development of 1 to 2 dwellings Refused 24.12.2021 with the following reason:

In the opinion of the District Council, the proposed development is unable to comply with policy DM8 of the Newark and Sherwood Allocations and Development Management DPD (2013) and paragraph 80 of the National Planning Policy Framework due to the detached nature of the parcel of land from the built up settlement of East Stoke, resulting in the site being located in the open countryside.

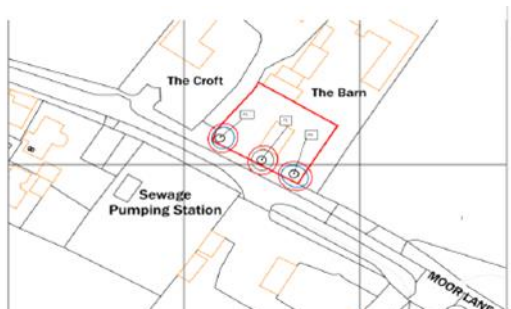
The proposal does not therefore represent a sustainable form of development and is contrary to Policy DM8 of the Newark and Sherwood Allocations & Development Management DPD (2013) and paragraph 80 of the National Planning Policy Framework (2021).

3.0 The Proposal

Despite the description of development referring to a bungalow, the proposal is for the erection of a one-and-a-half story dwelling with rooms within the roof served by rooflights and dormer windows. At ground floor the property would comprise a hall, an open plan kitchen/living room, utility/boot room, w.c, lounge, bathroom, two bedrooms, study and attached double garage. At first floor a further two ensuite bedrooms are proposed, one with dressing room.

The approximate dimensions of the building are: 22m (length) x 15.6m (depth) x 7.0m (ridge) x 2.7m (eaves) and 8.65m to the top of the chimney.

The current proposed scheme is the same as the previously refused planning applications 22/00917/FUL and 22/01360/FUL (drawings created by Architecture North Ltd). The current application is represented by a different agent (Place For Humans - Joe Robertshaw) than the previous applications. A new design and access statement, a tree survey and arboricultural impact assessment have also been submitted to support to this current application.



The submitted tree survey and arboricultural impact assessment indicate that one of the three Walnut trees (T2) will be removed as result of this application, and the other two (T1 and T3) will require minor excavation and soil moving within the roof protection area (RPA).

Drawings and documents submitted with the application:

- DRWG no. (01)01 Rev A00 Existing site plan/block plan;
- DRWG no. (01)02 Rev A00 Existing block plan/site plan;
- DRWG no. (01)03 Rev A00 Existing elevations and block plan;
- DRWG no. (01)04 Rev A00 Proposed site plan/block plan;
- DRWG no. (01)05 Rev A00 Proposed block plan;
- DRWG no. (01)06 Rev A00 Proposed elevations and floorplan;
- Design and Access Statement by Place For Humans - Joe Robertshaw received 30 June 2023
- Tree Survey & Arboricultural Impact Assessment by Pro Hort Horticulture Managed – Jason Harker dated 07 June 2023 received 30 June 2023

4.0 Departure/Public Advertisement Procedure

Seven properties have been individually notified by letter. A site notice was placed near to the proposed site on 18 July 2023.

Site visit undertaken 18 July 2023.

5.0 Planning Policy Framework

The Development Plan

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

- Spatial Policy 1 – Settlement Hierarchy
- Spatial Policy 2 - Spatial Distribution of Growth
- Spatial Policy 3 – Rural Areas
- Spatial Policy 7 – Sustainable Transport
- Core Policy 9 – Sustainable Design
- Core Policy 12 – Biodiversity and Green Infrastructure
- Core Policy 13 – Landscape Character

Allocations & Development Management DPD

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

Other Material Planning Considerations

- National Planning Policy Framework 2021
- Planning Practice Guidance
- Landscape Character Assessment Supplementary Planning Document 2013
- Residential Cycle and Car Parking Standards & Design Guide Supplementary Planning Document June 2021
- Newark and Sherwood District Wide Housing Needs Assessment December 2020

6.0 Consultations

NB: Comments below are provided in summary - for comments in full please see the online planning file.

(a) Statutory Consultations

NCC Highway Authority – This application can be considered under Standing Advice. This current proposal scheme is the same as planning applications 22/00917/FUL and 22/01360/FUL, which were refused permission, but highway reasons were not cited therefore their comments from 22/00917/FUL are repeated for awareness:-

“The access width will be acceptable, three parking spaces are to be provided and there is space to manoeuvre to enter and leave the site in a forward gear. Visibility on exit from the site is also acceptable due to the wide verge. We would not wish to raise objection and would request conditions.”

(b) Town/Parish Council

East Stoke Parish Council – Support to the proposed development, do not consider the application site is in open countryside.

(c) Representations/Non-Statutory Consultation

NSDC Environmental Health (contamination) – *“Photographs submitted with a previous application show evidence of burning and the site has been described as a builders yard in previous applications. There is clearly the potential for contamination to be present from these previous uses. I would therefore request the use of the full phased contamination condition.”*

NSDC Tree and Landscape Officer – Conclude that the proposal will result in the loss of protected trees and have a negative impact on the character and amenity of the local area. The submitted tree report is in error condemning significant trees, not taking into account the future growth of retained trees.

NSDC Biodiversity and Ecology Lead Officer – *The application site appears to be unmanaged, and although in a different un-managed state from that present when previous planning applications were under consideration, there appears to be no material change that should alter the previous requests from NSDC for development within the application site to be informed by an ecological appraisal. This should be undertaken by a suitably experienced and qualified ecologist. In addition, having reviewed the Arboricultural Assessment (ProHort – June 2023), images 3 and 4 in the report show decay on T2 with one of the features a large knot hole. Knot holes are a classic potential roost feature (PRF) and an authoritative ground level assessment undertaken by a competent ecologist would have identified this as such, and then followed up this initial assessment with further investigation to reach a reasoned decision as to whether there would likely be any impacts to bats as a result of the proposed removal of this tree. Consequently, the statement in Section 7.0 of the report is not accepted that none of the trees have features suitable to support roosting bats. A proper assessment needs to be completed by a suitably experienced ecologist and this should form part of the wider ecological appraisal that is required.*

Letters of representation have been received from 3 local residents. One states no objection to the proposal and the other two letters of support can be summarised as:

- The site was previously garden for a house behind so it is not open countryside;
- This proposal will enhance the area;
- A high quality domestic residence there would be preferable than shipping containers and multiple occupancy mobile homes use.

7.0 Appraisal

The key issues in assessing this proposal relate to the

1. The Principle of Development
2. Housing Mix and Density
3. Impact on Landscape Character and Visual Amenity
4. Impact on Residential Amenity
5. Highways and Parking
6. Impact upon Protected Trees and Ecology
7. Flooding/surface water run-off

These issues will now be discussed in turn with a conclusion that follows.

Principle of 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 (ADMDDP).

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

Spatial Policy 1 (Settlement Hierarchy) and 2 (Spatial Distribution of Growth) of the Newark and Sherwood Amended Core Strategy (ACS) set out the settlement hierarchy and new housing growth for the district and East Stoke does not feature within it. The settlement is therefore an 'other village' and so the development should be considered against Spatial Policy 3 of the ACS. This policy states that beyond Principal Villages, proposals for new development will be considered against the criteria of location, scale, need, impact and character. Spatial Policy 3 (Rural Areas) states that development should be located in villages, this means locations within the existing built extent of the village, which includes dwellings and their gardens, commercial premises, farmyards and community facilities. It would not normally include undeveloped land, fields, paddocks or open space which form the edge of built form. As East Stoke does not have a defined village envelope, whether the site is in the village or not, is a matter of planning judgement.

The agent for the current planning application identifies the site as brownfield (as noted in the description of development) describing the site in the application form as '*derelict previously developed land – former curtilage with fixed surface infrastructure of a Class C5 holiday let*'. There is currently no use class C5 (this refers to a potential new use class being considered by government) and officers do not agree the site meets the definition of 'previously developed land' (otherwise known as brownfield) as set out in the NPPF. From reviewing aerial photographs, the application appears to have been severed as curtilage from the property to the north at some point after 2007 when it was used for the unauthorised storage of caravans and steel containers, which have since been cleared from the site. The site remains physically separate from the dwelling to the north.

The Council, in refusing the two previous applications, has already determined that the site lies outside of the village. Furthermore, an Inspector considering a recent appeal opposite the site (planning reference 20/01027/FUL for the erection of two dwellings with garages and new vehicular access) concluded that the land was outside of the village in the open countryside.

Specifically, the Inspector stated that '*8. The small housing development of Brownlow Close, where the pedestrian footpath terminates, abruptly signifies the end of the continuous built development on the south side of Moor Lane*' and goes on to say that '*11. Even though there is residential development opposite the appeal site, this consists of two low-rise detached dwelling that are set back into their plots. They are physically detached from the tight pattern of development of East Stoke by an agricultural field spatially separating their relationship from the rest of the built up character.*'

Taking the lead from this appeal decision, officers concurred with the Inspectors findings and concluded that the application site is located within the open countryside and detached from the built-up character of the rest of East Stoke. Therefore, development must be assessed against Spatial Policy 3 (Rural Areas) of the Amended Core Strategy which signposts readers to Policy DM8 (Development in the Open Countryside) of the Allocations and Development Management DPD. There have been no changes in site circumstances since this appeal decision or indeed the previous two refusals relating to this site to allow a different conclusion to be reached.

Policy DM8 (Development in the Open Countryside) states permission will only be granted where

dwelling is for rural workers or *'of exceptional quality or innovative nature of design, reflect the highest standards of architecture, significantly enhance their immediate setting and be sensitive to the defining characteristics of the local area.'* Paragraph 80 of the NPPF (2021) states dwellings in the countryside should be avoided unless *'it is of exceptional quality and truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas and significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.'*

The proposal has not been advanced as dwellings for rural workers that need to live in the countryside. The exceptional quality and truly outstanding criteria are extremely high bars to which to attain. There is nothing within the submission that would enable the decision maker to conclude that this proposal reaches this high bar. This would require considerably more detail than has been provided, including, but not limited to, architectural features and building techniques. The proposal is not outstanding nor innovative. The proposal does not reflect the highest standards in architecture, would not help raise the standards of design in the District and would not significantly enhance its immediate setting or be sensitive to the defining characteristics of the local area. The proposal therefore fails to accord with Paragraph 80 of the NPPF and Policy DM8 of the Development Plan in this open countryside location.

In summary the proposal is for a speculative market dwelling, not meeting the occupation requirements of the NPPF or DM8 of the ADMDPD. There have been no changes in national or local policy since the 2022 applications; the details of the current proposal remain the same as the former applications in 2022 apart from an additional Tree Survey & Arboricultural Impact Assessment and a new design and access statement submitted by a different agent.

Housing Mix and Density

In accordance with the NPPF, the proposal would contribute in a very minor way (1 dwelling) to the supply of housing. Core Policy 3 confirms that the Local Planning Authority (LPA) will normally expect development densities of no lower than an average of 30 dwellings per hectare. The site area of 0.08 hectare means the density of development 26.7 dwellings per hectare falling within the aspirations of the policy. However, given that the site is within open countryside, surrounded by open field, provision of 1 dwelling is not disputed in principle.

The Council commissioned a District-wide Housing Needs Survey to be carried out in 2020 by Arc4. This survey identifies that the site falls within the Rural South sub area where the predominant housing need (39.9%) is for 3 bed houses followed by (37%) for 4 or more bedrooms houses. The property proposed, being a 4/5 bedroom dwelling (the study could be a 5th bedroom) could contribute to meeting an identified need in the sub area. There is therefore no objection to the provision of this dwelling, which would broadly align with the most up to date housing needs evidence currently available.

Impact on Landscape Character and Visual Amenity

A high level Landscape Character Assessment (LCA) has been prepared to inform the policy approach identified within Core Policy 13 (Landscape Character). The LCA provides an objective methodology for assessing the varied landscape within the District and contains information about the character, condition and sensitivity of the landscape. The LCA has recognised a series of Policy Zones across

the 5 Landscape Character types represented across the District. Core Policy 13 indicates that the development proposals should positively address the recommended actions of the Landscape Policy Zones in which the proposals lie and demonstrate that such development would contribute towards meeting the landscape conservation and enhancement aims for the area.

The Council's Landscape Character Assessment SPD shows the site falling within South Nottinghamshire Farmlands Policy Zone SNPZ07 (Elston village farmlands). This has a generally flat and open landscape of moderate condition and sensitivity. The landscape policy action is to 'conserve and create' by creating new hedgerows restoring land and enhancing tree cover.

Although located within the open countryside, the site is within a small pocket of existing built development as opposed to being located surrounding by existing open fields. Nonetheless the proposal would result in unnecessary suburban encroachment into the open countryside which would be detrimental to the landscape character. Thus, it is contrary to Core Policy 13 and the Landscape Character SPD.

Core Policy 9 'Sustainable Design' 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" and "demonstrate an effective and efficient use of land that, when appropriate, promotes the re-use of previously developed land and that optimises site potential at a level suitable to local character".

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 Allocation and Development Management DPD.

Policy DM5 of the ADMDPD states the local distinctiveness of the Districts character in built form should be reflected in the scale, form, mass, layout, design, materials and detailing of proposals. The NPPF paragraph 127 states that proposals should respond to local character and history, including the surrounding built environment and landscape setting. Proposals should be visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

Chapter 12 of the NPPF (2021) paragraph 126 provides guidance in respect of achieving well-designed places confirming that, 'the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.'

The Croft to the northwest of the proposed site is a single storey dwelling set back from Moor Lane by c.20m. The Bungalow is an 'L' shape dwelling consist of a single storey element to the east and one and a half storey element to the north, sited to the northeast of the proposed site which is also set back from Moor Lane by c.40m.

The proposal is to position a dwelling set back from Moor Lane by c.2.7m. The proposed scheme would see a substantial one and a half storey dwelling positioned north to Moor Lane and adjacent to open fields to the east. While the dwelling would be set back from the adopted highway, due to its proposed height at approximately 7m to the ridge and 8.65m to the top of the chimney, the building would be highly visible. The proposal is also considered to be erode the landscape with

further unnecessary built development in the open countryside which would be directly contrary to the provisions of the SPD.

The proposal is therefore considered contrary to the provisions of Policy DM5 of the ADMDPD which requires new development to reflect the local distinctiveness and be in keeping with the general character and density of existing development in the area. The proposed development would also feature further encroachment into the open countryside which is a contrary to the provisions of Core Policy 9 and 13 and Policy DM5 as well as the Landscape Character Assessment SPD.

Impact on Residential Amenity

Policy DM5 of the DPD states that development should have regard to its impact upon the amenity of surrounding land uses and neighbouring development to ensure that the amenities of neighbours and land users are not detrimentally impacted. The NPPF seeks to secure high quality design and a high standard of amenity for all existing and future occupants of land and buildings.

The proposal is approximately 20m east of The Croft and 17m south of The Barn. Due to the distance and the design of the proposal as submitted, the proposal would not result in harm to neighbour amenity from overbearing, loss of privacy or light impacts.

It is not considered that the proposal will have an unacceptable impact on the amenity of nearby neighbouring occupiers in terms of massing, overshadowing or overlooking, and that the proposal complies with Policy DM5 of the DPD.

Impact on Highway Safety

Spatial Policy 7 (Sustainable Transport) of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems and Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision. Paragraph 110 of the NPPF states that schemes can be supported where they provide safe and suitable access for all.

The Council's Residential Parking SPD states that a minimum of 3 parking spaces should be provided for dwellings of this size in this location as well as secure cycle parking and space for equipment.

The Highways Authority was consulted on the proposal development and confirmed that this current application can be considered under Standing Advice.

It is considered the proposed would result in an acceptable access width for vehicles as well as vehicles being able to manoeuvre within the site to exit in a forward gear, subject to imposition of conditions such as surfacing materials at the access, ensuring a dropped vehicle crossing and surface water discharge provision. The Council is satisfied that the required parking provision is achievable within the site, as well as the cycle provision which could be provided within the garage whilst still maintaining sufficient spaces for vehicles.

The proposal is therefore accords with the NPPF, Spatial Policy 7 of the ACS as well as Policy DM5 of the ADMDPD.

Impact upon Protected Trees and Ecology

Core Policy 12 (Biodiversity and Green Infrastructure) states that the Council will seek to conserve and enhance the biodiversity of the District and that proposals will be expected to take into account the need for the continued protection of the District's ecological and biological assets. Traditional rural buildings often provide a habitat for a variety of species, some of which may be protected by law. Policy DM7 (Biodiversity and Green Infrastructure) supports the requirements of Core Policy 12 and states that development proposals affecting sites of ecological importance should be supported by an up to date ecological assessment. Policy DM5 seeks to avoid adverse impacts upon ecological interest and protected species.

The NPPF (2021) states when determining planning application LPAs should apply the following principles as stated within paragraph 180 of the NPPF. This states that if *"significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Development whose primary objective is to enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity."*

Since the refusal of the previous applications, the Council has served a Tree Preservation Order on the group of walnut trees to the front of the site along Moor Lane. These trees would be affected by the construction and siting of the dwelling and the installation of the driveway.

The Tree Survey & Arboricultural Impact Assessment by Pro Hort Horticulture Managed states T2 (the middle Walnut tree) will be removed, suggesting that this Walnut tree has a number of branches broken and snapped off. The survey claimed this has caused damage and there is rot in the main trunk. Due to the rot in the trunk and the proximity to the road, this tree is recommended for removal on the grounds of Health and Safety; and the other two trees (T1 and T3) will require minor excavation and soil moving within the roof protection area (RPA).

While a tree survey and arboricultural impact assessment has been submitted with the application, the conclusions are not agreed. Furthermore, no mitigation or compensation has been proposed for the loss of a protected tree and the impact to the root protection area of the others. The avenue of Walnut trees adjacent to Moor Lane are considered significant in the street scene now enjoying protected status. Any removal of these trees would need to be replaced to preserve the avenue and the public amenity value of the area.

The Council's Tree and Landscape Officer (TO) advises that a tree having "rot" is not considered sufficient justification to allow the tree removal, as the submitted tree survey and arboricultural report does not include further information or clarification giving specifics as to the cause, extent of the decay and the likelihood of failure. The TO strongly advises this tree should be retained and allowed to achieve full growth.

In accordance with British Standard (BS) 5837, all trees to the road frontage under Tree Preservation Order (TPO) are considered category A; no development is to occur within the root protection area of the protected trees, and any development must take into account the full size of the trees at maturity.

A mature crown spread for a walnut tree should be expected to be between 20 and 25m. In accordance with para. 5.3.4 of BS 5837 the default position is that development should be located outside of the Root Protection Areas of trees/hedges to be retained. A realistic assessment of the

probable impact of any proposed development on the trees and vice versa should also take into account the characteristics and condition of the trees, with due allowance and space for their future growth and maintenance requirements.

This hasn't been demonstrated here. When placing the measurements onto the block plan it shows that proposal would prejudice the retention of protected trees to the front with the trees clashing with the proposed development. This would put future pressure on the cutting back/removal of these features due to leaf dropping nuisance/general maintenance requirements which would also impact the character of the area.

It is noted that one of the Ward Councillors suggested the loss of a protected tree and reduced space on other protected trees could be mitigated by additional replanting of trees. The submitted Tree Survey & Arboricultural Impact Assessment by Pro Hort Horticulture Managed has not included any mitigation to the loss of a protect tree and reduce space for the others, nor has any re-planting scheme been put forward for consideration. It is therefore not possible to fully appraise the impact of mitigation. However, as referenced above, trees are only protected when they are considered to have public benefits and are beneficial to the wider character of an area. The loss of one tree and likely impact (to their detriment) of others leading to their loss is considered cannot be mitigated by their replacement with smaller trees.

The previous applications refused in 2022 also refer to the applicant having failed to demonstrate the impact on the ecological value of the site. This remains the position now. No ecological appraisal has been submitted.

The Council's Lead Officer for Biodiversity and Ecology has noted that the site is unmanaged and should be informed by an ecological appraisal. They have also noted that the potential for bat roosts has been discussed in the Arboricultural Assessment. Images 3 and 4 in the report show decay on Tree 2 with one of the features a large knot hole. Knot holes are a classic potential roost feature (PRF) and an authoritative ground level assessment undertaken by a competent ecologist would have identified this as such, and then followed up this initial assessment with further investigation to reach a reasoned decision as to whether there would likely be any impacts to bats as a result of the proposed removal of this tree. Consequently, they do not accept the statement in Section 7.0 of the report that none of the trees have features suitable to support roosting bats. A proper assessment needs to be completed by a suitably experienced ecologist and this should form part of the wider ecological appraisal that is required.

It therefore remains that insufficient information has been provided with this application to satisfactorily demonstrate that the proposal would not compromise the long-term life span and positive contribution of the protected trees along the southern boundary. Any adverse impact on the health and life span of these features would have consequential implications on their ongoing positive contribution to the character of the area and local biodiversity. As such, the proposal would conflict with the aims of Policies CP12, DM5 and DM7, which requires development to be appropriately designed and sited to protect and conserve the ecological assets and the biodiversity of the district. It also fails to meet the objectives of the NPPF.

Land contamination

The agent has contested comments provided by our Environmental Health Officer (EHO) in relation to land contamination, with regards to 'the burning' of materials on the site, stating that the images

are unclear and blurry at best (provided by the applicant/agent as part of the application). The agent states that he is unclear on the EH officer's justification for requesting a 'Full phase' contamination report as part of a condition in the event that planning permission is approved. The agent further states that *'as this appears to not be in accordance with the Local List; the EH officer's reasons are not clear, and no evidence has been presented in this application to support his claims, nor provided any'*.

The EHO has responded identifying the former use of the site as a builders yard and because the application is to introduce sensitive residential receptors by construction of a residential dwelling with gardens clarifies that *not* all former contaminative uses can be listed for obvious reasons. The planning application form section 'existing use' requires the applicant to state the sensitivity of the proposed use of the site. Residential houses with gardens are the most sensitive use possible in terms of vulnerability to contamination and that alone should trigger the need for an investigation/report (as the form states). The obligation lies with the developer to prove that the land is 'suitable for use' and not the local authority to prove that it is potentially contaminated. As such in the event of an approval it would be recommended that a condition is imposed to deal with the potential for land contamination.

Flooding/surface water run-off

The site is located within flood zone 1 and an area at risk from surface water flooding. I do not consider the proposal would have a harmful impact upon surface water run-off to the application and nearby sites.

8.0 Implications

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

9.0 Planning Balance and Conclusion

Due to the location and the detached nature of the site from the main settlement of East Stoke, the land is considered to be located within the open countryside whereby new development is assessed against paragraph 80 of the NPPF (2021) and policy DM8 of the ADMDPD. The proposal does not meet any of the exceptions to the presumption against development as set out in the Development Plan policies. The principle of a new dwelling in this location is therefore considered to be contrary to policy. This position remains consistent insofar as the two previous applications have drawn the same conclusion as has the appeal decision relating to the potential residential development on the land opposite.

In addition, the proposal would result in unnecessary encroachment into the open countryside to the detriment of the landscape character. The applicant also has not included details of how it would impact upon local ecology, and the findings of the submitted tree survey and arboricultural impact assessment are not agreed, as it condemns a significant tree for loss without adequate justification, and fails to take into account the future growth of retained trees leading to harm.

The proposal has been assessed to have a neutral impact upon neighbour amenity, highway safety

and parking provision. It would represent a minor benefit in terms of adding one house to the supply of units that would comply with the local identified need but this is not considered to tip the balance of acceptability to a positive outcome. Therefore, the proposal is considered to be contrary to Spatial Policy 3 and Core Policies 9, 12 and 13 of the ACS and Policies DM5, DM7 and DM8 of the ADMDPD as well as the NPPF, a material planning consideration.

10.0 Recommendation

That planning permission is refused for the reasons shown below:

01

In the opinion of the Local Planning Authority, the proposed development would result in an additional dwelling within the open countryside outside of the main built-up area of East Stoke. Together, Spatial Policy 3 of the 2019 Amended Core Strategy (ACS) and Policy DM8 (Development in the Open Countryside) of the Allocations and Development Management Development Plan Document (2013) strictly control and limit the types of development in the countryside to a number of exceptions such as the design being of exceptional quality or a rural workers dwelling. The proposal as advanced does not meet any of the exceptions listed within policy and would result in unnecessary suburban encroachment into the open countryside which would result in an uncharacteristic form of development that would have an adverse impact on landscape character and the rural setting of the village. The proposal does not therefore represent a sustainable form of development and is contrary to Spatial Policy 3 (Rural Areas) and Core Policy 13 (Landscape Character) of the ACS (2019) and Policies DM5 and DM8 of the Newark and Sherwood Allocations & Development Management DPD (2013) which represent the relevant parts of the Development Plan as well as National Planning Policy Framework (2021) particularly paragraph 80, which is a material planning consideration.

02

The site contains a group of protected trees which positively contribute to the character and appearance of the area. The proposed scheme would result in loss of one protected tree without adequate justification and doesn't allow the remaining trees the space to grow to their full potential which would lead to harm. Furthermore, the applicant has failed to provide an ecological survey prior to the determination of the application therefore the Local Planning Authority is unable to determine if there would be any adverse impacts on the ecological value of the site and whether these can be avoided, compensated for, or mitigated. The proposal is therefore contrary to Core Policy 12 (Biodiversity and Green Infrastructure) of the Amended Core Strategy (2019) and Policies DM5 (Design) and DM7 (Biodiversity and Green Infrastructure) of the Allocations and Development Management DPD (adopted July 2013) as well as the National Planning Policy Framework which forms a material planning consideration.

Informatives

01

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. Working positively and proactively with the applicants would not have afforded the opportunity to overcome these problems, giving a

false sense of hope and potentially incurring the applicants further unnecessary time and/or expense.

02

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

03

For the avoidance of doubt the application was refused on the following plans and documents:

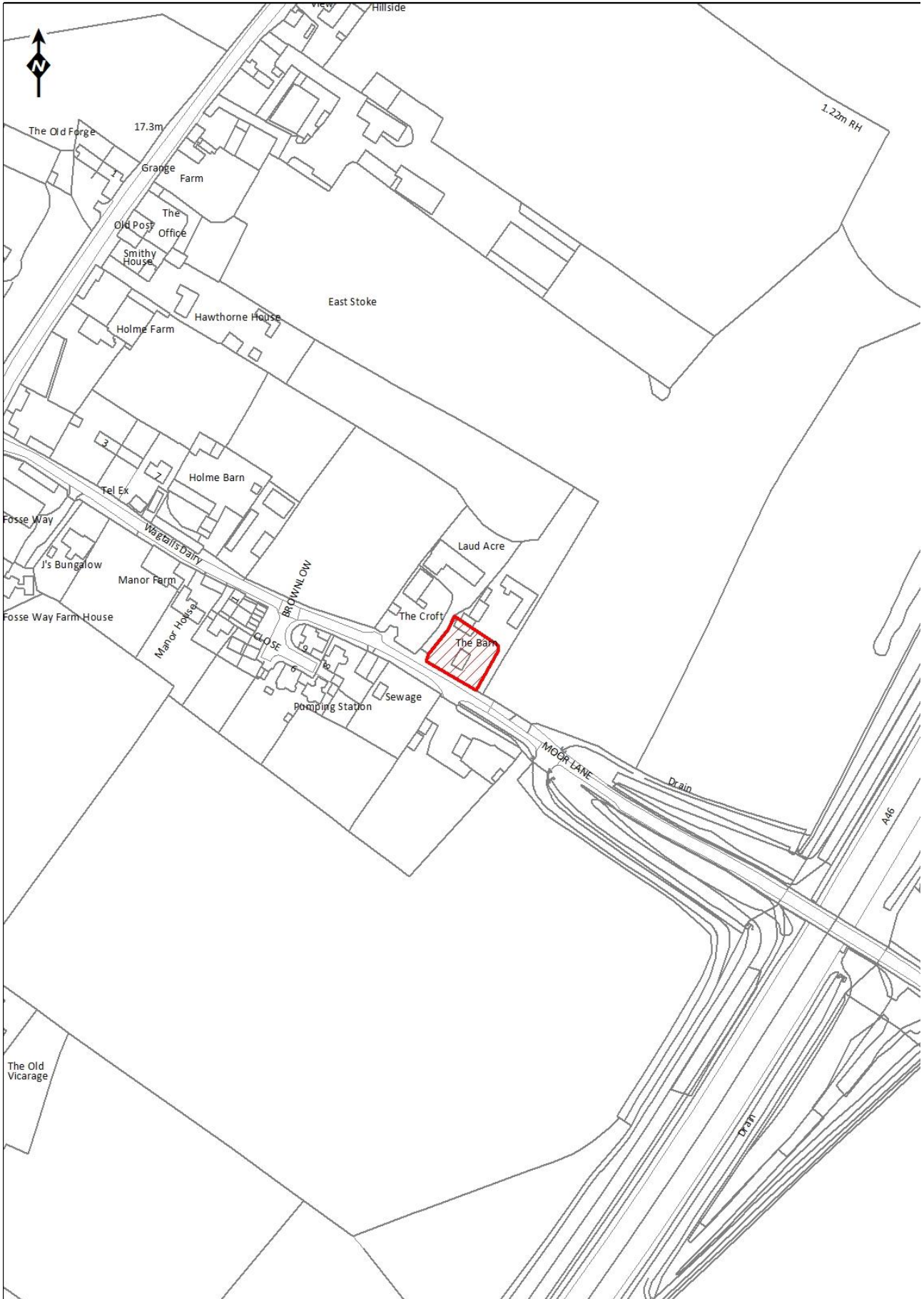
- DRWG no. (01)04 Rev A00 Proposed site plan/block plan;
- DRWG no. (01)05 Rev A00 Proposed block plan;
- DRWG no. (01)06 Rev A00 Proposed elevations and floorplan;
- Design and Access Statement by Place For Humans - Joe Robertshaw received 30 June 2023
- Tree Survey & Arboricultural Impact Assessment by Pro Hort Horticulture Managed – Jason Harker dated 07 June 2023 received 30 June 2023

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 - 23/01128/FUL



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Report to Planning Committee 7 September 2023

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Jared Pailing, Trainee Planner, Ex. 5719

| Report Summary | | | |
|------------------------|---|--------------------|----------------|
| Application No. | 23/01016/HOUSE | | |
| Proposal | Installation of external wall insulation cladding | | |
| Location | The Willows, Station Road, Bleasby, NG14 7GH | | |
| Applicant | Mr Gurminder Mann | Agent | Mike Stripling |
| Web Link | https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage | | |
| Registered | 07.06.2023 | Target Date | 02.08.2023 |
| Recommendation | That planning permission is refused subject to the reasons for refusal outlined at the section 10.0 of this report | | |

This application is being presented to the Planning Committee in line with the Council’s Scheme of Delegation as Bleasby Parish Council have supported the application which differs to the professional officer recommendation. –Councillor Melton has referred it to Committee due to the need to weigh up climate change policies against the impact on a non-designated heritage asset.

1.0 The Site

The site is located in the village of Bleasby on Station Road, east of the local train tracks and primary school. The dwelling is a two storey Victorian property built originally in red brick with slate roofing. The site has historical significance but is not within a conservation area. The dwelling has been subject to various alterations and extensions over time. The site has also been identified as a potential Non-Designated Heritage Asset by the Conservation team.

The dwelling is orientated with its principal elevation facing east with its northern side elevation fronting Station Road set behind a mature hedgerow. Parts of the property are

rendered in a neutral white colour with parts of the property, including its principal elevation retaining its brick origins.

The site lies in flood zone 2 according to the Environment Agency maps.

2.0 Relevant Planning History

00/01109/FUL – Erection of a single storey extension and conservatory – Permitted.

02/00054/FUL - Proposed single storey extension to the existing dwelling – Permitted.

04/01110/FUL - Proposed two storey extension to the rear – Permitted.

10/00279/FUL - Householder application for the erection of a two-storey side extension – Permitted.

3.0 The Proposal

The proposal seeks planning permission to insulate and render a number of elevations comprising the northern most, eastern and western elevations. The proposal excludes the two-storey extension of the property previously constructed which already features render.

The proposed render and insulation material is detailed as bonded 60mm, K5 Kooltherm, polymer modified cement, mesh reinforcement and sealed weather trims with 1.5mm coat of textured render in an off-white on the grey shade; RAL 9010 to match the existing render. Brick slips would be used on the eaves to replicate the existing dentilated eaves detail. No other works are proposed to be undertaken. Due to the insulation resulting in the external walls being brought forwards of the principal elevation of the dwelling, the proposal does not benefit from permitted development rights.

Documents assessed in this appraisal:

Application form – Submitted 13th June 2023

Existing Elevations – Submitted 13th June 2023

Existing floorplans – Submitted 13th June 2023

External Wallboard – Submitted 13th June 2023

Proposed Elevations – Submitted 13th June 2023

Proposed Floor Plans – Submitted 13th June 2023

Site Location Plan – Submitted 13th June 2023

4.0 Departure/Public Advertisement Procedure

Occupiers of 6 properties have been individually notified by letter.

Site visit undertaken on 21st July 2023

5.0 Planning Policy Framework

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

Core Policy 9 -Sustainable Design
Core Policy 10 Climate Change
Core Policy 14 – Historic Environment

Allocations & Development Management DPD

DM4 – Renewable and Low Carbon Energy Generation
DM5 – Design
DM6 – Householder Development
DM9 -Protecting and Enhancing the Historic Environment
DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

National Planning Policy Framework 2021
Adopted Householder Development SPD (2014)
Planning Practice Guidance (online resource)
National Design Guide – Planning practice guidance for beautiful, enduring and successful places September 2019

6.0 Consultations and Representations

NB: Comments below are provided in summary - for comments in full please see the online planning file.

(a) Town/Parish Council

Bleasby Parish Council - Support the application.

(b) Representations/Non-Statutory Consultation

NSDC Conservation – Externally insulated render can subsume the features and detailing of historic and traditionally constructed buildings, so would likely harm the visual appearance of a historic Victorian property. Render on an extension does not set a precedent for the main dwelling to be rendered, particularly if it erodes the architectural features. We've refused this type of feature on other historic buildings, mostly in Conservation Areas. See appeal decision on refused application – 21/00208/HOUSE

Assessment of Non-designated Heritage Asset “The building is a nice example of a late Victorian villa-style residential development, combining local brick and higher status slate, along with deliberate fashionable and high-status architectural elements which make an attractive composition.

To be regarded as a Non-Designated Heritage Asset (NDHA), a building should have an element of interest and an element of significance. Following the designation criteria for

NDHA the building has primarily got architectural interest and significance in terms of aesthetic appeal. There is an additional element of historic interest in terms of development of Bleasby as a village and an element of representativeness in terms of this being a nice example of a later Victoria villa-style residential development. The Council has identified this building as a potential NDHA.

Harm would be caused to the potential NDHA. The significance of this potential NDHA is such that if the proposal is approved and implemented it is unlikely to then meet the threshold to remain a NDHA, if confirmed.

7.0 Appraisal

The key issues in assessing this proposal relate to the:

- 1) Principle of development
- 2) The impact upon the character and appearance.
- 3) Thermal efficiency
- 4) Other matters

These are discussed in turn below.

Principle of 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 (Presumption in Favour of Sustainable Development) of the Allocations and Development Management DPD.

Householder developments are acceptable in principle subject to an assessment of a number of criteria outlined in Policy DM6 (Householder Development). These criteria include the provisions that the proposal should respect the character of the surrounding area and that the overall shape, size and proportion of an extension must not dominate the existing house or the character of the surrounding area. Also stated is that there must be no loss or impact on the amenities of neighbours including loss of privacy, light and overbearing impact. These aspects are also reflected in Policy DM5 (Design).

Point 6 of Policy DM6 of the adopted Allocations & Development Management DPD states planning permission will be granted if it meets criteria including “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.” Policy DM6, point 5 also requires that ‘The proposal respects the design, materials and detailing of the host dwelling.’

Impact on Heritage assets and Non-designated Heritage assessment

The site has been assessed by the Conservation team against their Non-Designated Heritage criteria and have identified it as a potential Non-Designated asset. In accordance with adopted procedures, when assets are identified as meeting the criteria to be regarded as a NDHA, they must each be formally adopted by Cabinet, following consultation with the asset's owner. As such, it is at present a potential NDHA, which therefore carries a limited amount of weight. However, consideration must still be given to the impact of the development on this potential heritage asset. The rationale for why this is considered to be a NDHA is detailed below.

The Willows is an example of a late Victorian villa constructed post 1875 (according to historic maps) it is unclear what the site would have been, but by its design and style it appears to have been designed with status in mind. The site appears to have been built around the same time as neighbouring properties such as The Elms and other unnamed buildings on historical maps. These properties are visibly away from the central village and the station, and their original use remains unknown. The site first appears on historical maps in around 1887 and postdates the opening of the nearby rail station by over 40 years. The historical architecture therefore dates back to the late Victorian period and appears to pre-date further expansion of the village in the direction of the station as historical maps show fields and limited urban development until at least 1919.

With this in mind, the property has the potential to be a non-designated heritage asset in line with the Council's published criteria as it consists of historical interest as a remaining part of the village's history with the aesthetically appealing Victorian architecture still being prominent from the street scene and in good condition.

The proposal is to add external wall insulation to the perimeter of all the historic portion of the building, to have a textured rendered finish. The proposal also includes the modification and re-installation of window cills etc., where required, alongside the replication of eaves detail from applied brick slips with additional recreation work as required. This is considered by the Conservation team would harm the historic architecture of the building and in turn, the non-designated heritage status, which is agreed with.

The proposal puts forwards attempts to recreate the lost architectural features of the building, however, these will inevitably be faux features and not retain the integrity and authenticity of the original dwelling. The other issue is the difficulty in recreating the lost features in both design, style and material meaning any replicated works will considerably reduce the visual authenticity of the heritage asset.

As such, the loss of the historical architecture is a concern, the impact would be such that the NDHA status criteria would be difficult to maintain.

Impact on the Visual Amenities of the Area

The key consideration here is the impact of the proposed insulation and render on the character and appearance of the dwelling and the wider area.

Section 7.23 of the adopted Householder Development SPD (2014) states that careful consideration should be given to the selection of external materials for all householder development proposals. Assessing materials is also a key part of Policy DM6 and consideration must be given to the impact the materials may have on the character of the property and the area as whole.

It is acknowledged that there are many examples of dwellings that are rendered in the area. Indeed the dwelling, as extended, already features render as a material choice. The existing render was undertaken as part of the previous extension permitted in 2010 and notwithstanding concerns raised, it was considered render would offer a visual distinction between the traditional and original features of property and the more contemporary features of the newer development. It is considered that the use of render on the contemporary elements of the dwelling allows the history of the building to still be read with a clear distinction between the old and the new. Removing this distinction, by permitting render to all external elevations, would remove this and thus be detrimental to the character of the dwelling and erode the historical significance of the building.

Further to this, the unrendered side elevation facing the road (labelled the rear elevation on the submitted plans), shows obvious signs of being the original entrance to the property, it features two bay windows, an entranceway covered with a porch and it likely to be the original principal elevation containing the most (attractive) architectural features. The design of this elevation also includes traditional styles including brick corbelling and Victorian design of brick work. The proposal seeks to render and insulate this elevation and replace the existing brickwork with a brick slip design. Although it is appreciated that the intention is to try and replicate a similar design, it is considered that the proposed works would result in an unacceptable loss of attractive traditional styles that cannot be sympathetically replaced or replicated.

Despite the building not being located within a conservation area, the development would still erode the attractive character of the building, diminishing, and subsuming the traditional architecture of the property and it is considered would be a detrimental loss overall.

Therefore, the proposal contravenes Policies DM5, DM9, CP14 and is contrary to the Adopted Householder SPD (2014) and is considered detrimental, for the reasons given above, to both the property and consequently to the surrounding character.

Thermal efficiency

It is noted that the intention is to improve thermal efficiency. However, information has not been submitted as part of this application to be able to make an assessment on either the short or long-term effectiveness of this, nor indication of poor thermal efficiency at present. However, it is known that dwellings of this age can often be more difficult to heat.

It is acknowledged that energy efficiency is supported by Core Policy 10 (Climate Change) and DM4 (Renewable and Low Carbon Energy Generation) of the Development Plan. However, it is considered that there might be other options that could be considered such as internal insulation to avoid detrimentally impacting heritage assets.

In conclusion, it is considered there are likely to be alternative ways to deliver benefits to reduce carbon emissions and improve energy efficiency that would have a lesser impact on the character and appearance of the dwelling which should be explored in this case. On balance, the benefits do not outweigh the harm identified.

Other Matters

The proposal is for render insulation on the host dwelling and will not involve any other works outside of the property. Therefore, it can be deemed that the proposed would not result in any loss of residential amenities for either neighbour in accordance with Policies DM5 & DM6 of Allocations & Development Management DPD.

8.0 Implications

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

9.0 Conclusion

The proposal would erode the historic integrity of the Victorian dwelling by subsuming its features and detailing to its detriment that would consequently impact on the wider character of the area through the loss of traditional features that cannot be easily replicated, as well as the erosion of a potential non-designated heritage asset. Whilst the benefits of the scheme from a thermal efficiency aspect would ordinarily be welcomed, in this case they would cause harm which is not outweighed by the benefits.

10.0 Reason for Refusal

01

In the opinion of the Local Planning Authority, the proposal would cause an unacceptable visual alteration to this historical and aesthetically appealing Victorian property resulting in a loss of integrity and the erosion of the traditional features of this dwelling and potential non-designated heritage asset to its detriment and the wider character and appearance of the area. The proposed recreation of lost architectural features will fail to retain the integrity and authenticity of the original building.

The proposal therefore is contrary to Core Policy 9 (Sustainable Design) of the Newark and Sherwood Amended Core Strategy 2019 and Policies DM5 (Design), DM6 (Householder Development) of the Allocations and Development Management Development Plan Document 2013 as well as being contrary to the Householder Development Supplementary Planning Document 2014 and the National Planning Policy Framework, which are a material planning consideration.

Informatives

01

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

02

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

03

Plans refused:

Proposed Elevations – Submitted 13th June 2023
Proposed Floor Plans – Submitted 13th June 2023
Site Location Plan – Submitted 13th June 2023

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 - 23/01016/HOUSE



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Report to Planning Committee 7 September 2023

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Yeung Browne, Planner, Ex 5893

| Report Summary | | | |
|---------------------------|---|--------------------|-------------|
| Application Number | 23/00668/HOUSE | | |
| Proposal | Erect single storey rear extension (part retrospective) | | |
| Location | 2 St Marys Drive Edwinstowe NG21 9LY | | |
| Applicant | Mrs Amanda Fletcher | Agent | Mr Neil Fey |
| Web Link | https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage | | |
| Registered | 27.04.2023 | Target Date | 20.06.2023 |
| Recommendation | That planning permission is approved subject to conditions outlined at section 10 at the end of this report. | | |

The local ward members, Councillors Celia Brooks, Andy Freeman and Paul Peacock have been notified of this proposal. Councillor Paul Peacock has requested to call-in this application to Planning Committee in the event of an approval with the following reasons:

- the loss of amenity to the adjoining neighbouring dwelling
- the method of colouring the bricks
- the length of time this has been going on (not material planning consideration)
- number 4 not being able to maintain their boundary fence properly (not material planning consideration)
- the impact of the building causing damp at number 4 (not material planning consideration)
- the fact that this is retrospective, and the proper planning process was ignored (not material planning consideration)

1.0 The Site

The site is located within the defined settlement boundary of Edwinstowe, which is identified as a Service Centre by Spatial Policy 1 of the adopted Core Strategy. The site is located outside to the designated Edwinstowe Conservation Area, approximately 45m to the west.

The site consists of a traditionally built 1960's, two-storey, semi-detached residential dwelling and associated curtilage. The property is built in pale yellow/buff bricks and is located on a corner plot at the junction of St Edwin's Drive and St Mary's Drive. Both St Edwin's Drive and

St Mary's Drive are on a gradient; the property is on higher ground than other dwellings on St Mary's Drive but lower than the dwellings on St Edwin's Drive.

There is an existing single detached garage (part demolished) to the west of the site accessed from St Edwin's Drive and positioned on higher ground level than the main dwelling.

Boundary treatments consist of brick pillars and low wall topped with timber fence panels standing at c.1.8m in height fronting both St Mary's and St Edwin's Drives. A section of timber boarded fence marks the boundary between the adjoining dwelling (no. 4 St Mary's Drive) to the south. The two storey extension approved in 1979 does not appear to have been implemented. Neighbouring properties are residential and of a similar age and style.

2.0 Relevant Planning History

6779248 – Two storey extension. Approved 14.06.1979 (Not implemented).

3.0 The Proposal

The development proposal seeks part retrospective planning permission for a ground floor extension to the rear elevation of the dwelling. The proposed structure would project 4.58m from the original rear elevation, spanning 3.41m in width approximately. A pitched roof was originally proposed but has now been amended to a flat roof with skypod lantern above. This would stand at 2.58m to the top of the flat roof (reduced from 2.72m) and c.3.0m to the top of the lantern (reduced from 3.36m to the ridge).

The proposal includes a full brick wall on the southern elevation adjacent to the shared boundary with guttering positioned on the same elevation overhanging above the shared boundary fence. The opening on the west (rear) elevation consists of a standard size window sitting above a section of low brick wall. A single width door and additional three pane window would be positioned on the northern elevation of the proposed structure. As currently built so far, the extension is in red bricks albeit it is proposed to now use a render overcoat to the external bricks with Sandtex Trade high Cover Smooth Masonry coating (in Smooth Oatmeal) with a British Board of Agrément (BBA) approved life expectancy up to 15 years' durability as stated on the Sandtex trade brochure.

Due to the potential restricted access to the southern elevation, a method statement was also submitted to support and explain how the overcoating to brickwork can be achieved on the southern elevation.

The following documents have been submitted with the application:

- Site location plan, received 18 April 2023
- Proposed Block plan, received 18 April 2023
- Existing rear and side elevations with ground floor plan received 18 April 2023
- Revised Proposed rear and side elevations with roof plan received 01 August 2023
- Revised south elevation, section and alternative positions for rainwater pipes received 01 August 2023
- Method statement received 01 August 2023
- Sandtex trade brochure received 01 August 2023
- Skypod/ lantern roof booklet received 01 August 2023
- Supporting statement received 01 August 2023

4.0 Departure/Public Advertisement Procedure

Occupiers of five properties have been individually notified by letter on the original application. Seven notifications (including 3 to local ward Councillors) were sent on 1st August 2023 to the relevant parties in regard to the amended scheme.

5.0 Planning Policy Framework

The Development Plan

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

- Core Policy 9 -Sustainable Design

Allocations & Development Management DPD (adopted July 2013)

- DM5 – Design
- DM6 – Householder Development

Other Material Planning Considerations

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

6.0 Consultations

NB: Comments below are provided in summary - for comments in full please see the online planning file.

(a) Statutory Consultations

none

(b) Parish Council

On the original proposed scheme: -

Edwinstowe Parish Council – no comment received

On the amended scheme:-

Edwinstowe Parish Council – no comment received.

(c) Representations

On the original proposed scheme: -

Two letters were received from nearby resident and owner, objected to the proposal on the following grounds:

- The structure is much higher and longer than we were led to believe prior to the commencement of the work.

- A 3 metre height wall at 4.6 meters in length is very imposing, creating an overbearing presence. There is very little space between the erected red 3-meter wall and the shared boundary fence.
- Once the roof is installed, the new structure would block out the evening sunshine into the rear garden area of the adjoining property & living room
- The gutter arrangement could potential over hanging above the shared fence once is added to the side of this red building.
- The gutter arrangement could cause future issue, the owner/occupier of the adjoining dwelling would not be able to remove any of the boundary fence panels for maintenance once guttering is added
- The lack of space between the two dwellings would also mean the applicants would need to gain access through the adjoining property if they needed to perform any maintenance on their building.
- The use of red brick does not match the surrounding brickwork or property's buff bricks in the vicinity
- The partly erected building/wall has already cause damp/mould patch on the shared wall of the two properties. This has happened since the erection of the structure, and the adjoining dwelling has been occupied by the same people since 2015.
- To look out onto your patio and see a red brick 2.7 meter-high wall is quite overwhelming and this is before the “second hand unglazed roof arrangement” that’s presently languishing on the front lawn awaiting to be fastened to the red brick unauthorised structure.
- This new structure could have a detrimental impact on the property value and the property values of other residents having to look onto this eyesore also.

On the amended scheme:-

One letter was received from owner of the neighbouring property, objecting on the following grounds:

- Overcoating the red brick wall is not acceptable, the red brickwork will return in short space of time and will have a visual appearance similar to a ‘Patchwork Quilt’.
- The durability of 15 years stated on the Sandtex brochure is subject to on-going regular maintenance, not a 15 years guarantee.
- Painting or colouring through disguise will never match the host brick in both colour or surface texture.
- No damp occur to the property (no.4) prior to the erection of the red brick wall since February 2023.
- The total height in the previous drawings was 2.72m (eaves height above ground level) while in a descending garden, the new structure would be lower the further away from the main property, but it would still be outside of the permitted development regulations allowed.
- The structure was built outside of the PD regulations, and without building regulation, no party wall notification was served.
- The new structure would have detrimental effect and overbearing impact on occupiers to no.4 St Mary Drive, and de-value the property.

7.0 Comments of the Business Manager – Planning Development

The key consideration in this case relates to:

- 1) The visual impact upon the character and appearance of the area and
- 2) The impact on residential amenity.

Both key issues will be discussed in turn along with other relevant matters.

Principle of 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.

Under Policy DM6, the principle of householder development is supported, subject to applicants demonstrating compliance with the relevant policy criteria and the advice contained in the Council's Householder Development SPD. Policy DM5, underpinned by Core Policy 9, also sets out a range of matters for consideration when determining planning applications in relation to design. The NPPF reinforces the above policies, making clear that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents.

Impact on Visual Amenity and Character of Area

Core Policy 9 seeks to achieve a high standard of sustainable design which is appropriate in its form and scale to its context, complementing the existing built and landscape environment. Policy DM5 require new development to achieve a high standard of sustainable design and layout that is of an appropriate form and scale to its context, complementing the existing built and landscape environments. Policy DM6 states that planning permission will be granted for householder development provided that the proposal reflects the character of the area and existing dwelling in terms of design and materials.

LDF Policy CP9 sets out a clear aim for all new development to achieve a high standard of design that is of an appropriate form and scale to its context, complementing the existing built environment. This is reinforced by Policy DM5, which emphasizes the need for new development to reflect the scale, form, mass, layout, design, materials and detailing of the District's rich local distinctiveness (criterion 4).

Part 12 of the NPPF (Achieving Well Designed Spaces) paragraph 130 states inter-alia that development should be visually attractive as a result of good architecture, should be sympathetic to local character and history, and should maintain or establish a strong sense of place. Paragraph 134 states permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents.

The single storey rear extension is situated to the rear of the property. The NSDC Householder SPD advises that additions should be designed in a way which is sensitive to the host dwelling and prevailing character of the surrounding area. While this rear extension is not readily visible from St Mary's Drive, it is readily visible when viewed from St Edwin's Drive due to its corner plot position.

In terms of scale, the revised scheme would see the single storey element project 4.58m from the original rear wall of the host dwelling, standing at 2.52m in height approximately with a flat roof; this is reduced from the original scheme which proposed a pitched roof.

The use of external material in the extension has been amended to overcoating the already built red brickwork with Sandtex Trade high Cover Smooth Masonry coating in 'Oatmeal' - a cream colour. The Sandtex trade manufacture brochure gives a durability of 15 years.

The dwellings on St Mary's Drive are typically brick built in buff colour, with some of them part rendered. There are some dwellings on St Edwin's Drive that are completed with red brick and cladding on the front elevation.

It is acknowledged that existing red brickwork as built is unsympathetic and visually jars with the host dwelling. The revised scheme includes the use of overcoating on the existing brickwork on the new structure with a cream paint product. It is considered this would provide a similar colour as the host dwelling and reduce the visual impact from the proposed addition. The height of the eaves on the new structure would be at 2.52m approximately when measure from ground level.

Single storey ancillary flat roofed elements are not uncommon in the area. The proposed structure would be completed with similar colour overcoated brickwork as the host dwelling which would assist in its assimilation to the existing dwelling. Similar scale and style extensions have been carried out by neighbouring properties within the vicinity and it is not considered the proposed development is out of character. While the proposed addition lacks any design interest and could be visible from the side elevation and from St Edwin's, the proposed addition is considered to be reasonable scale and would positioned to the rear of the host dwelling.

The neighbour concerns regarding the durability of the overcoating, that it will require regular maintenance and that could result in the external materials not matching to the host dwelling sometime after the proposed development is completed are noted. The long term maintenance of the overcoating would go beyond what would ordinarily be achieved by planning controls. However, from reviewing the sample of the bricks provided by the applicant's agent, it is clear that the bricks would appear stained rather than coated in a traditional paint that would be more prone to peeling. A sample of the finished product will be available for Members to view on the site visit. In this case, the proposed colour of the overcoating is considered to be acceptable in terms of the visual amenity and character of area and its longevity in material is considered no worse than when timber boarding weathers over time. Whilst this relies somewhat on good maintenance, the risk of peeling paint would appear relatively low and one that officers consider should not hold determinative weight. In any event the proposed condition concerning the application of the overcoating also requires it is maintained for its lifetime. It is noted that the application of the overcoating would need to be applied by hand from above but this is considered to be feasible/achievable from the method statement provided.

It is acknowledged that the owner of the adjoining dwelling to the south of the proposed stie confirmed that no access would be agreed from the rear garden area to apply the overcoating to the brickwork (or any work to this proposed extension). Therefore, a method statement was requested from the agent to clarify how the overcoating could be completed to ensure the proposed development could be achieved.

The most troublesome section would be the south elevation adjacent to the shared boundary. The submitted method statement (MS) states that the area of brickwork from fascia level to just below top of fence line will be overcoated by brush and roller working overhand from above and would not require any access from adjoining property. The first panel from the rear wall of the host dwelling - where access is restricted to 120mm, a self loading roller on extended pole working from above could achieved the result – this is in accordance with advice from a professional decorator as stated in the MS.

The agent has further stated that *'At some point in the future, if access is allowed, the finish below fence line can be checked and any flaws in the coated rectified'*. However the area below the fence line would not be visible due to the existing boundary treatment so the impact of this is not considered to be an issue of public amenity.

Overall, taking into consideration of the details have been submitted, it is not considered that the proposed development would detract from the character of the surrounding area. The proposed development is therefore considered to accord with the aims of Policies DM5 and DM6 of the Allocations and Development Management DPD and Section 12 of the NPPF.

Impact upon Residential Amenity

Criterion 2 and 3 of Policy DM6 relates to neighbouring amenity for householder developments and states that new householder developments should not have an adverse impact on the amenities of neighbouring users including loss of privacy, light and overbearing impact and that the layout of development within the site and separation distances from neighbouring development is sufficient to ensure that neither suffers from an unacceptable reduction in amenity by virtue of overlooking, loss of light or overbearing impacts.

Paragraph 8.4 of the SPD states that rear extensions have the potential to give rise to significant impacts on the amenity of neighbouring properties through overbearing and overshadowing effects. The SPD advises that when considering the potential for overbearing and overshadowing, regard should be given to the positioning of the proposal in relation to the principal windows of habitable rooms in neighbouring properties as well as the level of separation from neighbouring properties.

Furthermore, the NPPF seeks to secure a high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Paragraph 130 of the NPPF requires that development does not materially or detrimentally affect the amenities of the occupiers of neighbouring properties.

To the rear of the proposed site, a local surgery shares the common boundary. This section of the proposed site is on a higher ground level than the dwelling but it is not considered the proposed new structure would have detrimentally impact to this western property.

The existing boundary treatment between the proposed site and the adjoining dwelling to the south (no.4) is close boarded fencing at approximately 1.8 metres in height at the rear

garden area, ascending in accordance with the slope as the ground level changes. The proposed structure consists of a red brick wall on its south elevation positioned adjacent to the shared boundary. The revised scheme would see this structure have eaves and ridge height of 2.52m and 3.0m. It is acknowledged that the occupiers of the adjoining dwelling initially stated that the structure (before it was amended) would block out the evening sunshine into the rear garden area of the adjoining property and living room; and that *'a 3 metre height wall at 4.6 meters in length is very imposing, creating an overbearing presence'*.

It is acknowledged that the single storey rear addition should be designed to minimise impacts on the neighbour and occupier amenity. The proposed structure will be west facing, positioned north of the shared boundary to the adjoining dwelling. The occupiers of the adjoining dwelling to the south is likely to have small amount of evening sunshine reduced to the rear garden area of the adjoining property and living room as a consequence of the development. Nevertheless, given the single storey nature and given what would be allowed within the permitted development regime in terms of height and depth, it is considered the proposal is of an acceptable scale to this semi-detached dwelling within this established residential area and one that would not cause such a detrimental impact to warrant a refusal.

It is accepted that the proposed structure would have an eaves height above the existing southern boundary fence; however, taking into account the siting and the orientation of the proposed development, along with the existing boundary treatment, while it is acknowledged that the top of rear French door on the adjoining property could potentially be overshadowed in the evening sun, the impact is not considered to be detrimental.

I am mindful that a similar extension constructed of materials to match the host dwelling of up to 3m in depth could be lawful under permitted development so long as the eaves were no higher than 3m and its overall height restricted to 4m or less. Taking into account that the ground level of the rear garden slopes away, the proposed extension would have less impact to the occupiers of the adjoining neighbouring dwelling beyond the first 3m. Taking the above into account and giving the fallback position significant weight, it is not considered the revised proposal be sufficiently harmful to warrant refusal of permission on residential amenity grounds.

Impact upon Highway Safety

Spatial Policy 7 seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 requires the provision of safe access to new development and appropriate parking provision. Criterion 1 listed in Policy DM6 states that householder development should include provision for safe and inclusive access and parking and should have no adverse impact on the highway network. Similar advice in Paragraph 110 of the NPPF states that schemes can be supported where they provide safe and suitable access for all.

The proposed development will not alter the existing parking arrangement, sufficient parking areas will remain to the front of the property and on the driveway in front of the garage, as such there are no highways safety issues.

Other matters

It is acknowledged that the letter of objection states the new structure with the proposed gutter arrangement would be overhanging above the shared fence; and the adjoining dwelling appears to suffer from some structure damage since the construction begun

(including the damp on internal wall), as well as de-valuing the property. These are not material planning consideration, and therefore have not been included in the assessment in this report. It is understood that the owner of the adjoining dwelling is aware of this situation and is seeking legal advice.

One of objections received relates to the retrospective nature of the application. However the planning system allows the submission of retrospective applications; while this is not ideal, retrospective applications will still be assessed against the relevant adopted policies. Furthermore, it is within the applicant's right to submit retrospective planning application. This cannot be a reason to refuse the application if the proposal complies with the adopted policies.

8.0 Implications

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

9.0 Conclusion

Having regards to the above, it is considered that the principle of householder additions in this location is acceptable, and that the design of the proposal is acceptable. The proposal meets the Council's standards on residential amenity in its SPD as it would not have a significant and demonstrable impact on the living conditions of the neighbouring occupiers to the site either as existing or in the future; and that the proposal would not have an unacceptable impact on highway safety or parking provision.

The proposal therefore complies with the requirements of paragraphs 126 and 130 of the NPPF and policies DM5 and DM6 of the ADMDPD as well as the Council's Householder Development SPD.

10.0 Recommendation

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

01

The approved shall be applied to the external walls of the extension as currently erected within 3-months of the date of this permission. Within 3 months of the extension being substantially completed the remainder of the extension shall be coated with the approved overcoating. This external overcoat shall be retained and maintained for the lifetime of the development.

Reason: To ensure the satisfactory appearance of the completed development in the interests of visual amenity.

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, received 18 April 2023
- Proposed Block plan, received 18 April 2023
- Existing rear and side elevations with ground floor plan received 18 April 2023
- Revised Proposed rear and side elevations with roof plan received 01 August 2023
- Revised south elevation, section and alternative positions for rainwater pipes received 01 August 2023
- Method statement received 01 August 2023

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

Informative

01

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

02

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

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.

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 - 23/00668/HOUSE



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Report to Planning Committee 7 September 2023

Director Lead: Matt Lamb, Planning & Growth

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

| Report Summary | |
|--------------------------|--|
| Report Title | Additional flexibilities to support housing delivery, the agricultural sector, businesses, high streets and open prisons; and a call for evidence on nature-based solutions, farm efficiency projects and diversification Consultation |
| Purpose of Report | To set before Planning Committee the latest permitted development right consultation and consider proposed responses to be made |
| Recommendations | <ul style="list-style-type: none"> a) The contents of the report and the permitted development right changes to be noted and b) That, subject to any other comments Planning Committee agrees to make, that it endorses the draft Council response in Section 2. |

1.0 Background

1.1 On 24 July 2023, the Department for Levelling Up, Housing and Communities commenced a consultation on six proposals concerning amendments to the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), as amended. They are:

- Changes to certain permitted development rights that allow for the change of use to dwellinghouses.
- Changes to certain permitted development rights that allow agricultural diversification and development on agricultural units.
- Changes to certain permitted development rights that allow for non-domestic extensions and the erection of new industrial and warehouse buildings.
- Changes to the permitted development right that allows for the temporary use of land to allow markets to operate for more days.
- Changes to the existing permitted development right that allows for the erection, extension or alteration of schools, colleges, universities, hospitals, and closed prisons to also apply to open prisons.
- The application of local design codes to certain permitted development rights.

1.2 The accompanying consultation paper is not available as a downloadable format, however it can be viewed using the following link [Additional flexibilities to support](#)

[housing delivery, the agricultural sector, businesses, high streets and open prisons; and a call for evidence on nature-based solutions, farm efficiency projects and diversification](#). There are 88 consultation questions – attached at appendix A. It is not proposed to respond to all consultation questions but focus on those considered to have impact on Newark and Sherwood.

2.0 Proposal/Options Considered and Reasons for Recommendation

Changes to certain permitted development rights that allow for the change of use to dwellinghouses.

- 2.1 **Class E changes of use.** Changes in consumer behaviour has resulted in changes to town centres with such areas often providing a greater mix of residential, commercial and leisure uses. The Government considers residential uses can help diversify and create more resilient high streets. They are therefore exploring ways in which existing permitted development right (Class MA of Part 3 of the GPDO) could be amended to reflect these changes. This right is broad and permits the change of use of premises such as shops, restaurants, offices, as well as gyms and light industrial buildings (falling within [Class E of the Use Class Order](#), as amended) to residential. There are certain limitations and conditions such as whether prior approval is required in relation to the impact of noise from commercial premises and flood risk.
- 2.2 This current right allows up to 1,500m² of Class E uses to change use to residential. The consultation proposes this right is amended to allow more floorspace to change to residential use. Increasing the cumulative floorspace is said could have significant benefits for housing delivery and views are sought on whether the size cap should be doubled to 3,000 square metres or removed to provide no limitation.
- 2.3 The consultation is also looking to remove the time period (3 months) that such a property needs to be vacant for before an application can benefit from this right. Views are also sought on whether the requirement to allow local considerations of the impacts of the change upon the character or sustainability of a conservation area is working in practice.
- 2.4 **Class C1 (Hotels) changes of use.** This change of use comprises hotels, boarding house and guest houses and are recognised as playing an important role in the tourism industry. The proposal is to allow the change of use of such buildings to dwellinghouses through permitted development rights. The consultation notes that specific safeguards may require (or allow for) consideration by the local planning authority through the prior approval process. For example, consideration of the impact on the local tourism economy. It is also suggested that a different size limit on the amount of floorspace changing use should apply. The homes created under the right would be limited to use as a C3 dwellinghouse, and would not benefit from permitted development rights to change use to a small House in Multiple Occupation, or to the proposed [use class for short term lets](#) (as reported to Planning Committee on 8 June 2023).
- 2.5 **Betting offices and pay day loan shops etc. (Class M of Part 3) and arcades etc. (Class N of Part 3) to dwellinghouses.** It is proposed to increase the floor area limit of what

can be converted to residential from 150m² to 300m². The prior approval requirements would not change.

- 2.6 It is also proposed that the existing permitted right allowing launderettes to convert to dwellings is removed due to providing a valuable community service. Any change of use would, if this right is removed, require planning permission in which the impacts could be considered.
- 2.7 Additionally, it is proposed that this right should apply to a wider cohort of buildings by introducing a two-year rolling requirement for the buildings to have been in that use for a continuous period of at least two years prior to the application for prior approval. This would reflect the approach in Class MA of Part 3.
- 2.8 **Commercial, Business and Service, betting office or pay day loan shop to mixed use residential (Class G of Part 3).** This change of use applies to all premises in Class E use (former retail, financial and professional, restaurants, offices, light industrial buildings etc.) as well as betting offices and pay day loan shops. It is proposed to expand this to allow dwellings to be provided above any other existing ground floor use within high streets or town centres. Noise would still be a prior approval consideration. Under Class G, it is proposed the number of flats that may be delivered under the right is doubled from two to four. All homes delivered must, as a minimum, meet the nationally described space standards.
- 2.9 Existing permitted development rights prevent certain uses to change to a betting shop or pay day loan shop. Should Class G be amended, this requirement would look to be carried forwards.

Changes to certain permitted development rights that allow agricultural diversification and development on agricultural units.

- 2.10 Class Q of Part3, introduced in 2014 and expanded in 2018, was aimed at encouraging smaller homes for agricultural workers. The consultation seeks to deliver more homes, expand the type and location of buildings that can benefit and extend the scope of works that can be undertaken under the right. The consultation details these changes would support farm diversification and local communities by making effective use of existing buildings and reducing the pressure for new development on greenfield land. The purpose of this right is to bring underused or redundant agricultural buildings into use. The existing right now allows for the delivery of:
- up to 3 larger homes, to be greater than 100m² and within an overall floorspace of 465m²; or
 - up to 5 smaller homes each no greater than 100 m²; or
 - up to 5 homes comprising a mixture of larger and smaller homes, with neither exceeding the thresholds for each type of home (meaning the maximum amount of floorspace that can change use is 865 m²).
- 2.11 It is proposed, to align with Part 6 (Agriculture and Forestry), to increase the maximum floor area to 1000m² (which would include any previously developed under Class Q) that can be converted. Additionally, it is proposed to have a single maximum floorspace

limit of either 100 or 150m² (preventing very large homes), as well as increasing the maximum number of homes that can be delivered on an agricultural unit from 5 to 10. All homes delivered must, as a minimum, meet the nationally described space standards.

- 2.12 A further suggestion is to allow extensions to be permitted and constructed as part of the change of use. These would be sited to the rear only, a maximum depth of 4 metres, be single storey in height, could extend the entire width of the existing rear elevation, and would only be permitted where the land has previously been developed. There would be limits on the maximum height of the roof and other householder restrictions would also apply. For the purpose of this right, previously developed land would be defined as an area covered by a hard surface, such as a farmyard, which adjoins the original building. To stop people from intentionally developing land prior to undertaking the change of use, the land must have been developed prior to the publication of this consultation. A developer would be required to provide evidence that the land was developed prior to this date if requested by the local planning authority and the entire footprint of the extension would need to be sited on previously developed land. Any floorspace created through an extension would be counted towards any limits on the overall total floorspace. The aim is to maximise the potential of the plot. The design and external appearance of any extension could be considered by the planning authority during the prior approval process.
- 2.13 Householder permitted development rights in Part 1 of the GPDO would not apply retrospectively to homes that have already been developed under the Class Q permitted development right. Also, to limit any impacts of an extension on a neighbour's amenity, the government are consulting on the introduction of a prior approval that allows for the consideration of the impacts of the extension on the amenity of neighbouring premises, including overlooking, privacy and light.
- 2.14 In order to minimise the possibility of unsuitable small buildings from benefitting from this right, resulting in isolated, small buildings, sited sporadically across the open countryside, the consultation proposes all buildings must have an existing floorspace of at least 37m².
- 2.15 This permitted development right does not currently apply to land designated as a conservation area, but the government wants to expand the right to allow more underused rural buildings to benefit and it is therefore suggested it should. However, the suggested permitted right for rear extensions is not proposed to apply.
- 2.16 Buildings that have not been solely used for an agricultural purpose cannot, currently, benefit from this right. The consultation proposes to amend the right so they can benefit. The government envisages that it would not apply to existing farm shops or buildings in a flexible use granted under the Class R (agricultural buildings to a flexible commercial use) of Part 3 right, as these uses already support diversification. If implemented, it would also apply to agricultural buildings within conservation areas.
- 2.17 It is also proposed to allow former agricultural buildings no longer on an agricultural unit to be able to convert i.e. those no longer on an established agricultural unit. A

building would be defined by its last known use and in order to benefit from the right, the onus would be on the developer to evidence that the last known use of the building was for agricultural purposes as part of an established agricultural unit. It would also only apply to buildings erected prior to the publication of this consultation. The government suggests that any building erected after the publication of this consultation would be brought into scope on a rolling ten-year basis, as is the case for newly constructed agricultural buildings on agricultural units. Buildings within conservation areas, if this right is brought in, would also benefit.

2.18 Any dwellings provided under this right is suggested requires suitable access to a public highway and that no buildings without existing adequate highways access can benefit from the right. Currently, through the prior approval process, the existing right allows for the consideration of transport and highways impacts of the development, and whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to use as a dwellinghouse. However, access to a public highway is not explicitly required through a condition within the right itself. Furthermore, the construction of an access road is not permitted through the building operations which are allowed under the right. The consultation also asks whether any existing building must have existing suitable access to a public highway to benefit from the right.

2.19 **How do existing rights work?** At present, the right allows the change of use together with reasonably necessary building operations, which may include works which would affect the external appearance of the building and would otherwise require planning permission. This includes the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwellinghouse; and partial demolition to the extent reasonably necessary to carry out these building operations. The right does not allow for full demolition and rebuild. As set out in [Planning Practice Guidance](#), the right assumes that the agricultural building is capable of functioning as a dwelling. It is not the intention of the right to allow rebuilding works which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.

2.20 The government is interested in understanding how the building operations allowed, work in practice and if the current legislation is fit for purpose. As such, the consultation seeks views on respondent's experience of the scope of the building operations reasonably necessary in enabling the conversion of existing buildings, whether this should be amended and if so, how. They are also interested in views on whether the current Planning Practice Guidance should be amended.

2.21 **Enabling the change of use of other rural buildings to residential.** Currently, Class Q allows only for the change of use of agricultural buildings (and any land within its curtilage) to residential. It is suggested this is expended to allow other buildings e.g. those in forestry or equestrian use to change use. It is proposed that similar conditions and limitations, including prior approval, that apply to agricultural buildings would also apply to any other buildings. It is proposed this would also apply to buildings within

conservation areas and enable extensions to buildings as set out above at paragraph 2.12.

2.22 Views are also sought on whether other buildings should benefit or allowance of greater flexible commercial uses to support the rural economy. At present the following commercial uses are permitted (i.e. change of use from agriculture to...):

- storage or distribution (Use Class B8)
- hotels (Use Class C1)
- Commercial, Business and Service (Use Class E)

Which includes indoor sport. It is proposed these are expanded to allow outdoor recreation but not motor sports.

2.23 Support is also proposed for the local production and processing of food for sale locally. Those processes that fall within Class E are permitted within residential areas. It is proposed to expand this include uses falling within Class B2 (General Industrial). This would not relate to processing of food from livestock. When more than 150m² floor area is proposed for change of use, the prior approval process (transport and highways, noise, contamination and flooding risk impacts) would be triggered. This prior approval would only relate to raw goods produced on site.

2.24 **Allowing mixed uses.** Further permitted development including change of use to mixed uses is proposed e.g. a hotel and farm shop to coexist. At present only 1 such use can be provided up to a maximum of 500m². It is proposed this is expanded to 1000m² to support the rural economy and farm diversification.

2.25 **Prior notification/approval triggers.** At present, if more than 150 square metres of floorspace is changing use, developers must seek prior approval in relation to transport and highways impacts, noise impacts, contaminations risks, and flooding risks. If 150 square metres or less of floorspace is changing use, the developer must notify the planning authority. Views are sought about how this works in practice and whether the trigger for when prior approval is required over prior notification is appropriate.

2.26 **Agricultural development.** Permitted development rights exist for the erection and extension of agricultural buildings, and excavation and engineering works on agricultural units over 5 hectares. Separately another right applies to agricultural units of less than 5 hectares and allows for the extension to existing agricultural buildings (but not the erection of new buildings), amongst other works, such as the provision of hard surfaces or the installation of additional or replacement plant or machinery.

2.27 To provide farmers with greater flexibility, the government is consulting on increasing the size limits of new buildings and extensions that can be erected under the rights. The rights currently apply to all areas, including sites designated as a scheduled monument. It is proposed to remove the flexibility for such works where the site has been designated as a scheduled monument.

2.28 **On units of 5 hectares or more (Class A of Part 6).** The existing right allows up to 1000m² of ground area to be covered by any building or extension (or any works or

structure (other than a fence) for accommodating livestock, or any plant or machinery arising from engineering operations). This increase to 1000m² took place in 2018, having, prior to that, been 465m². This limit takes into consideration the proposed development, together with any building (other than a dwelling), or any structure, works, plant, machinery, ponds or tanks on the same agricultural unit that has been provided within the preceding two years and any part of which would be within 90 metres of the proposed development.

- 2.29 The government is proposing to increase the size limit by 500m² to give farmers greater flexibility to help them respond to the challenges facing the agricultural sector and erect buildings that are more in line with modern agricultural practices. Prior approval is required as to the siting, design and external appearance of any building erected under the right. It is not proposed to increase the ground area limits for any works or structures for accommodating livestock or any plant or machinery arising from engineering operations. It is also proposed to remove the flexibility for the erection of new buildings and extensions where the site has been designated as a scheduled monument.
- 2.30 **On units of less than 5 hectares (Class B or Part 6).** As with units of greater than 5 hectares, the size limits were increased from 465 to 1000m² in 2018, along with the cubic content limit of extensions from a 10% increase to a 20% increase above the cubic content of the original building. The 1,000m² and the 20% cubic content limit both apply, with extensions and alterations capped at the lower of the two limits. It is proposed to amend the right to allow for larger extensions by increasing both the cubic content and the ground area limit to 1,250m² and 25% above its original cubic content. As with the existing limitations, the lower of the two limits would apply.
- 2.31 This proposal does not relate to the 1,000m² square metre limit for the installation of additional or replacement plant or machinery, or the provision of a hard surface. It is also proposed to remove the flexibility for extensions where the site has been designated as a scheduled monument.

Changes to certain permitted development rights that allow for non-domestic extensions and the erection of new industrial and warehouse buildings.

- 2.32 **Commercial Business and Service use extensions (Class A of Part 7).** This currently permits extensions or alterations to a Commercial, Business and Service establishment, subject to a number of limitations and conditions which vary dependent on the site location - within conservation areas or on a site of special scientific interest (SSSI), the gross floorspace of the original building cannot increase by 25% or 50m² (whichever is the lesser). In any other case, the gross floorspace of the original building cannot increase by 50% or 100m² (whichever is the lesser). It is proposed that the current floorspace limit of extensions or alterations is increased to 100% or 200m² of floorspace (whichever is the lesser). It appears this increase would also apply within conservation areas and within SSSIs.
- 2.33 **Industrial and warehousing extensions (Class H of Part 7).** The consultation details the warehouse, logistics and storage sector keeps the country moving, delivers economic

growth and supports our economy and jobs. It performs an important function, allowing the movement and delivery of goods between businesses and from businesses to consumers. This Class allows for the erection, extension or alteration of an industrial building (Use Class B2) or warehouse (Use Class B8), subject to a number of limitations and conditions; the conditions vary dependent on the site location and the type of development proposed. For example, where a proposed new building is within a conservation area or on a SSSI then the gross floorspace of the new building cannot exceed 100m². In all other cases, the gross floorspace of a new building cannot exceed 200m².

2.34 It is proposed that the current floorspace threshold of new buildings permitted under the right in non-protected areas should be increased to 400m². It is not proposed to change the limit within conservation areas or a SSSI. The same permitted development right also provides for significant extensions to be made to existing warehouses or industrial buildings, specifically:

- In conservation areas – 500 square metres or 10% (whichever is the lesser),
- On site of special scientific interests – up to 1,000 square metres or 25% (whichever is the lesser),
- In all other cases – up to 1,000 square metres of floorspace or 50% (whichever is the lesser).

It is proposed to increase the 'In all other cases' to 1,500m² of floorspace or a 75% increase over the original building (whichever is lesser). No changes are proposed in respect to the first two bullet points.

Changes to the permitted development right that allows for the temporary use of land to allow markets to operate for more days.

2.35 Nationally set permitted development rights allow for the temporary use of land for any purpose for up to 28 days per calendar year, of which up to 14 days can be used for markets, motor car and motorcycle racing (under Class B of Part 4). The right allows for the provision of moveable structures on the land relating to the permitted use.

2.36 The consultation details that markets can boost local growth, create more resilient and thriving centres and support local businesses. To ensure that these economic benefits are maximised, it is proposed to increase the number of days. 28 days is suggested but views are sought on any different number. Any change would not apply to motor car and motorcycle racing.

2.37 The application of local design codes to certain permitted development rights: The Building Better Building Beautiful Commission emphasised the importance of local design codes in achieving well-designed and beautiful places and ensuring beautiful and well-designed development by helping to shape buildings, public spaces, streets and neighbourhoods. Design codes set simple clear minimum standards on development in that area, such as height, form and density. Steps have taken place, by the Government, to embed beauty, design and place-making in the planning system including through the Levelling Up and Regeneration Bill which is seeking to introduce a duty for all local councils to produce a design code at the spatial scale of their authority area.

2.38 It is detailed that applying local design codes to certain permitted development rights could offer certainty to developers about the type of development that is acceptable and provide more local influence to local authorities about the design of new homes in their area. Currently, for some permitted development rights, there is a prior approval on the grounds of design or external appearance. Currently, where this is the case, each application is considered on a case-by-case basis by the local authority. The Government wants to reduce uncertainty and support the use of permitted development rights. They are therefore considering whether, as local design codes are agreed, prior approvals for design and external appearance could be replaced by consideration to the design code. Views are welcomed on how to best to achieve this objective.

Call for evidence - nature-based solutions, farm efficiency projects, and diversification

2.39 The last section of the consultation is owned by the Department for Environment, Food and Rural Affairs and reiterates the aim to increase rural prosperity. The consultation is aimed towards applicants in seeking to understand their experiences in securing planning permission. Responses may result in changes being made to Planning Practice Guidance, the National Planning Policy Framework or the General Permitted Development Order.

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

[Additional flexibilities to support housing delivery, the agricultural sector, businesses, high streets and open prisons; and a call for evidence on nature-based solutions, farm efficiency projects and diversification](#)

Town and Country Planning (General Permitted Development)(England) Order 2015, as amended

Appendix A

Q.1 Do you agree that prior approvals for design or external appearance in existing permitted development rights should be replaced by consideration of design codes where they are in place locally?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

As the consultation notes this will provide more certainty for developers which should, in turn, provide for a more effective planning service. The work involved in preparing and adopting design codes, particularly for large council areas such as Newark and Sherwood with a mix of urban and rural as well as differing characters within those urban and rural areas will be significant. However, if it were possible to apply, where applicable, the guidance developed within Supplementary Design Guides/Documents until design codes are prepared and adopted this would assist everyone in delivering developments that reflect the design and character of an area. Development is present for the longer-term and therefore providing high quality developments of 'beauty' should always be the aim.

Q.2 Do you think that any of the proposed changes to permitted development rights in relation to design codes could impact on: a) businesses b) local planning authorities c) communities?

- a) Yes
- b) No
- c) Don't know

Please give your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination.

All three (taking businesses as comprising developers). However, the impact should be positive by providing certainty and thus reducing the likelihood of the need for amendments and additional information.

There will be significant impact upon local authorities in developing, consulting and publishing design codes. However, they will be beneficial in the long run by giving clear advice on what would generally be acceptable. They would likely be more effective for some developments than others, similar to PD rights

Q.3 Do you agree that the permitted development right for the change of use from the Commercial, Business and Service use class (Use Class E) to residential (Class MA of Part 3), should be amended to either:

- a) Double the floorspace that can change use to 3,000 square metres
- b) Remove the limit on the amount of floorspace that can change use
- c) No change

d) Don't know

Please give your reasons.

Prior approval is currently required in relation to transport impacts, (particularly safe access), contamination risks, flooding risks and noise from commercial premises. This, nor do other matters set out within paragraph W provide for the need for car parking provision, commensurate to the scale of the development as well as its location. This change of use within large towns or city centres can benefit from a good provision of public transport. However, in more rural areas, this is often lacking. Dedicated parking (as well as cycle storage space) is often not available leading to less ability to use sustainable means of transport, resulting in congestion in the adjoining roads, which often cannot be objected to through the prior approval process. Consideration should be given to a site's location and access to facilities such as public transport as well as cycle storage provision.

High density housing could result when currently 1,500m² of floorspace could allow up to 20 two bed homes, doubling the floor space limit would result in very high-density housing which could be significantly out of character with an area, particularly in more rural districts. Larger scale loss of Class E uses should be considered through the planning application process to ensure sustainable development conflicts do not arise.

Q.4 Do you agree that the permitted development right (Class MA of Part 3) should be amended to remove the requirement that the premises must be vacant for at least three continuous months immediately prior to the date of the application for prior approval?

a) Yes

b) **No**

c) Don't know

Please give your reasons.

3 months is a short period of time and if an owner wishes they could be using this time to prepare their application with floor plans etc. It is the owner's responsibility, if they choose to take advantage of this right, to move quickly towards the submission of an application. Equally, 3 months in order for a new business to wish to relocate to a site is short with due diligence needed for checking of contracts etc.

Q.5 Do you think that the permitted development right (Class MA of Part 3) should apply in other excluded article 2(3) land?

a) Yes

b) No

c) **Don't know**

Please give your reasons.

[Comment: At the moment Class MA PD rights only apply in Conservation Areas, but not in other Article 2(3) Land categories. This would extend them to AONBs, The Broads, National Parks but not World Heritage Sites]

No response – we are not affected.

Q.6 Do you think the prior approval that allows for the local consideration of the impacts of the change of use of the ground floor in conservation areas on the character or sustainability of the conservation is working well in practice?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

If no, please explain why you don't think the prior approval works in practice?

It is not clear what 'sustainability of the Conservation Area' means and there is no definition. Clarification would therefore be welcomed.

However, this does not work well in practice as the character and appearance of a Conservation Area is unique to each designated area. Character doesn't necessarily relate to just the visual aesthetics of the building, as it is an intrinsic quality. For example, there are some Conservation Areas, such as Newark and Southwell, which are characterised by their dense urban and commercial historic cores. They have active commercial usage of the town centres (as well as a distinctive appearance of shopfronts on ground floors).

The alteration of a few of the retail units may have a minor impact on the overall character of the designated area, particularly in a larger town or city. However, the cumulative effect of multiple conversion without overarching scrutiny from a spatial planning perspective could erode the commercial character of many of these designated areas. Over time they could become lifeless, devoid of human activity and discourage the use of public spaces, notably for cultural events etc.

Where external alterations are required, such as removal of the shopfront, then planning permission would likely be required anyway.

Many historic town centres struggle with incentivising the reuse of upper floors for residential use, notably because the upper floors are difficult to access / don't meet fire escape requirements of Building Regulations. There may be some instances where the conversion of the ground floor may actually help unlock access to the upper floor for residential use. In these instances, the prior approval process could potentially be beneficial. However, as mentioned above, it could be at the detriment of the economic vitality of these designated areas.

Maybe as an alternative, there could be some mechanism whereby the LPA could designate areas (including in Conservation Areas where deemed appropriate) to allow for the permitted development of Class MA as the LPA would have a better understanding of the economic issues of their area.

Q.7 Do you agree that permitted development rights should support the change of use of hotels, boarding houses or guest houses (Use Class C1) to dwellinghouses?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

Yes, subject to a strict prior approval process.

Some guest houses and boarding houses, in particular, have often been originally constructed as a dwellinghouse and thus a change of use to a former use could be acceptable.

Q.8 Are there any safeguards or specific matters that should be considered if the change of use of hotels, boarding houses or guest houses (Use Class C1) to dwellinghouses was supported through permitted development rights?

a) Yes

b) No

c) Don't know

Please give your reasons.

If yes, please specify.

The applicant, through a prior approval process should be required (when required) to demonstrate a number of criteria, such as (a) the building is no longer required for tourism and has been vacant for a specified period.

It is also considered that certain hotels should be exempt, for example larger hotels purpose built (particularly those by hotel chains) or to restrict the right to creating no more than a certain number of dwellings to minimise the use's impact.

As with other Classes permitting change of use to dwellings, if this is implemented, prior approval should also be required for matters such as noise, contamination, natural light, dwelling size, transport and highway impacts, amenity space (i.e. a certain amount of space relative to the number of units being provided and/or bedrooms) and outlook.

Q.9 Do you think that any of the proposed changes in relation to the Class MA permitted development right could impact on: a) businesses b) local planning authorities c) communities?

a) Yes

b) No

c) Don't know

Please give your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination.

All three could be affected. Businesses surrounding the development by virtue of the reduction in the number of tourists that might visit their venues. This may be countered by the occupiers of the dwellings to a degree although it is anticipated the spend of a tourist is, in the main, likely to be greater.

This will increase the workload of local planning authorities in the determination of such applications, without a fee that compensate for the complaints such applications trigger.

Whilst such applications are meant to be 'light touch', in reality they can often be more complex than planning applications.

Communities will be affected by the change in the character of an area and possible reduction in job availability through the loss of the hotel, guest or boarding house.

Q.10 Do you think that changes to Class MA will lead to the delivery of new homes that would not have been brought forward under a planning application?

- a) Yes
- b) No
- c) Don't know

If so, please give your reasons

This will be dependent upon any restrictions that are imposed on this change of use. If the right is very flexible, then the number of new dwellings delivered will likely increase due to a less stringent system.

This would likely result in dwellings resulting from developments that have only been granted permission due to the tourism/economic benefits of the development. Such developments are often not in sustainable locations i.e. with access to community facilities including shops, Where they are and an application is submitted, it will be assessed on such aspects including sustainability. There is also a risk that these [wider i.e. as part of the whole consultation] changes of use put pressure on existing services without the provision of planning obligations. Consideration should be given to having a mechanism for these developments to mitigate their impact upon [public] services.

Q. 11 Do you agree that the right for the change of use from hot food takeaways, betting offices, pay day loan shops and launderettes (Class M of Part 3) is amended to:

- a) Double the floorspace that can change use to 300 square metres
- b) Remove the limit on the amount of floorspace that can change use
- c) No change
- d) Don't know

Please give your reasons.

Yes, in so far as it relates to hot food takeaways, betting offices and pay day loan shops. Launderettes should be excluded for the reason given to question 12. Whilst these types of uses can have some community benefits, this is less than for other uses (e.g. such as retail). Allowing a greater amount of floor area to be converted might increase housing stock numbers but also add a greater number of residential units to provide a better balance of mix between residential and commercial uses.

Q.12 Do you agree that the existing right (Class M of Part 3) is amended to no longer apply to launderettes?

- a) Yes

- b) No
- c) Don't know

Please give your reasons

This existing right is not a significant issue for Newark and Sherwood District, however, it is known in other parts of the country, especially cities/large urban areas there benefit to communities is significant. Allowing a LPA to consider the impact of their loss can only be welcomed.

Q. 13 Do you agree that the right for the change of use from amusement arcades and centres, and casinos (Class N of Part 3) is amended to:

- a) Double the floorspace that can change use to 300 square metres
- b) Remove the limit on the amount of floorspace that can change use
- c) No change
- d) Don't know

Please give your reasons.

Yes. Whilst these types of uses can have some community benefits, this is less than for other uses (e.g. such as retail). Allowing a greater amount of floor area to be converted might increase housing stock numbers but also add a greater number of residential units to provide a better balance of mix between residential and commercial uses.

Q.14 Do you agree that the right (Class M of Part 3) should be amended to replace the existing date on which the building must have been in use as a hot food takeaway, betting office, pay day loan shop or launderette instead to a two-year rolling requirement?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

This will assist in providing a greater amount of consistency making matters easier for both applicants and local planning authorities. It will also add greater flexibility without any obvious indicators of unintended consequences from this proposal.

Q.15 Do you agree that the right (Class N of Part 3) should be amended to replace the existing date on which the building must have been in use as an amusement arcade or centre, or casino instead to two-year rolling requirement?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

This will assist in providing a greater amount of consistency making matters easier for both applicants and local planning authorities. It will also add greater flexibility without any obvious indicators of unintended consequences from this proposal.

Q.16 Do you think that the permitted development right for the change of use from hot food takeaways, betting offices, pay day loan shops and launderette (Class M of Part 3) should apply in other article 2(3) land?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

As long the use change relates to use only and not to any physical development which could have impact upon the character of a conservation area. No opinion provided in other Article 2(3) land.

Q.17 Do you think that the permitted development right for the change of use of amusement arcade or centre, or casino (Class N of Part 3) should apply in other excluded article 2(3) land?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

No opinion, does not apply to Newark and Sherwood District Council.

Q.18 Do you think that any of the proposed changes in relation to the Class M and N permitted development rights could impact on: a) businesses b) local planning authorities c) communities?

- a) Yes
- b) No
- c) Don't know

Please give your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination.

- (a) *It could affect other businesses within certain areas by reducing footfall, particularly in tourist areas where arcades e.g. can be popular (seaside towns).*
- (b) *Local planning authorities will be affected by the reduced planning fee income compared to a full planning application. Whilst prior approvals are meant to be 'light touch', they can often be far more complex.*
- (c) *The character of an area could significantly change for the existing resident population.*

Q.19 Do you think that changes to Class M and N will lead to the delivery of new homes that would not have been brought forward under a planning application?

a) Yes

b) No

c) Don't know

If so, please give your reasons.

Prior approval is often seen as an easier route in which to gain permission, applications are therefore submitted.

Q.20 Do you agree that the right (Class G of Part 3) is expanded to allow for mixed use residential above other existing uses?

a) Yes

b) No

c) Don't know

Please give your reasons.

If yes, please say which uses the right might apply to and give your reasons.

Having vibrant and active town centres in both day time and evening is a positive. However, consideration needs to be given to ensure that there is an appropriate mix between the uses otherwise town centres could become purely residential, with little economic activity.

Prior approval should also be required in relation to amenity.

Q.21 Do you agree that the number of flats that may be delivered under the right (Class G of Part 3) is doubled from two to four?

a) Yes

b) No

c) Don't know

Please give your reasons.

There will be restrictions on the number that can be provided with space standard restrictions. Allowing a greater amount of floor area to be converted might increase housing stock numbers but also add a greater number of residential units to provide a better balance of mix between residential and commercial uses.

Q.22 Do you agree that the permitted development right (Class H of Part 3) is amended to align with any changes made to the uses to which Class G of Part 3 applies?

a) Yes

b) No

c) Don't know

Please give your reasons.

If this aligns with other existing classes there wouldn't appear to be any reason not to extend this to mixed use residential and commercial uses.

Q.23 Do you think that any of the proposed changes in relation to the Class G and H permitted development rights could impact on: a) businesses b) local planning authorities c) communities?

a) **Yes**

b) No

c) Don't know

Please give your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination.

a) it reduced the supply of buildings for the long-term for businesses to set-up. Economic impacts traditionally have ebbed and flowed.

a) Local planning authorities will be affected by the reduced planning fee income compared to a full planning application. Whilst prior approvals are meant to be 'light touch', they can often be far more complex.

c) could significantly change the character of local areas and populations.

Q.24 Do you think that changes to Class G will lead to the delivery of new homes that would not have been brought forward under a planning application?

a) Yes

b) No

c) **Don't know**

If so, please give your reasons.

For Newark and Sherwood District Council, the Local Planning Authority is positive towards residential flats above commercial uses, so this could solely speed up permissions by incentivising building owners

Q.25 Do you agree that the smaller and larger home size limits within the agricultural buildings to dwellinghouses right (Class Q of Part 3) should be replaced with a single maximum floorspace limit of either:

a) 100 square metres per dwellinghouse

b) 150 square metres per dwellinghouse

c) **No change**

d) Don't know

The variance in floorspace provides greater flexibility and, for those developers wanting to provide a good development, greater scope in their design. It also means that development

might be provided that is more akin to its setting. In reality, very few, if any, of these conversions are provided for the benefit of rural workers.

Q.26 Do you agree that an overall limit on the amount of floorspace that can change use, set at 1,000 square metres, should be introduced for the agricultural buildings to dwellinghouses right (Class Q of Part 3)?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

Reference to consistency with Part 6 is a moot point when this size area was not introduced until 2018, therefore developers cannot benefit from this in any case for a number of years. Allowing a greater floor area and thus number of dwellings that might be converted does not assist in providing quality homes in sustainable locations. Neither does it reduce the overall need for green fields to be built upon. This permitted development right is now resulting in a greater number of buildings being converted that do not have architectural merit (steel framed portal structures) that do not warrant long-term retention as dwellings.

In addition, the Class Q fall-back position is regularly being used by developers as part of planning application submissions to argue their conversion has been permitted and they (developer) should therefore be permitted to replace them with modern housing estates at a greater profit for the developer.

Q.27 Do you agree that the 5 home limit within the agricultural buildings to dwellinghouses right (Class Q of Part 3) should be increased to allow up to a total of 10 homes to be delivered within an agricultural unit?

- a) Yes
- b) No
- c) Don't know

Allowing a greater number of dwellings to be converted does not assist in providing quality homes (not beautiful) in sustainable locations. Neither does it reduce the overall need for green fields to be built upon.

Q.28 Do you agree that the permitted development right for the change of use from agricultural buildings to residential use (Class Q of Part 3) should be amended to allow for an extension to be erected as part of the change of use on previously developed land?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

Extensions to agricultural buildings can often be very out of character and result in harm to the overall rural setting. Planning permission is required for such developments at present and significant negotiation and working with applicants takes place in order to provide both a sympathetic development and one that will provide appropriate accommodation for future occupiers. Trying to address this as part of a prior approval process without adopted design codes (or allowing existing adopted supplementary planning documents or guidance) to be taken into account will result in poor quality developments without 'beauty'. Many of these buildings within Newark and Sherwood District Council are non-designated heritage assets. Buildings designated as such should have restrictions preventing extensions if this is introduced.

A significant number of applications are submitted under Class Q at present and then full planning permission submitted for an amended scheme attempting to use the 'fall-back' position as a reason for approval. This demonstrates that the existing Class Q permitted development right is not fit for purpose and acknowledged by both planners and developers.

If this were implemented, clarification on how it affects the curtilage calculation would also be required. The area of curtilage is more often than not, very tiny, compared to the building being converted providing poor quality developments for future occupiers. Very often, applications are received after permission has been granted or more likely, once occupiers have moved in for change of use of agricultural land due to their garden being insufficient relative to the scale of the dwelling.

Additionally, it is suggested if this is implemented it is amended to e.g. no more than 10% with a maximum floor size that can be created.

Q.29 Do you agree that a prior approval be introduced, allowing for the consideration of the impacts of an extension on the amenity of neighbouring premises, including overlooking, privacy and light?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

Everyone should have appropriate amenity provided to them. This prior approval should give consideration to amenity both for any existing adjoining occupiers as well as future occupiers. This should be both from any existing developments as well as that being proposed. Amenity should also relate to having appropriate gardens for the size of the dwelling too.

If this requirement triggers the need for notification to neighbours, the same as for large household extensions, this will increase workload for planning authorities, again without an appropriate requisite fee.

Q.30 Do you agree that buildings should have an existing floorspace of at least 37 square metres to benefit from the right?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

As a minimum 37m². This is a very small floorspace any way. Enabling a lesser area would provide even poorer quality homes.

However, if extensions are permitted as suggested, it is suggested that these fall outside of the proposal to permit extensions, if introduced.

Q.31 Do you think that the permitted development right for the change of use from agricultural buildings to residential use (Part 3 Class Q) should be amended to apply in other article 2(3) land?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

If safeguards are provided within the legislation to enable prior approval of the design and appearance of the resulting building. This should assist in ensuring the character of an area is maintained. Permitting consideration to design codes as suggested in the longer-term would be welcomed but to design codes adopted through Supplementary Planning Documents or Guidance in the shorter-term is requested to try and ensure 'beautiful' development.

Q.32 Do you agree that the right be amended to apply to other buildings on agricultural units that may not have been solely used for agricultural purposes?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

Many farms look to convert their buildings to facilitate diversification. If such buildings are converted to residential, then this could lead to further pressure for new development in the open countryside to enable the farm to remain in business. Prior approval for agricultural buildings should have some mechanism to require that there is not a medium-term need for the building(s) e.g. for the next 5 years.

Q.33 Are there any specific uses that you think should benefit from the right?

- a) Yes
- b) No
- c) Don't know

If yes, please give examples of the types of uses that the right should apply to.

It could have consequential impacts/pressure for additional development in the open countryside or Green Belt. If implemented, buildings delivering community facilities e.g. farm shops should be excluded from this right.

Q.34 Are there any specific uses that you think should not benefit from the right?

- a) Yes
- b) No
- c) Don't know

If yes, please give examples of the types of uses that the right should not apply to.

Buildings delivering community facilities e.g. farm shops should be excluded from this right. Any building that has been approved to be constructed solely to support farm diversification. Further buildings/uses benefitting from this right will likely lead to the need for further buildings to be constructed to mitigate their loss in terms of use.

Q.35 Do you agree that the right be amended to apply to agricultural buildings that are no longer part of an agricultural unit?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

This would complicate an already over complicated system. Applicants are likely to find it difficult to demonstrate its last known use. It is also not clear whether the consultation suggests that this should be through a lawful development certificate, which is the current legal route for defining uses – it does not appear to be the case. Trying to prove a previous use is not a simple matter for many developments. The prior approval route will become convoluted and not comprise solely 'prior approval' but 'lawful development' as well.

This element of lawfulness is current failure across all prior approval routes with the exception of large householder developments. Only for large householders is the lawfulness of the development assessed. In other areas, it is solely prior approval. This leaves many developer with a prior approval development granted that they cannot lawfully implement. It is suggested clarity is provided to all – and if lawfulness is assessed as part of the prior approval process, an appropriate fee should also be levied for this and timescales reflected accordingly for submission and assessment of evidence.

Q.36 Do you agree that any existing building must already have an existing suitable access to a public highway to benefit from the right?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

Appropriate access for some proposed dwellings could result in significant impacts upon the countryside in terms of visual and ecological (including biodiversity net gain (loss)) impacts. Works might be required to the highway that require full assessment, particularly with the number of dwellings proposed for being permitted.

Q.37 Do you have a view on whether any changes are required to the scope of the building operations permitted by the right?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

If yes, please provide details.

Clarity is required as to what falls within and outwith the regulations. This is particularly true of external walls e.g. do barns with four open sides benefit from conversion when the dwelling that would result would [literally] be new build? Clarity is also needed in relation to partial demolition. Is demolition necessary to make the building fall within the permitted development floorspace limits in compliance with this Class?

Developers should, in many cases, be required to demonstrate that the building is structurally sound to enable conversion. This is suggested should be a prior approval requirement. A significant number of applications are submitted with a line saying they are capable of conversion and a short time later a full planning application submitted because they are not suitable or have [accidentally] fallen down during conversion.

Q.38 Do you have a view on whether the current planning practice guidance in respect of the change of use of agricultural buildings to residential use should be amended?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

If yes, please provide details of suggested changes.

Not the best worded question. We do have views, but that might not be the question being asked!

Planning Practice Guidance is that 'guidance' – as such more detail should be provided within any future statutory instrument to provide certainty, clarity and a legal basis on which to determine prior approval applications. However, if it is not proposed to be amended with greater clarity, then yes, amendments to the PPG is supported.

Q.39 Do you agree that permitted development rights should support the change of use of buildings in other predominantly rural uses to residential?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.
If yes, please specify which uses.

Further expansion of the right, in this way, could have consequential impacts/pressure for additional development in the countryside. For example, Newark and Sherwood has a significant number of equestrian related buildings and change of use of these buildings could result a significant increase in its rural housing stock and pressure for equestrian facilities elsewhere.

Clarity is required in relation to any such expanded change of use in terms of prior approval requirements. There are many equestrian (e.g.) developments that adjoin one another but are in separate ownership. If one proposal were to come forwards in the absence of others, there could be significant impact upon the amenity future occupiers have in relation to adjoining uses.

Q.40 Are there any safeguards or specific matters that should be considered if the right is extended to apply to buildings in other predominantly rural uses?

- a) Yes
- b) No
- c) Don't know

Please give your reasons
If yes, please specify.

The same per Class Q in addition to odour.

Q.41 Do you think that any of the proposed changes in relation to the Class Q permitted development right could impact on: a) businesses b) local planning authorities c) communities?

- a) Yes
- b) No
- c) Don't know

Please give your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination.

a) reduced supply of buildings for uses other than dwellings. This can affect new business that might want to start up

b) Local planning authorities will be affected by the reduced planning fee income compared to a full planning application. Whilst prior approvals are meant to be 'light touch', they can often be far more complex.

c) *Impact on local communities due to additional pressure on [public] services without appropriate funding (through e.g. legal agreements /Community Infrastructure Levy) being received.*

Q.42 Do you think that changes to Class Q will lead to the delivery of new homes that would not have been brought forward under a planning application?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

However, they do not generally result in the right kinds of homes in sustainable locations and harm appropriate planning of where sustainable spatial distribution of growth is provided. They also do not generally result in 'beautiful' development.

Q.43 Do you agree that permitted development rights should support the change of use of other buildings in a predominantly rural land use to a flexible commercial use?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.
If yes, please specify which uses.

This could help repurpose redundant buildings that would otherwise not have a viable use subject to demonstration that the existing use is no longer required. However, there can be challenges with the prior approval process whereby buildings are converted to residential and then a landowner (which might not necessarily to be the same one if land has changed ownership) then wants permission for a new building for agricultural purposes. This could equally (or more likely) apply to equestrian uses.

Q.44 Do you agree that the right be amended to allow for buildings and land within its curtilage to be used for outdoor sports, recreation or fitness?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

Subject to a prior approval process to allow matters such as impact upon highways and parking, noise (amenity of adjoining occupiers) to be taken into account. Additional infrastructure, such as lighting to facilitate the use, should explicitly not be permitted.

Q.45 Do you agree that the right be amended to allow buildings to change use to general industrial, limited to only allow the processing of raw goods produced on the site and which are to be sold on the site, excluding livestock?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

This could support farm diversification through the ability to sell products generated from the farm. Prior approval of impacts able to assess the impact upon amenity of adjoining users / occupiers, control should be put in place. In addition to those listed, odour ought to be a prior approval as well as the requirement for the hours of operation to mitigate wider harm.

Q.46 Should the right allow for the change of uses to any other flexible commercial uses?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.
If yes, please specify which uses.

Whether such uses might be appropriate would depend on the specific uses proposed and whether they would be suitable for more rural locations. The impact of concerns raised throughout this consultation response such as buildings being converted and then a building for the same use then being requested should be considered.

Q.47 Do you agree that the right be amended to allow for a mix of the permitted uses?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

The mix of uses described retail and hotel could result in wider harm to the area with significant conflicts in terms of amenity of surrounding uses. Whilst more flexibility for farmers is understood, this flexibility can often be gained through the submission of a planning application where it is much easier to balance all competing matters and attach appropriate conditions. It is anticipated that a number of such prior approval applications, if this expansion is brought into legislation, will be refused due to insufficient information provided within the limited timescales to enable proper consideration.

Q.48 Do you agree that the right be amended to increase the total amount of floorspace that can change use to 1,000 square metres?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

The existing floor area enables consideration of larger floorspace proposals to be properly assessed as part of a planning application. However, if this is increased, it is suggested that this is on the proviso that buildings cannot benefit from a change of use as well as permitted development tolerances within Part 6. Very often developers will submit a prior approval for a change of use saying the building is no longer needed for a further application to be received shortly after for a new build. This is a significant conflict in the planning system.

Q.49 Is the trigger as to whether prior approval is for required set at the right level (150 square metres)?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

If not, please say what it should be, and give your reasons.

Q.50 Do you think that any of the proposed changes in relation to the Class R permitted development right could impact on: a) businesses b) local planning authorities c) communities?

- a) Yes
- b) No
- c) Don't know

Please give your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination.

- a) reduced supply of buildings for uses other than dwellings. This can affect new business that might want to start up*
- b) Local planning authorities will be affected by the reduced planning fee income compared to a full planning application. Whilst prior approvals are meant to be 'light touch', they can often be far more complex.*
- c) Impact on local communities due to additional pressure on [public] services without appropriate funding (through e.g. legal agreements /Community Infrastructure Levy) being received.*

Q.51 Do you agree that the ground area limit of new buildings or extensions erected under the right be increased from 1,000 to 1,500 square metres?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

The current size of the building is extensive and provides no limits in itself of the height of the buildings. This size of building is generally of an appropriate scale to facilitate farming activities and the number of instances a building of this size is required is rare. When a larger building is needed, farms are able to justify this and planning permission will be granted. There are many developers who look to gain benefit from permitted development rights when there is no 'need' for the building. Requiring applicants to demonstrate a need for the building might assist in overcoming this although if they can, then this could be done through a planning application.

Q.52 Do you agree that we remove the flexibility for extensions and the erection of new buildings where there is a designated scheduled monument?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

There seems little point in having such a designation when permitted development rights can result in harm to them.

Q.53 Do you agree that the right be amended to allow extensions of up to 25% above the original building cubic content?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

There is no evidence at any of the local planning authorities worked at, five, all of which are in rural areas to demonstrate a need for the increase. This size holding is small and more often than not have been separated off to provide hobby farming. This generally only supports the owner and not the wider rural economy.

Q.54 Do you agree that the right be amended to allow the ground area of any building extended to reach 1,250 square metres?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

There is no evidence at any of the local planning authorities worked at, five, all of which are in rural areas to demonstrate a need for the increase. This size holding is small and more often than not have been separated off to provide hobby farming. This generally only supports the owner and not the wider rural economy.

Q.55 Do you agree that we remove the flexibility for extensions where there is a designated scheduled monument?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

There seems little point in having such a designation when permitted development rights can result in harm to them.

Q.56 Do you think that any of the proposed changes in relation to the Part 6 permitted development rights could impact on: a) businesses b) local planning authorities c) communities?

- a) Yes
- b) No
- c) Don't know

Please give your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination.

- a) potentially a small benefit for farmers by removing the need to submit a full planning application although the number of instances buildings of the proposed scale are submitted is rare*
- b) Local planning authorities will be affected by the reduced planning fee income compared to a full planning application. Whilst prior approvals are meant to be 'light touch', they can often be far more complex.*
- c) Less impact on communities where prior approval is determined to be required as they can then make their views known. However, as they have no say whilst the assessment is being undertaken, it can result in complaints to local planning authorities.*

Q.57 Do you agree that the maximum floorspace limit for the extension or alteration to a Commercial, Business and Service establishment on non-protected land is increased to either 200 square metres or a 100% increase over the original building, whichever is lesser?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

There is no prior approval as part of this permitted development right. Whilst there are exclusions to what is permitted e.g. adjoins premises in use within the C Class (i.e. residential uses) currently which are expected would remain, harm arising from such developments can have impact beyond the immediate boundary e.g. noise travels. Dependent upon topography noise impacts can 'jump' the most immediate premise and detrimentally impact

those further afield. Increasing the threshold of floorspace is likely to result in developments that have a greater (detrimental impact) with no controls by the local planning authority. Other aspects such as amenity and parking provision cannot be considered.

Q.58 Do you agree that the maximum floorspace of a new industrial and/or warehousing building on non-protected land permitted under the Part 7 Class H permitted development right be amended to 400 square metres?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

No assessment of impacts is required, and such development could result in significant harm to adjoining occupiers. Whilst an existing building might be acceptable, this may have gained lawful use either through the passage of time or via a planning application. To have such a permitted development right without consideration to the need for prior approval for such matters (noise, transport, amenity, character of an area etc.) will result in harm to areas.

Q.59 Do you agree that the maximum floorspace of a new industrial and/or warehousing extension on non-protected land be increased to either 1,500 square metres or a 75% increase over the original building, whichever is lesser.

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

No assessment of impacts is required, and such development could result in significant harm to adjoining occupiers. Whilst an existing building might be acceptable, this may have gained lawful use either through the passage of time or via a planning application. To have such a permitted development right without consideration to the need for prior approval for such matters (noise, transport, amenity, parking provision etc.) will result in harm to areas.

Q.60 Do you think that any of the proposed changes in relation to the Part 7 permitted development rights could impact on: a) businesses b) local planning authorities c) communities?

- a) Yes
- b) No
- c) Don't know

Please give your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination.

a) *Benefit as it would prevent the need for a full planning application.*

- d) *Local planning authorities will be affected by the reduced planning fee income compared to a full planning application. Whilst prior approvals are meant to be 'light touch', they can often be far more complex.*
- e) *Impact on local communities by having limited say on what could change the character of an area. However, as a positive, it could create additional jobs.*

Q.61 Do you agree that the permitted development right for the temporary use of land should be amended so that markets can operate either:

- a) 28 days per calendar year (in line with other uses permitted under the right)
- b) A different number of days per calendar year
- c) No change
- d) Don't know

Please give your reasons. If you have chosen a different number of days per calendar year, please specify what number of days the right should provide for?

For consistency, 28 days is agreed with. However, it is suggested that the permitted development right if it is amended is clear that it does not apply to car boot sales which can have a greater (negative) impact.

Q.62 Do you think that any of the proposed changes in relation to the Part 4 permitted development rights could impact on: a) businesses b) local planning authorities c) communities?

- a) Yes
- b) No
- c) Don't know

Please give your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination.

- a) *Benefit as it would prevent the need for a full planning application and should be a speedier service, thus enabling economic benefits to be realised quickly.*
- b) *Local planning authorities will be affected by the reduced planning fee income compared to a full planning application. Whilst prior approvals are meant to be 'light touch', they can often be far more complex. Could result in greater workloads on planning enforcement teams in order to check / monitor compliance.*
- c) *Impact on local communities by having limited say on what could change the character of an area. However, as a positive, it could create additional jobs.*

Q.63 Do you agree that the existing Class M of Part 7 permitted development right is amended to additionally apply to open prisons?

- a) Yes
- b) No
- c) Don't know

Please give your reasons

No response – not applicable to NSDC.

Q.64 Do you agree that there should be a prior notification process where the development under the Class M of Part 7 right is being used for open prisons?

- a) Yes
- b) No
- c) Don't know

Please give your reasons

No response – not applicable to NSDC.

Q.65 Do you think that the proposed changes to the Class M of Part 7 permitted development right in relation to open prisons could impact on: a) businesses b) local planning authorities c) communities?

- a) Yes
- b) No
- c) Don't know

Please give your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination.

No response – not applicable to NSDC.

Q.66 Do you think that the changes proposed in this consultation could give rise to any impacts on people who share a protected characteristic? (Age; Disability; Gender Reassignment; Pregnancy and Maternity; Race; Religion or Belief; Sex; and Sexual Orientation).

- a) Yes
- b) No
- c) Don't know

Please give your reasons

Not explicitly.

Q.67 What guidance, policy, or legislative changes could help to provide a more supportive framework for planning authorities to determine planning applications within?

A statutory definition of what constitutes a 'material change of use' would provide greater clarity in relation to change of land use for nature-based solutions.

Q.68 What new permitted development rights, or amendments to existing permitted development rights, would streamline and simplify the process? If referring to an existing permitted development right, please be as specific as possible.

Q.69 Would a specific and focused permitted development right expedite or resolve a specific delivery challenge for nutrient mitigation schemes?

Q.70 Please provide specific case studies (including planning reference numbers where available) which can help us understand what issues farmers and land managers are facing in relation to nature-based solutions.

Q.71 Would these issues be resolved by amending planning practice guidance or permitted development rights, or any other solutions?

Q.72 Are there any success stories that we can learn from on individual cases, or in certain local planning authorities?

Q.73 Would you propose different solutions for different sized agricultural units?

Q.74 Do you foresee any unintended negative consequences that may result from more nature-based solutions coming forward (e.g., impacts to other species, flood risk, wildfire risk, risk to public safety, releasing contaminants from contaminated land or hydrology etc.)? How could these be avoided?

Permitted development should not extend to land that has been designated as a Local Site (i.e., afforded a non-statutory nature conservation designation) and the same approach should be taken within the GPDO as is taken with Sites of Special Scientific Interest (SSSI).

The intention of the SSSI system was to afford protection to a representative sample of species and habitats across the UK. Consequently, habitats and species of equal importance to those currently captured within SSSIs exist outside of this statutory designation, and these are mostly captured within the next tier of nature conservation designation, non-statutory Local Sites.

Some forms of permitted development (e.g., markets, motorcar and motorcycle racing, recreational campsite, etc.) have the potential to harm priority habitats and important (but not legally protected) species, impacts that would fall outside of the other checks that would be required (e.g., Habitats Regulations Assessment, species licencing etc.). Similarly, nature-based solutions can have a negative impact, for example digging a pond in an area of existing important wetland habitat. The presence of a non-statutory Local Site designation greatly increases the risk of priority habitats and species being present, and some will be of SSSI quality; consequently, a mechanism should be in place to ensure that appropriate checks are made before permitted development proceeds in a non-statutory designated site, and this could be achieved within the GPDO by extending all excluded development where this is on a SSSI to where it is on a Local Site.

Q.75 What guidance, policy, or legislative changes could help to provide a more supportive framework for planning authorities to determine planning applications within?

Q.76 What new permitted development rights, or amendments to existing permitted development rights, would streamline and simplify the process? If referring to an existing permitted development right, please be as specific as possible.

Q.77 Please provide specific case studies (including planning reference numbers where available) which can help us understand what issues farmers and land managers are facing in relation to slurry stores or lagoons and small-scale reservoirs.

Q.78 Would these issues be resolved by amending planning practice guidance or permitted development rights, or any other solutions?

Q.79 Are there any success stories that we can learn from on individual cases, or in certain local planning authorities?

Q.80 Would you propose different solutions for different sized agricultural units?

Q.81 Do you foresee any unintended negative consequences that may result from more farm efficiency projects coming forward (e.g., impacts on nutrient pollution, protected sites or hydrology)? How can these be mitigated?

Q.82 What guidance, policy, or legislative changes could help to provide a more supportive framework for planning authorities to determine planning applications within?

Q.83 What new permitted development rights, or amendments to existing permitted development rights, would streamline and simplify the process? If referring to an existing permitted development right, please be as specific as possible.

Q.84 Are there any other diversification projects which have not been covered in this call for evidence or the wider consultation, that you wish to provide evidence for? If so, please provide specific case studies (including planning reference numbers where available) which can help us understand what issues farmers and land managers are facing.

Q.85 Would these issues be resolved by amending existing permitted development rights, or any other solutions?

Q.86 Are there any success stories that we can learn from on individual cases, or in certain local planning authorities?

Q.87 Would you propose different solutions for different sized agricultural units?

Q.88 Do you foresee any unintended negative consequences that may result from more farm diversification projects coming forward? How can these be mitigated?

Not easy to answer as this would depend on the type of farm diversification project.



Report to Planning Committee 7 September 2023

Director Lead: Matt Lamb, Planning & Growth

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

| Report Summary | |
|--------------------------|--|
| Report Title | Stronger performance of local planning authorities supported through an increase in planning fees: government response |
| Purpose of Report | To update Members on the outcome of the government’s consultation on the proposal to increase planning fees and to improve capacity, capability and performance within local planning authorities. |
| Recommendations | (a) To note the report (b) Be advised as (if) legislation is amended or further outcome published, this will be reported to Planning Committee. |

1.0 Background

- 1.1 On 28 February 2023, the Department for Levelling Up, Housing and Communities commenced a consultation on increasing planning fees and performance. The consultation closed on 25th April 2023.
- 1.2 A paper was presented to the Portfolio Holder for Economic Development towards the latter part of April 2023 setting out the Council’s response to this consultation. The Government has issued, on the 25th July 2023, a response to this consultation [Increasing planning fees and performance: technical consultation - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/increasing-planning-fees-and-performance-technical-consultation) with the response attached at Appendix 1. The Government is looking to make a number of changes as set out below, in addition to indicating further changes that might result in the future.

2.0 Proposal

- 2.1 As reported within Appendix 1, the government identifies that *“A well-functioning planning service is an essential element of the government’s commitment to deliver housing and economic growth and to level up the country. Ensuring that local planning authorities have the resources they need to support faster and better decision making is crucial to achieving these objectives and our ambitions for planning reform.”*
- 2.2 495 responses were received to the consultation with just under half of these by local planning authorities. As a result of the responses, the Government is looking to increase

planning fees by 35% for major applications and 25% for non-majors. Draft regulations ([The Town and Country Planning \(Fees for Applications, Deemed Applications, Requests and Site Visits\) \(England\) \(Amendment\) Regulations 2023](#)) were laid on 20 July. These regulations also set out the fee increase (if brought into force) will take effect, in the main 28 days after being made. They also set out an annual increase, on or after 1st April 2025 each year, of the lower of either consumer price index and 10% rounded up or down to the nearest £1. This suggested annual increase results from various parties reporting that application fees do not cover the cost of processing an application and local planning authorities are therefore unable to provide the resources needed to deliver an effective and efficient service.

- 2.3 In addition, one of the other major changes is to potentially remove the ability for applicants to submit 'free-go's'. Currently an applicant is able to resubmit an application without a fee under the following circumstances (a) they have not benefitted from a free go on the application site in the past; (b) the resubmission is within 12 months of the decision (which includes planning appeals); and (c) the resubmission is of a similar character to the previous application. A number of applicants use the ability of a free-go as a way to circumvent the need to apply for pre-application advice as, if the application is refused, they have in effect secured this advice also following wider consultation and notification. Removing this exemption could have implications in terms of income which is a significant benefit, it may also result in a greater number of pre-application enquiries for which a charge is levied, but could also trigger a greater number of planning appeals.
- 2.4 The consultation had looked to the possibility of ring-fencing planning income to the planning service, however the Government is not looking to bring this into force. Notwithstanding this, the Council does allocate application (and other) income to the planning service.
- 2.5 The possibly more substantive changes in relation to performance, as will be noted, are being considered in greater depth by the government but, depending upon the outcome, could result in some significant changes to service delivery. These will be reported to Planning Committee as more information becomes known.

3.0 Implications

- 3.1 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

[Increasing planning fees and performance: technical consultation](#)

Appendix 1

Introduction

1. A well-functioning planning service is an essential element of the government's commitment to deliver housing and economic growth and to level up the country. Ensuring that local planning authorities have the resources they need to support faster and better decision making is crucial to achieving these objectives and our ambitions for planning reform.

2. The Department for Levelling Up, Housing and Communities published a consultation on 28 February 2023, which ran for 8 weeks, closing on 25 April 2023. The consultation sought views on proposals to:

- increase planning fees
- build capacity and capability in local planning authorities
- introduce a more robust performance regime

3. We are grateful for the detailed and thoughtful responses received to the consultation and have carefully considered them. These were generally very supportive of the measures to increase planning fees, recognising the importance of securing additional income for local planning authorities. We have taken this national fee increase forward through draft regulations laid on 20 July.

4. We also received a wide range of feedback on how the government could support greater capacity and capability in local planning authorities and on our proposals for a new planning performance framework. This feedback will be drawn upon as we continue to develop these proposals.

Overview

5. There were 495 responses to the consultation. Stronger performance of local planning authorities supported through an increase in planning fees. Not all respondents answered all the questions. Some respondents did not answer a question but did provide comments on it. We received responses from a wide range of interested parties from across the public and private sectors, as well as from members of the public. We are grateful to everyone who took the time to respond.

6. The table below provides a breakdown of response to the consultation by type of respondents.

| Type of organisation | Number of responses |
|--------------------------|---------------------|
| Local planning authority | 226 |
| Planning professional | 84 |
| Developer / landowner | 68 |

| Type of organisation | Number of responses |
|---|---------------------|
| Business (other than developer or landowner) | 20 |
| Professional association / industry representative body | 33 |
| Parish or town council | 5 |
| Community / residents organisation | 0 |
| Voluntary / charitable sector | 8 |
| Member of the public | 28 |
| Other | 23 |
| Total | 495 |

7. We have carefully reviewed and analysed the responses. This document provides a summary of this analysis, question by question, and sets out how the government intends to take each proposal forward in light of the consultation responses.

Planning fees

8. In this section we asked questions about our proposals to:

- increase planning fees by 35% for major applications and 25% for all other applications
- additional fees for bespoke or ‘fast track’ services
- make an annual inflation-related adjustment to planning fees
- ringfence additional fees income
- double fees for retrospective applications
- remove the ‘free-go’ for repeat applications
- introduce a prior approval fee for the permitted development right allowing the Crown to develop sites within the perimeter of a closed defence site

Question 1. Do you agree that fees for planning applications should be increased by 35% for major applications?

9. A total of 453 respondents answered this question. There was strong support for this proposal: 77% agreed with the proposed 35% increase in fees for major applications, 20% disagreed and 3% did not know. Support was higher among local authorities, at 92%, compared to other groups, but even among developers and businesses, there was 62%

support. Some respondents who did not agree wanted a higher increase in fees. Others did not agree with the 35% increase but would accept a smaller increase.

10. Other views that were frequently expressed in the responses included: the need to ringfence the increase; increased fees must lead to the improved performance of local planning authorities; fees should be set at a level to fully cover the cost of processing applications; each individual local planning authority should set their own fees; and planning decisions were regularly held up awaiting a response from statutory consultees.

Question 2. Do you agree that the fee for householder planning applications should be increased by 25%?

11. A total of 429 respondents answered this question. There was considerable support for this proposal: 65% said they agreed with the proposal to increase fees for householder planning applications by 25%, 29% disagreed and 6% did not know.

12. Respondents also said: the increase in householder fees would provide a boost to local planning authority income; householder fees should be increased by more than 25%; local planning authority performance would have to improve; there would still be a shortfall between the fee income and cost of processing the applications; some householder applications could still be complex and burdensome.

Question 3. Do you agree that fees for all other planning applications should be increased by 25%?

13. A total of 432 respondents answered this question. There was considerable support for fees for non-major applications to be increased by 25%: 63% said they agreed with this proposal, 31% disagreed and 6% did not know. Some respondents wanted a greater increase than 25%.

14. Other comments made by respondents included: recognition that local planning authorities were underfunded so an increase in fees was needed; the additional income should result in better performance by local planning authorities; local authorities should be able to set their own fees; and certain applicants, such as community or non-profit organisations, or types of development, such as renewable energy, should benefit from reduced fees.

Government response to Questions 1 to 3

15. We welcome the considerable support for proposals to increase fees by 35% for major applications and 25% for all other applications including householder applications, which we have taken forward through draft regulations laid on 20 July. The increased fees will provide additional income for local planning authorities. We recognise that the fee for householder applications will remain below the cost of determining these applications but we consider that this represents a proportionate approach. It is also acknowledged that householders contribute to the local planning authority planning services through the payment of council tax. Local planning authorities will benefit from additional income and householders will not be disproportionately impacted by a high fee increase. Following an increase in planning fees, it is expected that the performance of local planning authorities will improve. This will be monitored through a new planning performance framework.

Question 4. Are there any other application types or planning services which are not currently charged for but should require a fee or for which the current fee level or structure is inadequate?

16. 354 respondents provided comments on this question, suggesting new fees that could be charged or for which the current fee was inadequate. Among those who commented, there was support for introducing a fee for listed buildings consent, ranging from a nominal fee, such as £50, to the fee for a full planning application. However, it was noted that a fee could dissuade applications for consent. Similarly, with applications for works on protected trees, there was support for a fee, with some suggesting a nominal fee of £50 so as not to disincentivise applicants.

17. Some respondents considered that fees for s73 applications were too low because they could involve almost as much work as a full planning application. It was suggested that the fee could be charged as a proportion of the original planning application, perhaps as much as 75%, or that there could be a scale of fees. Some respondents also considered that the fee for applications to discharge planning conditions were too low, with suggestions that there could be a fee per condition or related to the number of conditions in an application.

18. There were comments on fees for prior approval and prior notification applications, which were considered inadequate and did not reflect the amount of work required by the local planning authority. Some suggested the fee should be the same as that for an equivalent full planning application, because the outcome was the same and the timescales shorter.

19. Other respondents suggested that: there needed to be a fee for EIA screening and scoping opinions, which were resource intensive; there should be a fee for requests to vary or remove s106 obligations, which were time consuming and often needed technical expertise; pre-application fees and the service provided varied greatly between authorities, with some suggesting that pre-application fees should be standardised or set nationally; and, appeal fees should be introduced, which could reduce the number of speculative appeals and associated resource demands on local planning authorities.

Government response to Question 4

20. We welcome respondents' contributions to this question. We will use this information to inform our work on a fees review, which we intend to carry out within three years. Respondents may also wish to note that there are measures in the Levelling Up and Regeneration Bill for minor variations to permissions.

Question 5. Please can you provide examples of bespoke or 'fast track' services which have worked well, or you think could be introduced for an additional fee? Are there any schemes that have been particularly effective?

21. 372 respondents commented on this question. A number of respondents cited good examples from a range of named local planning authorities of the fast-track services they provide. There was a mixed response from respondents on the success of using Planning Performance Agreements, with those in favour commenting on their effectiveness in speeding up decisions and those against highlighting the lack of local planning authority resources to make decisions quickly.

22. Some respondents considered that pre-application services and Planning Performance Agreements can be effective and their use by local planning authorities should be encouraged and given greater weight. A significant number of respondents from across the different groups said that fast-track services should not be allowed as they are unaffordable for most members of the public and they risk creating a two-tier system.

23. Respondents from across all groups highlighted the lack of resources in many local planning authorities which prevented the provision of fast-track services and they suggested better resourcing of local planning authorities to enable this.

Government response to Question 5

24. We are grateful for the views provided to this question. Local planning authorities already have the power to be able to charge additional fees for discretionary or bespoke planning services. As we introduce measures to support additional resourcing and increased capacity and capability, local planning authorities are encouraged to explore opportunities to provide additional services to support more timely decisions. We will continue to review the effectiveness of such services and the ways in which best practice can be more widely shared.

Question 6. Do you agree with the proposal for all planning fees to be adjusted annually in line with inflation?

25. 453 respondents answered this question. There was strong support for this proposal to adjust planning fees in line with inflation, with 83% agreeing, 12% disagreed and 5% did not know. There was overwhelming support among local planning authorities (96%) and strong support from developers and landowners (76%), and 71% support from other businesses.

26. Comments on this question included: the planning service must improve as a result of the fee increase; there should be a cap on any annual increase; fees should not be reduced if there is deflation; fee increase could be linked to performance; add an additional % to the annual inflation related increase to build capacity into the planning system; other suggestions to using CPI; and, increase fees less frequently than annually.

Government response to Question 6

27. We welcome the strong support for this proposal which we have taken forward through draft regulations laid on 20 July. We intend to increase fees annually, on the 1 April each year, from 1 April 2025, using the Consumer Prices Index (CPI) from the previous September. Any annual fee increase will be capped at 10%. In the event that there is deflation, the fee will not be adjusted. This measure will ensure that the fee levels retain their value and will give local planning authorities greater financial sustainability.

Question 7. Do you consider that the additional income arising from the proposed fee increase should be ringfenced for spending within the local authority planning department?

28. A total of 457 respondents answered this question. There was strong support for this proposal to ringfence the additional income generated by the increase in fees. 88% agreed with the proposal, 8% did not and 4% didn't know.

29. Respondents considered that ringfencing was needed to justify the increase in fees and to ensure the additional resources directly lead to improvements in performance. The extra income could be used to expand planning teams (by providing higher salaries to attract planners from private sector, training and development of planners) and improve IT systems. Many suggested that all fee income should be ringfenced for planning. On the implementation of ringfencing, others commented that resources were needed across other areas of the local authority which provided input into planning decisions, including highways, environmental health, ecology, design, drainage and heritage, so any ringfencing conditions needed to be flexible enough to allow these to be funded too.

30. Those who did not agree were concerned that ringfencing removed flexibility over spending decisions from local authorities. Some were concerned that ringfencing could be difficult to implement and monitor. Some considered that local planning authorities may not end up with more resources if the projected additional fee increase was netted off the baseline budget.

Government response to Question 7

31. We welcome the strong support for this proposal. We want to ensure that the fee increase results in additional funds being available to local authority planning departments, but we will not take ringfencing forward through legislation as this would impose a restriction on local authorities when they are best placed to make decisions about funding local services, including planning departments. However, we would expect local planning authorities to protect at least the income from the planning fee increase for direct investment in planning services.

Question 8. Do you agree that the fee for retrospective applications should be doubled, i.e. increased by 100%, for all applications except for householder applications?

32. A total of 369 respondents answered this question. 60% agreed that the fee for retrospective applications should be doubled, except for householder applications, and 36% disagreed, with 4% not knowing. There was more support from local authorities (71%) compared to businesses, of whom 56% opposed it. 401 respondents commented on the question.

33. There was strong support across all groups for householders to be included in the doubling of retrospective fees. Respondents suggested that the doubling of the fees would act as a deterrent to breaches of planning and the increased income could be used for enforcement. However, with the proposed increase in planning fees, it was considered that there could be a rise in unauthorised development, which would put pressure on enforcement teams. There was concern over penalising applicants who had made a genuine mistake.

Government response to Question 8

34. We acknowledge the considerable support for this proposal. Respondents raised various issues, such as whether retrospective fees for householder applications should also be doubled and whether doubling retrospective fees would result in an increase in unauthorised development, which require further consideration. In order to ensure that the introduction of the national fee increase is not delayed, we will continue to develop proposals to double fees for retrospective applications for delivery through regulations at the next available opportunity.

Question 9. Do you consider that the ability for a 'free-go' for repeat applications should be either:

- (a) removed**
- (b) reduced for re-applications within 12 months**
- (c) retained**
- (d) none of the above**
- (e) don't know**

35. A total of 418 respondents answered this question. 38% agreed with the removal of the free-go for repeat applications, 18% considered that it should be subject to a reduced fee, 34% thought it should be retained, 7% disagreed with all these options and 3% did not know.

36. There was a wide mix of views on this proposal. A greater proportion of local authorities supported the removal of the free-go for repeat applications than other groups, considering this as a way to encourage improved use of the pre-application advice and submission of better quality applications. Charging a fee would also reflect the work that goes into the determination of repeat applications. Those who disagreed with the proposal considered that the free-go provided a route for negotiation with the local authority to reach a positive outcome. Respondents highlighted its benefit in facilitating withdrawal and resubmission of applications without another fee to allow issues to be addressed, encouraging continued negotiation and reducing refusals. There was concern that the removal of the free-go could lead to more appeals, for which there is no fee, with a consequential unfunded resource pressure on local authorities.

37. A larger proportion of developers and businesses supported the retention of the free-go compared to other groups, particularly local planning authorities. It was considered that it provided a mechanism for continued negotiations between the local authority and applicants, allowing proposals to be withdrawn, amended and resubmitted without having to pay an additional fee, which is particularly valuable where local authorities are struggling to provide timely pre-application advice due to resourcing issues.

Government response to Question 9

38. We recognise the range of views on the use of the free-go for repeat planning applications. Whilst it is recognised that a free-go does enable applicants and local planning authorities to facilitate amendments and improvements to schemes, it is considered that this is best undertaken at the pre-application stage to ensure that high-quality schemes are submitted first time round. Removal of the free-go for repeat applications recognises the resource impacts that these applications have on local planning authorities.

39. We consider that this approach complements our measure to tighten the Planning Guarantee for non-major applications (Question 14), which together should lead to faster local decision-taking. If we had only removed the free-go without tightening the Planning Guarantee for non-major applications, applicants may be more likely to submit an appeal to the Secretary of State, with decision-making moving away from the local planning authority. We have therefore taken forward measures to remove the free-go through draft regulations laid on 20 July.

Question 10. Do you agree that a fee of £96 (or £120 under the proposed fee increase) should be charged for any prior approval application for development by the Crown on a closed defence site?

40. A total of 364 respondents answered this question. 52% agreed that a fee should be charged for prior approval applications for development by the Crown on a closed defence site, 10% disagreed and 38% did not know. Many who supported this proposal considered it was fair that a fee was charged to bring it in line with similar fees for other prior approval applications. Others considered that the fee should be higher to better reflect the work involved for the local planning authority.

Government response to Question 10

41. We have considered the feedback raised to this question and consider that it is fair to introduce a fee for prior approval applications relating to development by the Crown on a closed defence site (under Class TA of Part 19 of the General Permitted Development Order 2015), to reflect the work required by local authorities in determining applications. We have taken forward this proposal forward as consulted on through draft regulations which were laid on 20 July.

Local planning authority capacity and capability

42. In this section we asked questions about capacity and capability within local authorities including challenges in recruitment and retention of staff, and how these can be addressed.

Question 11. What do you consider to be the greatest skills and expertise gaps within local planning authorities?

43. 445 respondents provided comments on this question. A range of skills and expertise gaps were highlighted across a number of policy areas and specialisms which included: ecology and biodiversity, particularly related to Biodiversity Net Gain; design and heritage; urban design; landscape; digital skills; flooding; sustainability and viability. Some responses highlighted expertise gaps in services that support planning but are outside of the local planning authority, either within the wider local authority or in statutory consultees. Other responses highlighted gaps in broader skills areas such as project management, commercial skills, negotiation and communication skills.

44. Responses also highlighted gaps in experienced planners at senior and principal level more generally and difficulties in recruiting and retaining planners at this level, including those with technical knowledge. Some responses suggested this was due to competition with the private sector. Concern was also raised in some responses around challenges in recruiting enforcement officers.

Question 12. In addition to increasing planning fees, in what other ways could the government support greater capacity and capability within local planning departments and pathways into the profession? Please provide examples of existing good practice or initiatives if possible.

45. 420 respondents provided comments on this question. Responses highlighted the need for positive messages around the benefits that planning provides in order to promote the planning profession and raise its profile. Responses also highlighted the importance and success of apprenticeships and suggested greater support and funding for them. Some responses also highlighted the importance of career paths and included examples of 'grow your own' schemes. There were also responses which included comments around providing more grant funding to local authorities to be used for purposes such as addressing resourcing or training needs.

46. Responses also raised points around training more generally, including the need for greater funding and greater choice. There were also responses that included comments around salaries in local planning authorities and the need to ensure these are competitive. Some responses also raised the importance of improvements in technology, software and digital tools in the planning system. Other responses highlighted the need to simplify wider planning policy processes and requirements. There were also responses that highlighted the importance of doing more to promote planning in schools and colleges.

Question 13. How do you suggest we encourage people from under-represented groups, including women and ethnic minority groups, to become planning professionals?

47. 359 respondents provided comments on this question. A range of approaches to encouraging people from under-represented groups, including women and ethnic minority groups, to become planning professionals were reflected in respondents' comments. Responses highlighted the need for greater promotion of the importance and value of planning to help build awareness and understanding of the planning profession. Responses particularly highlighted the need to do this in schools and engage with people early in their education, including doing school visits and giving presentations.

48. Responses also raised the need for additional routes into the profession, including more apprenticeships aimed at under-represented groups and funding of planning courses. Some responses highlighted the need for joint working between national government, local authorities and other organisations to help promote the value and benefits of planning. Some responses suggested the need for a campaign around these themes. Consideration of recruitment processes and where jobs are advertised were also raised in some responses.

Government response to Questions 11 to 13

49. We welcome respondents' contributions to these questions on skills and capacity in local planning authorities, including suggestions for ways that we can support capacity and capability in local planning authorities and encourage people from under-represented groups to become planning professionals. We recognise the challenges that local planning authorities are facing and have developed a wide programme of support, working with partners across the planning sector and local government, to ensure that local planning authorities have the skills and capacity they need, both now and in the future.

50. The capacity and capability programme, and recent funding announcements, emphasise the importance that we place on supporting capacity and capability in local planning authorities. To date we have announced funding to Public Practice, a social enterprise in the built environment sector, as well as funding to the RTPI Future Planners Bursary Scheme and the Local Government Association (LGA) to provide a new pathways in to planning programme. We have also announced the Planning Skills Delivery Fund, which will help planning authorities deal with the backlog of planning applications as well as provide support with developing skills and expertise ahead of the forthcoming changes to the planning system. We have also launched for the first time, a comprehensive survey on skills and resourcing in local planning authorities in England, the results of which will be used to help further target our support.

51. We will reflect on respondents' valuable contributions to these questions as we continue to develop our capacity and capability programme.

Local planning authority performance

52. In this section we asked questions about local planning authority performance, including reducing the Planning Guarantee for non-major applications and improving the timeliness and quality of the local authority planning service by monitoring more performance measures.

Question 14. Do you agree that the Planning Guarantee should better mirror the statutory determination period for a planning application and be set at 16 weeks for non-major applications and retained at 26 weeks for major applications?

53. A total of 402 respondents answered this question. 42% agreed with the proposal to reduce the Planning Guarantee for non-major applications from 26 weeks to 16 weeks, 44% disagreed and 14% did not know.

54. Respondents' comments on this question reflected the mixed views held. Some considered that decision-making needed to be speeded up and that mirroring statutory determination times was sensible. Others said that minor applications can also be complicated and felt that the statutory determination periods did not reflect the complexities of today's planning system. Respondents widely recognised the current resourcing challenges within local authorities and considered this would not be helped by reducing the Planning Guarantee period.

55. There were suggestions that some delays were outside of a local planning authority's control and that reducing the Planning Guarantee would decrease the opportunity for negotiation, which could potentially result in an increase in poor quality decisions and an increase in refusals. Reducing the Planning Guarantee for non-major applications would remove much needed funding from local authorities if more refunds were requested. Some questioned the effectiveness of the Planning Guarantee in speeding up decision-making if extension of time agreements were frequently used.

Government response to Question 14

56. We recognise that there were mixed views on the proposal to reduce the Planning Guarantee for non-major applications from 26 weeks to 16 weeks. The Planning Guarantee for major applications is around double the statutory determination period (usually 13 weeks). We want a similar relationship for non-major applications, so we intend to reduce the Planning Guarantee for non-majors to 16 weeks, which is twice as long as the usual statutory determination period of 8 weeks. This measure has been taken forward through draft regulations laid on 20 July.

57. We recognise that the tightening of the Planning Guarantee for non-major applications may be initially challenging for some local planning authorities. However, we consider that alongside the removal of the free-go for repeat applications (Question 9), which should drive the use of pre-application services and see the improved quality of planning applications first time round, local planning authorities should be able to make decisions on non-major applications within 16 weeks. Local planning authorities will still have the option of using extensions of time, should those be necessary, but these should only be used in exceptional circumstances.

Question 15. Do you agree that the performance of local planning authorities for speed of decision-making should be assessed on the percentage of applications that are determined within the statutory determination period i.e. excluding Extension of Times and Planning Performance Agreements?

58. A total of 425 respondents answered this question. Over a third were supportive of the proposal (36%), 57% disagreed and 7% did not know. A range of views were reflected in respondents' comments. Some felt that assessing speed of decision-making against statutory timeframes would provide a more accurate picture of service delivery and could increase efficiency. Those against made the point that speed does not mean quality, and that the proposal would place the focus on meeting deadlines rather than proactive collaboration to deliver positive outcomes through mutually agreed time extensions. Respondents also highlighted that Extension of Time agreements can be required for reasons outside of the

local planning authority's control. The role of Planning Performance Agreements as important project management tools for more complex schemes was highlighted.

59. Concern was raised that removing these mechanisms from performance data would lead to quick refusals to meet deadlines, where negotiated solutions could have been found, resulting in more resubmissions and appeals. Some respondents felt that statutory timeframes needed updating to reflect the complexities of the modern planning system. Some felt that the usage of these tools required monitoring; with suggestions to distinguish between Extension of Time agreements allowing for constructive dialogue between applicants and officers, from those used to mask underperformance; and for more transparency on adherence to pre-agreed timescales where Planning Performance Agreements are involved.

Question 16. Do you agree that performance should be assessed separately for:

- a. Major applications**
- b. Non-Major applications (excluding householder applications)**
- c. Householder applications**
- d. Discharge of conditions**
- e. County matters applications**

60. There was strong support for assessing performance separately for major applications (87%), non-major applications (excluding householders) (81%) and Householder applications (80%), and considerable support for assessing performance separately for Discharge of Condition applications (69%) and County Matters applications (69%).

61. Those in support of assessing performance across a wider range of application categories as proposed felt that this was sensible, acknowledging that different application types have different complexities and issues. Respondents highlighted the importance of transparency in planning performance, and that the focusing on different application categories could enable areas of strength and underperformance to be more easily identified and addressed. However, some felt that the proposal would place the emphasis on the speed of decision-making, rather than outcomes, which could lead to target-driven refusals. Current resourcing issues were raised, and there were concerns about additional reporting burdens this would place on local planning authorities.

62. Comments were also received on the achievability of current statutory determination periods, particularly in relation to more complex applications, and some respondents cited upcoming changes that could add to demand, such as requirements for Biodiversity Net Gain. Some respondents felt that increasing the categories against which performance would be assessed would add to complexity within the system, however others thought that the proposed categories remained broad and should be broken down further. A range of views on the benefits and challenges of assessing performance on Discharge of Condition applications was received.

Question 17. Do you consider that any of the proposed quantitative metrics should not be included?

63. A total of 370 respondents answered this question. Over a third of respondents (39%) answered yes, that they considered quantitative metrics had been proposed that should not have been included, 33% answered no, and 29% did not know. A range of comments against the inclusion of the proposed metrics was received, which included:

A. Average Speed metrics: outliers can distort performance data, particularly where sample sizes are small, and that this wouldn't account for delays that are outside of local planning authorities' control.

B. Quality of Decision-making metrics: does not measure the quality of all decisions, planning decisions can be finely balanced, data can be distorted by small volumes of appeals.

C. Extension of Times metrics: their usage should not be discouraged as they facilitate positive collaboration and high-quality outcomes and assessing performance against this could lead to more refusals.

D. Backlog metrics: validation delays can be often caused by the applicant, and monitoring cases beyond the Planning Guarantee should not include those with mutual performance agreement in place and that it could lead to more refusals.

E. Planning Enforcement metrics: enforcement varies significantly across local planning authorities and that an authority's approach to enforcement is better guided by their local enforcement plan.

F. Planning Committee metrics: concern was raised that they could be seen as undermining local democracy and could also result in reporting difficulties.

64. Respondents in support of a greater range of metrics felt that this would provide a more accurate picture of planning performance, whilst others felt that there were too many metrics proposed, disproportionate to the proposed fee increases. Some respondents raised concern about resourcing burdens for reporting and monitoring, with need to consider capabilities of IT systems, and some felt that a new performance framework should be delayed until the benefit of fee increases had been felt.

Question 18. Are there any quantitative metrics that have not been included that should be?

65. A total of 378 respondents answered this question. 29% answered yes, they thought other quantitative metrics should be included, 39% said no, and 33% did not know. A wide range of suggestions was received for additional performance metrics, which included: monitoring the performance of consultees in relation to the speed and quality of consultation requests; the speed and quality of pre-application advice; average caseloads and workforce information; delays at the validation stage; timeframes for processing legal agreements, and more detailed appeals data, such as the proportion that have been successfully defended or lost and cases where behaviour has been considered unreasonable, leading to the award of costs.

Question 19. Do you support the introduction of a qualitative metric that measures customer experience?

66. A total of 407 respondents answered this question. 51% agreed with the proposal to introduce a qualitative metric measuring customer experience, 31% disagreed and 18% did not know.

67. Developers, landowners and other businesses showed particular support for the measure, compared to respondents from local planning authorities where views were split. 56% of all respondents were worried about a link between application outcomes and customer service ratings, for example that those whose applications are refused are likely to provide negative customer service ratings. Other concerns were raised about defining who the 'customer' is; general negative bias in surveys; how to obtain a representative sample; resources to implement the metric; and creating a fair and comparable metric.

Question 20. What do you consider would be the best metric(s) for measuring customer experience?

68. A total of 305 respondents provided comments on this question. As with other questions in this section, a range of concerns were raised about the appropriateness and applicability of any customer service metric. However, a wide range of proposed metrics were suggested. A form of customer survey was a popular measure, and a range of comparator surveys or methodologies were suggested. Quantitative measures were also proposed, such as various time bound measures of the planning application process or numbers of complaints upheld, as well as qualitative measures such as the consistency of decision making, and measures of officer engagement and openness to negotiation.

Question 21. Are there any other ways in which the performance of local planning authorities or level of community engagement could be improved?

69. A total of 299 respondents provided comments to this question. Key themes included ways to improve the planning system overall, in terms of improved digital tools; simplifying the planning system; or improved guidance or clarity for users of the planning system. Better engagement between local planning authorities and developers was recommended, for example through agent forums or greater co-operation at the pre-application stage. It was also suggested that better training and changes to the roles of both officers and councillors, as well as more consistent decision making would improve local planning authority performance.

Government response to Questions 15 to 21

70. In relation to planning performance, we are grateful for the wide range of comments that have been received, relating to how we can better assess the speed of decision-making through both amending existing metrics and introducing new ones, and in response to proposed new quantitative metrics which could allow performance to be measured more widely across a range of important planning functions. We are also grateful to hear a range of feedback on our proposals to introduce qualitative metrics, including customer experience, which could capture a more holistic picture of the quality of service delivery within planning departments. This feedback is highly valued and will be drawn upon as we develop our proposals for a new planning performance framework.

71. We are clear that an increase in planning fee income and resourcing to local planning authorities must lead to improved performance. It is our intention to introduce a new planning performance framework once we have increased planning fees and invested in supporting the capacity and capability of planning departments. However, we recognise that local planning authorities need a period of adjustment to any new planning performance framework, and we would reiterate our commitment to consult further on detailed proposals, including thresholds, assessment periods and transitional arrangements from the current performance regime.

Public Sector Equality Duty

Question 22. Do you have any views on the implications of the proposals in this consultation for you, or the group or business you represent, and on anyone with a relevant protected characteristic? If so, please explain who, which groups, including those with protected characteristics, or which businesses may be impacted and how. Is there anything that could be done to mitigate any impact identified?

72. 116 substantive comments were provided in this section, mostly covering the wider impacts of the suggestions in the consultation. There were 40 responses about matters relating to the Public Sector Equality Duty. 20% of these responses suggested that the proposals in this consultation would not affect people with certain protected characteristics. Key points raised included retaining and/or expanding fee exemptions for groups with certain protected characteristics; proposals to improve access to the planning profession for those from under-represented backgrounds, including changes to the structure of work roles or professional training pathways to make them more accessible. Some responses highlighted the potential impacts of doubling retrospective fees for gypsies and travellers as a group with protected characteristics.

Government response to Question 22

73. We are grateful for the responses that provided views on any potential implications of the proposals in this consultation on people with protected characteristics. These comments have been taken into consideration in preparing a Public Sector Equality Duty assessment regarding the proposals which have been taken forward through draft regulations, which were laid on 20 July, and will continue to be reviewed as we develop policy and proposals in relation to fees for retrospective applications, the capacity and capability of local planning authorities and the new planning performance framework.

PLANNING COMMITTEE – 7 SEPTEMBER 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 Development without delay.
- 2.0 Recommendation
That the report be noted.

Background papers

Application case files.

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

Lisa Hughes
Business Manager – Planning Development

Appendix A: Appeals Lodged (received between 24 July '23 and 21 August '23)

| Appeal reference | Application number | Address | Proposal | Procedure | Appeal against |
|-------------------------|---------------------------|--|---|---------------------------|--------------------------------------|
| APP/B3030/W/23/3321056 | 22/02391/FUL | Land Adjacent Churchside Cottages Fishpool Road Blidworth | Change of use of land to residential garden, retaining wall and new wooden shed. | Written Representation | Refusal of a planning application |
| APP/B3030/W/23/3321440 | 22/02213/FUL | Land To The West Of Cherry View Bilsthorpe Road Eakring NG22 0DG | 1no. single-storey dwelling | Written Representation | Refusal of a planning application |
| APP/B3030/D/23/3321534 | 22/01655/HOUSE | 4 The Orchards Oxton Nottinghamshire NG25 0SY | Demolition of existing garage, front conservatory/utility and rear porch. Proposed erection of 2-storey side extension and single-storey rear extension. | Written Representation | Refusal of a planning application |

| | | | | | |
|------------------------|----------------|--|---|-------------------|-----------------------------------|
| APP/B3030/Z/23/3321973 | 23/00195/ADV | B and Q Unit A Maltings Retail Park North Gate Newark On Trent NG24 1GJ | External signage | Fast Track Appeal | Refusal of a planning application |
| APP/B3030/D/23/3325727 | 23/00306/HOUSE | 2 Maltkiln Close Ollerton NG22 9BE | Two storey side extension (resubmission of 22/01486/HOUSE) | Fast Track Appeal | Refusal of a planning application |

PLANNING COMMITTEE – 7 SEPTEMBER 2023

Appendix B: Appeals Determined (between 24 July '23 and 21 August '23)

| App No. | Address | Proposal | Application decision by | Decision in line with recommendation | Appeal decision | Appeal decision date |
|----------------|---|--|-------------------------|--------------------------------------|------------------|----------------------|
| 21/00371/ENF B | Land Adjacent to Jesmondene Cottage Blidworth Bottoms Blidworth | a. Without planning permission, operational development on "the Land" comprising of the construction of field shelters (marked A, B, C, D, E, F, G on the attached Location Plan and identified within photographs 1 and 2). b. Without planning permission, development comprising of the material change of use of the land from agriculture to the keeping of horses (equestrian). | Delegated Officer | Not Applicable | Appeal Dismissed | 28th July 2023 |
| 21/01205/FUL | Holly Farm Great North Road Cromwell NG23 6JE | Erection of detached dwelling with new access | Delegated Officer | Not Applicable | Appeal Dismissed | 8th August 2023 |
| 21/02693/FUL | Willoughby Farm Carlton Lane Norwell NG23 6JY | Proposed demolition of 14 modern farm buildings and erection of 5 detached dwellings | Delegated Officer | Not Applicable | Appeal Dismissed | 25th July 2023 |

| | | | | | | |
|-------------------|---|---|----------------------|----------------|--------------------------|----------------|
| 22/02468/FUL M | Field Reference Number 9710 Lindhurst Lane Lindhurst | Erection of a field shelter and use of land for horse grazing (retrospective) | Delegated Officer | Not Applicable | Appeal Not Determined | 31st July 2023 |
|-------------------|---|---|----------------------|----------------|--------------------------|----------------|

Legal Challenges and Other Matters

| App No. | Address | Proposal | Discussion |
|--------------|--|---|---|
| 23/00150/FUL | Field Ref No 0878 Caunton Road Norwell | Construction of a general purpose farm barn and improved access arrangements | The recommendation of refusal by the case officer was for refusal. However, the decision notice granted planning permission, in error, with reasons for refusal as opposed to planning conditions attached. As the decision was clearly perverse, the Chairman of Planning Committee judicially challenged this decision. There were no objections by either party i.e. the Council (as local planning authority) or the applicant to the request for this decision to be quashed and the High Court duly quashed the decision on 14 August 2023. The decision is duly being reconsidered. |

Recommendation

That the report be noted.

Background papers

Application case files.

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

Lia Hughes
Business Manager – Planning Development