



**Castle House
Great North Road
Newark
NG24 1BY**

Tel: 01636 650000

www.newark-sherwooddc.gov.uk

Tuesday, 5 March 2024

**Chair: Councillor A Freeman
Vice-Chair: 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, 14 March 2024 at 4.00 pm
VENUE:	Civic Suite, Castle House, Great North Road, Newark, 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

	<u>Page Nos.</u>
1. Notification to those present that the meeting will be recorded and streamed online	
2. Apologies for Absence	
3. Declarations of Interest by Members and Officers	
4. Minutes of the meeting held on 15 February 2024	3 - 9
Part 1 - Items for Decision	
5. Submission of the Second Publication Amended Allocations & Development Management DPD	10 - 14
6. Land off Mill Gate, Newark - 23/02117/S73M (Major) Site Visit at 2.30pm, meet at Castle House	15 - 52
7. 77C Eton Avenue, Newark On Trent, NG24 4JH - 24/00082/S73	53 - 70
8. Planning Constitution Review	71 - 111
9. Changes to Various Permitted Development Rights: Consultation	112 - 139
Part 2 - Items for Information	
10. Appeals Lodged	140 - 148
11. Appeals Determined	149 - 150
12. Permitted Development Rights: Commercial, Business and Services uses to Dwellinghouses	151 - 152
Part 3 - Statistical and Performance Review Items	
None	
Part 4 - Exempt and Confidential Items	
13. Exclusion of the Press and Public	
<p>To consider resolving that, under section 100A (4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.</p>	

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, NG24 1BY on Thursday, 15 February 2024 at 4.00 pm.

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

Councillor C Brooks, Councillor L Dales, Councillor P Harris, Councillor J Lee, Councillor K Melton, Councillor E Oldham, Councillor P Rainbow, Councillor M Spoons, Councillor L Tift and Councillor T Wildgust

ALSO IN

ATTENDANCE: Councillor L Brazier, Councillor T Wendels

APOLOGIES FOR ABSENCE: Councillor A Amer, Councillor S Saddington and Councillor M Shakeshaft

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

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

109 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

The Chair advised the Committee 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.

Councillor T Wildgust declared an other registerable Interest in Application Item Nos. 7 & 8 – 34 Manvers View, Boughton, NG22 9HJ (23/02091/FUL & 23/02094/ADV) as he was a member of the strategic oversight group. He would speak as ward Member but would leave the meeting during the debate and vote.

Councillor J Lee declared an other registrable Interest as appointed representative on the Nottingham Fire Authority and Member for Nottinghamshire County Council.

110 MINUTES OF THE MEETING HELD ON 18 JANUARY 2024

AGREED that the minutes of the meeting held on 18 January 2024 were approved as a correct record and signed by the Chair.

111 31 RIDGE HILL, LOWDHAM, NG14 7EL - 23/01650/HOUSE

The Committee considered the report of the Business Manager – Planning Development, which sought the proposed front and rear extensions.

A site visit had taken place prior to the commencement of the Planning Committee, for the reason the impact of the proposed development was difficult to visualise.

Members considered the presentation from the Senior Planning Officer, 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 the Planning Officer. The Planning Committee was asked to strike through and delete the small paragraph of four lines toward the bottom of page 18 of the report. Condition 1 also required deletion as the development had already commenced on site.

Councillor T Wendels, local Ward Member for Lowdham spoke against the application on the grounds of overbearing impact on neighbouring dwellings and their garden areas; over shadowing and loss of light; overlooking and loss of privacy; the extension was too big for the plot and not in keeping with the neighbourhood; and rainwater runoff and flooding implications.

Councillor P Harrison, Chair of Lowdham Parish Council, spoke against the application in accordance with the views of Lowdham Parish Council as contained within the report.

Members commented that they agreed with the local Ward Member and felt that the overbearing nature of the extension was apparent when on the site visit. They were concerned with the removal of the lawn to hardstanding which would exuberate the problem of flooding in that area.

A vote was taken and lost for Approval with 1 vote For and 10 votes Against.

Councillor M Spoor entered the meeting during the debate and in accordance with the Planning Protocol, as he had missed the Officer presentation took no part in the vote.

Moved by Chair and Seconded by Vice-Chair

AGREED (with 10 votes For and 1 vote Against) that contrary to Officer recommendation, full planning permission be refused due to its scale resulting in an overbearing impact and loss of amenity in relation to light to the occupiers of 32 Ridge Hill, contrary to policy DM5.

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

Councillor	Vote
C Brooks	For
L Dales	For
A Freeman	For
P Harris	For
J Lee	For
K Melton	For
D Moore	For
E Oldham	For
P Rainbow	For

L Tift	For
T Wildgust	Against

112 FOXGLOVES, MAIN STREET, EDINGLEY - 23/01338/LBC

The Committee considered the report of the Business Manager – Planning Development, which sought a retrospective application for a small open porch and installation of composite doors.

A site visit had taken place prior to the commencement of the Planning Committee, for the reason that the impact of the proposed application was difficult to visualise.

Members considered the presentation from the Senior Planning Officer, 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 the Applicant.

Councillor D Poole, Chair of Edingley Parish Council, spoke in support of the application in accordance with the views of Edingley Parish Council as contained within the report.

The local Ward Member commented that this was a retrospective application, which was a genuine mistake as the applicant had not been advised that they needed listed building consent. The building was basic in design with a rainwater runoff from the barn, which was the reason the porch was constructed to protect the fabric of the building. An oak door had been replaced as it had rotted, and the porch had been built. The porch was considered a small structure which did not have any impact. Domestic features had been added to a neighbour’s property, the buildings had been turned into residential properties and to survive changes had to be made. A Member commented that a change of mortar would be more in keeping with the barn and considered the porch appropriate, however felt the composite doors were not appropriate. Other Members commented that this was a listed building, and the porch was incongruous, and barns do not have porches.

AGREED (with 6 votes For and 6 votes Against, the Chair used his casting vote in support of Refusal) that Listed Building Consent be Refused for the reason contained within the report.

113 34 MANVERS VIEW, BOUGHTON, NG22 9HJ - 23/02091/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought the change of use from residential to Community Hub including associated alterations.

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 the applicant.

The local Ward Member informed the Committee that the Community Hub would provide a safe centre for users. The Hub was currently occupied however there were other void properties on the estate as people did not want to move there. The Hub would improve the safety and wellbeing for residents which was considered essential.

Councillor T Wildgust having declared an Other Registerable Interest left the meeting during the debate and vote.

A Member raised concern that this would be the loss of a Council house which was not acceptable given the high volume of people waiting for Council accommodation.

Other Members commented that this area was in the top 10% of a most deprived areas in Nottinghamshire. People did not want to move to this estate, there were void properties available, the loss of one unit was irrelevant and the Hub would make the estate safer and more desirable. The long-term plan was to provide support to residents and improve the estate, the aim was then for the property to be able to return to residential. A community day of action was also suggested to improve the condition of the estate.

The Business Manager – Planning Development confirmed that other properties had been looked at, taking into consideration the need to have an end of row property and nearby car parking to have the least impact on neighbours, the proposed property was considered the best option.

AGREED (with 10 votes For and 1 vote Against) that full planning permission be approved subject to the conditions contained within the report.

114 34 MANVERS VIEW, BOUGHTON, NG22 9HJ - 23/02094/ADV

The Committee considered the report of the Business Manager – Planning Development, which sought the display of three fascia signs.

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

Members considered the application acceptable.

Having declared an Other Registerable Interest Councillor T Wildgust remained out of the room for the duration of this item.

AGREED (with 10 votes For and 1 Abstention) that Advertisement Consent be approved subject to the conditions contained within the report.

Councillor T Wildgust came back to the meeting at this point.

115 AIR AND SPACE INSTITUTE NEWARK (ASI), GREAT NORTH ROAD, NEWARK ON TRENT, NG24 1BY - 23/02240/ADV

The Committee considered the report of the Business Manager – Planning Development, which sought permission for the signage on the facades of the ASI building and within the Car Park area.

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 Newark Town Council stating no objection.

Members considered the application acceptable.

AGREED (unanimously) that Advertisement Consent be approved subject to the conditions and submission of the more detailed plan as contained within the report.

116 PLANNING APPLICATION VALIDATION CHECKLIST

The Committee considered the report of the Director – Planning & Growth which provided an update on the review of the adopted Planning Application Validation Checklist prior to undertaking consultation.

It was reported that legislation sets out that a local list was required to be published on a Council’s website and reviewed every 2 years. Whilst the checklist was previously reviewed within the last 12-months, there had been some quite significant changes introduced, most notably biodiversity net gain on 12 February 2024 and therefore it was considered prudent to review the checklist at an earlier stage. This also allowed other amendments that had come into effect, particularly with the introduction of new application types (mainly prior approval) to be included.

The checklist, attached at Appendix 1 to the report, was similar to the one adopted from April 2023. It had been updated under delegated authority, to provide clarification regarding preliminary bat roost assessments in December. There were also suggested changes taken as part of this review in relation to flooding, and minor suggested amendments such as sections and finished floor levels.

It was proposed that the amended checklist was consulted upon for a minimum of 8-weeks with Members, Parish and Town Councils and statutory consultees. Details would be provided on the Council’s website enabling developers and interested stakeholders to respond, as well as applicants and their agents, residents through planning application receipt and notification letters. However, in relation to biodiversity net gain, it was proposed that these amendments were adopted by Planning Committee immediately with the consultation enabling a review of the requirements set out and presented to Members in due course, following the consultation. It was not anticipated that there would be any challenge to this due to our requirements reflecting what was set out in legislation.

AGREED (unanimously) that:

- (a) the contents of the accompanying validation checklist are noted;
- (b) the requirements as set out under ‘Biodiversity Net Gain’ and

- (c) associated application types come into effect immediately; and the draft updated Planning Application Validation Checklist (as set out at Appendix A to the report) be approved for an 8-week public consultation with statutory consultees, District Councillors and Town/Parish Councils, applicants/developers and neighbours, along with any changes required to the Biodiversity Net Gain section.

117 BIODIVERSITY NET GAIN, ANCIENT WOODLANDS AND LEVELLING-UP AND REGENERATION ACT 2023

The Committee considered the report of the Director – Planning & Growth which briefed Members on the new statutory instruments and commencement of parts of the Levelling-up and Regeneration Act.

The Government had issued on 17 January 2024, five statutory instruments with a further one on 18 January relating to Biodiversity Net Gain. Additionally, a further statutory instrument was published on 25 January 2024. This was the Levelling-up and Regeneration Act 2023 (Commencement No. 2 and Transitional Provisions) Regulations 2024 as well as a Consultation Direction The Town and Country Planning (Consultation) (England) Direction 2024.

There were a number of statutory instruments relating to biodiversity net gain, which was a complex area and a highlighted summary was provided within the report. A report had also been presented to Cabinet in January 2024 relating to biodiversity net gain.

AGREED that the report be noted and the Planning Committee be aware of the contents of the documents when considering planning applications.

118 APPEALS LODGED

AGREED that the report be noted.

119 APPEALS DETERMINED

AGREED that the report be noted.

120 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 October to December 2023. In order for the latest quarter's performance to be understood in context, in some areas data going back to October 2021 was provided. The performance of the Planning Enforcement team was provided as a separate report.

AGREED that the report be noted.

121 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 third quarter of the current financial year.

The report provided Members with examples of cases that had been resolved, both through negotiation and via the service of notices and provided detailed and explanations of notices that had been issued during the period covered 1 October 2023 – 31 December 2023.

The schedule of communication provided an update by the Planning Officer regarding an incorrect photograph included in the agenda. The photograph within the report displayed an incorrect elevation. The correct photograph was provided in the schedule of communication. Schedule C: provided examples of breaches resolved without formal action.

AGREED that the contents of the report and the ongoing work of the planning enforcement team be noted.

Meeting closed at 6.19 pm.

Chair



Report to Planning Committee 14 March 2024

Director Lead: Matt Lamb, Planning & Growth

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

Report Summary	
Report Title	Submission of the Second Publication Amended Allocations & Development Management DPD
Purpose of Report	To set before Planning Committee the latest position in relation to the submitted Amended Plan
Recommendations	To note the contents of the report and have consideration to this in decision-making.

1.0 **Background**

- 1.1 The [Second Publication Amended Allocations & Development Management DPD, September 2023](#) was submitted to the Secretary of State on the 18th January 2024. An Inspector has been appointed and we are in the hands of the Inspectorate in relation to timescales for the Examination.
- 1.2 However, now the Plan has been submitted, it does in part, gain greater weight in the decision-making process. Members will note that reference is now made to this document and relevant policies within reports to Planning Committee as well as those reports prepared for delegated decisions.

2.0 **Detail**

- 2.1 In terms of the weight the Submitted DPD can be given in decision-making, this is determined by the tests at paragraph 48 of the [National Planning Policy Framework \(NPPF\)](#):

“Local planning authorities may give weight to relevant policies in emerging plans according to:

- 1) *Stage of preparation of the Plan (the more advanced then the greater the weight that can be given);*

The Council is at an advanced stage of preparation with only the Examination and adoption of the proposed Amended DPD to now occur. However, the DPD is yet

to be examined and so the level of weight which it can be afforded is not as much as when the Inspector issues their report.

- 2) *Extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections then the greater the weight that can be given); and*

Where a policy has a representation (received at either the first (and not subsequently withdrawn) or second publication stage) that the relevant policy is unsound then this must count as an ‘unresolved objection’... and the method through which it will become resolved is the Examination. A list of those proposed policies which have no representations against them are attached as Appendix 1. In the case where there is an unresolved objection it realistically means that the policy detail can only be afforded limited weight.

Where a proposed policy has a [main modification set out in the schedule](#), it is not known if they have unresolved objections against them, as representations are yet to be sought. This means the weight those policies can be afforded is extremely limited at the present time.

- 3) *Degree of consistency of relevant policies to the Framework (the closer the policies to those in the NPPF then the greater the weight that can be given).*

The Council considers that the emerging policies have been drafted in line with national policy – though in some instances objecting representations may have made a case to the counter. However, where there are no objecting representations to the counter – the view is that proposed policy content is consistent with the Framework. It should be noted that under the transitional arrangements the submitted Plan will be examined against a previous NPPF i.e. the version published in July 2021.

- 2.2 As such, a greater amount of weight can be attached to those policies listed below without objections due to their conformity with the NPPF. Those with unresolved objections, including the ‘Homes for All’ reference below, the weight will be limited. As such, proposals falling under the latter criteria will have limited weight and developments will be considered under current adopted policies, including the NPPF (as a material consideration) as well as any other material planning considerations.

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

[PLAN-REVIEW-PUB-STAGE-2.pdf \(newark-sherwooddc.gov.uk\)](#)

[National Planning Policy Framework \(publishing.service.gov.uk\)](#)

[CD05---Proposed-Main-Modifications-and-Clarification-Minor-Amendments-&-Appendices.pdf](#)
[\(newark-sherwooddc.gov.uk\)](#)

Appendix 1

Newark Area		
NUA/Ho/2	NUA/Ho/3	NUA/Ho/4
NUA/Ho/5	NUA/Ho/6	NUA/Ho/8
NUA/Ho/9	NUA/MU/2	NUA/MU/4
NUA/E/1	NUA/E/2	NUA/E/4
NUA/Ph/1	NUA/TC/1	NUA/LC/1
NUA/LC/2	NUA/LC/3	NUA/Tr/1
Co/Mu/1	Co/LC/1	Co/MOA
ST/EA/10		
Southwell Area		
SoA/MOA	So/DC/1	So/MOA
So/PV	Fa/Ho/1	Fa/MU/1
Fa/LC/1		
Nottingham Fringe Area		
Lo/Ho/2	Lo/LC/1	Lo/Tr/1
Sherwood Area		
ShA/MOA	OB/Ho/1	OB/Ho/2
OB/Ho/3	OB/MU/1	OB/MU/2
OB/Ph/1	OB/E/1	OB/E/2
OB/E/3	OB/DC/1 & OB/LC/1	OB/Re/1
OB/Re/2	OB/Tr/1	Ed/Ho/1
Ed/Ho/2	Ed/DC/1	Ed/VC/1
Ed/St/1	Ed/MOA	Bi/Ho/2
Bi/MU/1	Bi/E/1	Bi/E/2
Bi/Ph/1	Bi/LC/1	

Mansfield Fringe Area		
Ra/Ho.1	Ra/MU/1	Ra/LC/1
CI/LC/1	BI/Ho/1	BI/Ho/2
BI/Ho/3	BI/E/1	BI/LC/1
Development Management Policies		
Policy DM6	Policy DM13	
Homes For All		
<p>The Tolney Lane part of the emerging GRT Strategy is subject to unresolved objections, alongside a small number of the proposed site allocations. Given the role of Tolney Lane within the emerging Strategy these objections limit the weight that it can be given overall. Specific Planning Policy input will be provided to assist in determining the planning weight that the Strategy can be given on a case-by-case basis</p>		



Report to Planning Committee 14 March 2024

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Clare Walker - Senior Planner

Report Summary			
Application Number	23/02117/S73M (Major)		
Proposal	Application for variation of conditions 03, 04, 05, 06, 08, 015, 016, 017, 019, 021 and 024 as per submitted schedule attached to planning permission 20/01007/S73M; Variation of conditions 4, 5, 6, 8, 19 and 24 attached to planning permission 17/01586/FULM to amend the approved plans		
	The original proposal was: 12/00301/FULM – Mixed use development comprising demolition of two former industrial buildings, the erection of 11 dwellings, erection of private health facilities, extension to existing Marina comprising new moorings and creation of a wildlife park. Demolition of two industrial buildings.		
Location	Land off Mill Gate, Newark		
Applicant	Cairns Heritage Homes Ltd	Agent	Guy St John Taylor Associates Architects Ltd
Web Link	23/02117/S73M Application for variation of conditions 03, 04, 05, 06, 08, 015, 016, 017, 019, 021 and 024 as per submitted schedule attached to planning permission 20/01007/S73M; Variation of conditions 4, 5, 6, 8, 19 and 24 attached to planning permission 17/01586/FULM to amend the approved plans Land Off Mill Gate Newark On Trent (newark-sherwooddc.gov.uk)		
Registered	18.12.2023	Target Date	15.03.2024
Recommendation	That Planning Permission is <u>APPROVED</u> subject to the Conditions detailed in Section 10		

1.0 The Site

The application site is approximately 2.07 hectares of land situated on the north-western side of Millgate close to its junction with Farndon Road. It spans between Millgate and the Newark

branch of the River Trent. The site lies within the Conservation Area and the northern part of the site (adjacent to the riverside) is within Flood Zones 2 and 3.

The White House, a grade II listed building lies to the north of the site and immediately to its south is the access road to the former Canal and Rivers Trust yard which now forms the application site. The former industrial buildings on the site have been demolished and the foundations have now been laid for the extant dwellings approved under a previous permission.



The site wraps around four pairs of semi-detached dwellings fronting Millgate, the northernmost two blocks being ground and first floor flats at Sconce House and Marlow House. All of these dwellings have rear gardens which slope down significantly towards the river to the north-west. A concrete retaining wall has recently been erected along the rear of these gardens.

The remainder of the site opens out into Millgate Field, which is its widest part and spans between Millgate and the river. This has recently been developed by way of a marina extension and a wildlife park as part of Phase 1 of an earlier consent, which can be seen underneath part of the shaded in pink area on the image above.

Aside from the Marina itself, this part of Mill Gate is predominantly residential in use. The Spring House Pub lies to the south of the application site on the corner of Mill Gate with Farndon Road. Adjacent to this are dwellings, an older persons residential facility with an element of care and further along a care home.

2.0 Relevant Planning History

20/01007/S73M – Variation of conditions 4, 5, 6, 8, 19 and 24 attached to planning permission 17/01586/FULM to amend the approved plans. Approved 28.08.2020. This application related to changes to Plots 1, 2, 3 (both in layout and design), changes to the layout etc of the wildlife park and minor changes to the drainage and flood scheme.

17/01586/FULM – Variation of conditions 5, 6, 7, 9, 16 and 20 attached to planning permission 16/00740/FULM. Approved 30.01.2018. This scheme has been implemented.

16/00740/FULM – Variation of condition 3 (relating to ground contamination) attached to planning permission 12/00301/FULM to allow the development to be commenced in phases. Approved under delegated powers 16.06.2016.

16/00124/FULM - Erection of retirement living apartments for the elderly comprising 34 self-contained apartments with communal facilities, landscaping and car parking. Approved 22.06.2016. No conditions have been discharged and the permission has now expired without implementation.

12/00301/FULM – Mixed use development comprising demolition of two former industrial buildings, the erection of 11 dwellings, erection of private health facilities, extension to existing Marina comprising new moorings and creation of a wildlife park. Demolition of two industrial buildings. Approved 05.07.2013 time limit expired 04.07.2016. Implemented in June 2016.

12/00274/LBC - Demolition of boat house and part of boundary wall within curtilage of The White House (Renewal of extant consent 06/00531/LBC). Approved.

12/00247/FULM - Redevelopment of site for 69 new build residential dwellings and amenity space, including associated landscaping, parking and access (renewal extant of permission 06/00530/FULM). This also includes the demolition of boat house and part of boundary wall within curtilage of The White House and the demolition of former section yard buildings of british waterways and sections of wall and former boathouse building and associated walls. Undetermined, was finally disposed of in October 2023.

06/00530/FULM & (2) 06/00544/CAC & (3) 06/00531/LBC- (1) Redevelopment of the site for 69 new build residential dwellings and amenity space, including associated landscaping, parking and access. (2) Demolish former section yard buildings of british waterways and sections of wall, and former boathouse building and associated walls. (3) Demolition of boat house and part of boundary wall within curtilage of The White House. All applications were refused 20/06/06 but were subsequently subject to appeals.

The reasons for refusal related to 1) the development of greenfield site without needing to as there were adequate brownfield sites (dropped at PI), 2) adverse impact upon the setting of the listed White House and the demolition of Boat House was inappropriate 3) remodelling of Millgate Field would have detrimental impact on its character, 4) adverse impact upon residential amenity and 5) issues relating to highway safety. The appeals were allowed but challenged by a Judicial Review (by a third party) and the appeal decision was quashed by the High Court. The matter was reconsidered by the Inspectorate and allowed on 2 June 2009.

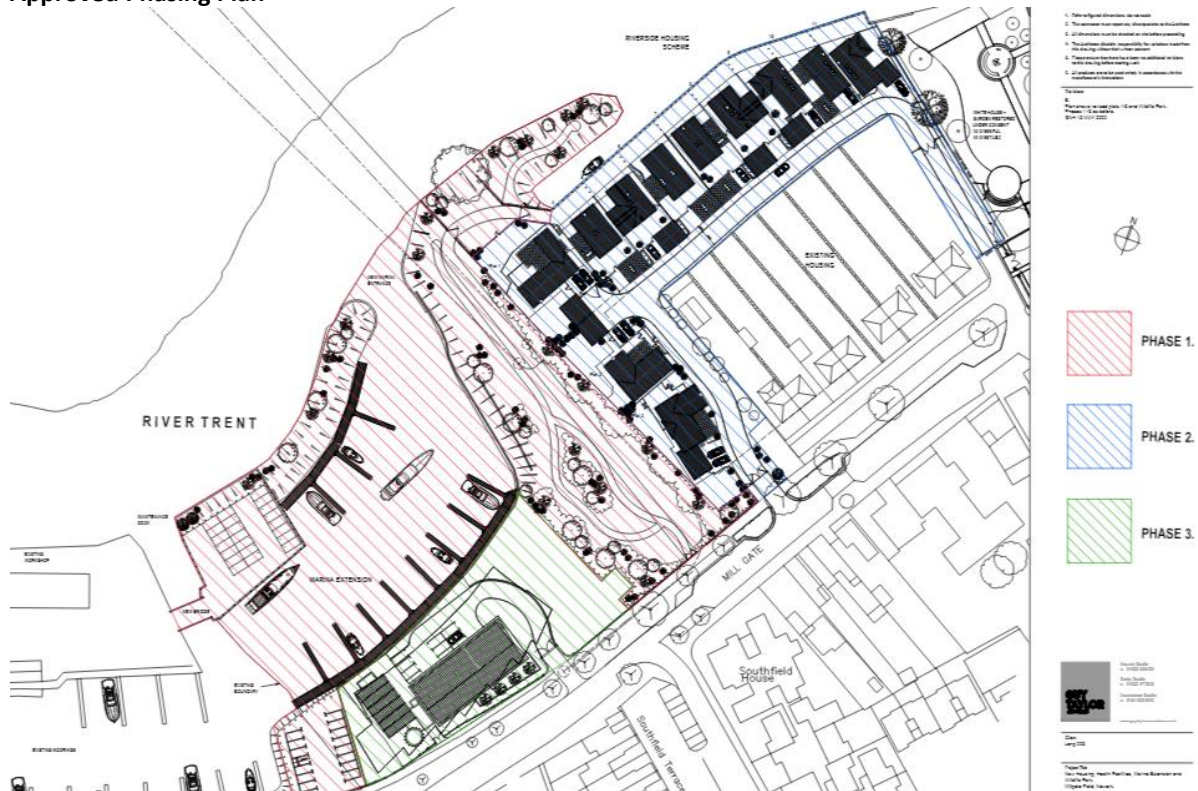
3.0 The Proposal

Original proposal

Full planning permission was originally sought and granted in 2013 for the erection of 11 detached dwellings (all four plus bedrooms) the erection of a private health club comprising 720sq m of floor space, a marina extension of 10 moorings and the creation of a wildlife park (a natural wildlife area but without public access) comprising approximately 3984m² which

was included in Phase 1 and is now complete. The scheme also included the demolition of two industrial buildings to facilitate the development, which have now been removed. The development is proceeding in stages with Phase 1 (the marina extension now complete) and Phase 2 (the residential part) next and the health club comprising phase 3. The approved phasing plan is shown below:

Approved Phasing Plan



Previous Section 73 applications have sought to vary the condition (no.3) relating to ground contamination to allow the development to be phased as well as to allow changes to the land levels, flood and drainage mitigation works to earlier phases and more latterly to amend conditions in response to a previously unknown watermain issue that crossed the site which resulted in changes to the layout and design of plots as well as alterations to the wildlife park.

This s.73 application

This application seeks to make a number of changes to the residential phase of the scheme by varying the plan conditions along with a number of other conditions. It should be noted that amended plans have been submitted during the course of the application in an attempt to address officer's concerns relating to the scheme and it is on this basis that the scheme has been assessed.

The layout of the scheme would remain largely as previously approved. The changes affect the fenestration sizes and positions, reduces the level of glazing and utilises simpler details. Initially it sought to omit the chimneys and decorative eaves detail although these have been added back in at officer's requests. It is also proposed to add solar panels to the roofslope of the units and to amend the boundary treatments.

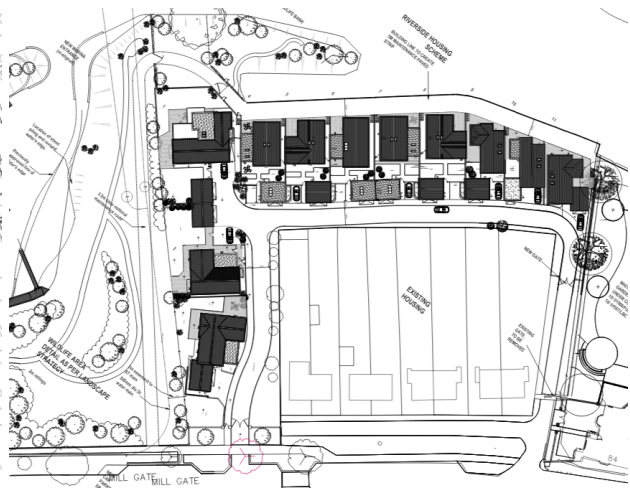
The scheme also involves setting back the entrance gateway which would be in a straight run rather than curved as previously approved to achieve the required visibility splays.

The positioning of Plots 9, 10 and 11 are proposed to be slightly amended (the 3 plots located to the north-east/top right of the images below) due to a conflict with a required 5m easement along river not previously picked up by the applicants.

Approved layout



Proposed Layout



The finished floor levels of Plot 3 are proposed to be 150mm higher than previously approved.

The proposal also seeks to discharge (and vary where necessary) all conditions, such as materials, landscaping details, finished floor levels etc so that they align with the new proposals.

Due to issues with the section 278 agreement between NCC as Highway Authority and the developers, the application also seeks to allow construction traffic to use the secondary access adjacent to The White House (previously prevented by condition) and to change the trigger within the condition to 'prior to occupation' (instead of no development to be commenced) to allow progress to be made on site. Amendments are also sought to the condition which requires compensatory parking to be provided for the parking bays to be lost upon constructing the housing access.

Submission

- 812.1005.313-(30)-101 Rev A (Proposed Typical Details for all house types Sheet 1)
- 812.1005.313-(30)-201 Rev A (Proposed Typical Details for all house types Sheet 2)
- 812.1005.314-(30)-301 Rev A (Proposed Typical Details for all house types Sheet 3)
- MDMN-BSP-XX-XX-D-C-210-P05 (Private Levels)
- MGMN-BSP-XX-XX-D-C-0240-P04 (Private Drainage Layout)
- MGMN-BSP-XX-XX-D-C-00100-P09-S278 (General Arrangement)
- MGMN-BSP-XX-XX-D-C-00130-P09-S278 (Construction Layout)
- MGMN-BSP-XX-XX-D-C-0180-P08-S278 (Signage and White Lining)
- (19)-101 – Proposed Site Masterplan
- (19)-101 Rev B – Hard and Soft Landscaping Plan

(08)901 – General Site Sections and Elevations
 22-0023-01-305 Rev R01, Plot 1 Technical Floor Plans Roof
 22-0023-02-305 Rev R01, Plot 2 Technical Floor Plans Roof
 22-0023-03-305 Rev R01, Plot 3 Technical Floor Plans Roof
 22-0023-04-305 Rev R01, Plot 4 Technical Floor Plans Roof
 22-0023-05-305 Rev R01, Plot 5 Technical Floor Plans Roof
 22-0023-06-305 Rev R01, Plot 6 Technical Floor Plans Roof
 22-0023-07-305 Rev R01, Plot 7 Technical Floor Plans Roof
 22-0023-08-305 Rev R01, Plot 8 Technical Floor Plans Roof
 22-0023-09-305 Rev R01, Plot 9 Technical Floor Plans Roof
 22-0023-10-305 Rev R01, Plot 10 Technical Floor Plans Roof
 22-0023-11-305 Rev R01, Plot 11 Technical Floor Plans Roof
 (91)-101 Rev A Proposed Boundary Details
 (91)-201 Proposed Entrance to Housing Access Road
 812.1437.1-(63)-101 Lighting Design Scheme_AO
 812.1437.1:
 (20)-101 Rev A – Plot 1 Floor and Roof Plans
 (21)-101 Rev A – Plot 1 Elevations
 (20)-201 Rev A– Plot 2 Floor and Roof Plans
 (21)-201 Rev A– Plot 2 Elevations
 (20)-301 Rev A – Plot 3 Floor and Roof Plans
 (21)-301 Rev A– Plot 3 Elevations
 (20)-401 Rev A – Plot 4 Floor and Roof Plans
 (21)-401 Rev A– Plot 4 Elevations
 (20)-501 Rev A– Plot 5 Floor and Roof Plans
 (21)-501 Rev A– Plot 5 Elevations
 (20)-601 Rev A– Plot 6 Floor and Roof Plans
 (21)-601 Rev A– Plot 6 Elevations
 (20)-701 Rev A – Plot 7 Floor and Roof Plans
 (21)-701 Rev A– Plot 7 Elevations
 (20)-801 Rev A – Plot 8 Floor and Roof Plans
 (21)-801 Rev A– Plot 8 Elevations
 (20)-901 Rev A – Plot 9 Floor and Roof Plans
 (21)-901 Rev A– Plot 9 Elevations
 (20)-1001 Rev A– Plot 10 Floor and Roof Plans
 (21)-1001 Rev A – Plot 10 Elevations
 (20)-1101 Rev A – Plot 11 Floor and Roof Plans
 (21)-1101 Rev A– Plot 11 Elevations
 Planning Statement Rev A
 Photomontages x 5 showing proposed dwellings from the riverside frontage (x2), from across the wildlife park, from Millgate itself and from the entrance on Millgate.
 Technical specification for GSE Integration in roof system solar panels
 Monier Australia image of solar panels within a roof
 SK01, Sketch – Road sections for northern road and Plot 11
 SK02, Section Through Plot 3 and 69 Millgate

4.0 Departure/Public Advertisement Procedure

Occupiers of 26 properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press expiring on 01.02.2024. Reconsultation has also taken place in respect of the amended plans.

Site Visit undertaken on 15.01.2024.

5.0 Planning Policy Framework

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

Spatial Policy 7 - Sustainable Transport
Core Policy 9 -Sustainable Design
Core Policy 10 – Climate Change
Core Policy 10A – Local Drainage Designations
Core Policy 12 – Biodiversity and Green Infrastructure
Core Policy 14 – Historic Environment
NAP1 - Newark Urban Area

Allocations & Development Management DPD

DM1 – Development within Settlements Central to Delivering the Spatial Strategy
DM3 – Developer Contributions and Planning Obligations
DM5 – Design
DM7 – Biodiversity and Green Infrastructure
DM9 – Protecting and Enhancing the Historic Environment
DM12 – Presumption in Favour of Sustainable Development

Second Publication Amended Allocations & Development Management DPD, September 2023

The Draft Amended Allocations & Development Management DPD was submitted to the Secretary of State on the 18th January 2024. This is therefore at an advanced stage of preparation albeit the DPD is yet to be examined. There are unresolved objections to amended versions of the above policies emerging through that process, and so the level of weight which those proposed new policies can be afforded is currently limited. As such, the application has been assessed in-line with policies from the adopted Development Plan.

Other Material Planning Considerations

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

6.0 Consultations

(a) Statutory Consultations

NCC Highways – No objection. In summary they make a number of suggested revisions to conditions including to condition numbers 12, 14, 15, 16, 17 and 18, plus they recommend an additional condition to control visibility at the entrance.

Detailed comments provided. However in summary; new access would affect condition 12 which should be updated, may need to also amend Condition 13, need to amend condition 18 (they suggest wording), condition 16 should be retained as it also includes gates for the health centre. Recommend condition 18 to be amended and they have provided wording and require new condition as a result of amendments to protect visibility.

Further comments were received on 26th February 2024 specifically in respect of comments raised by third parties/residents which are set out in full within the body of this report.

NCC Lead local Flood Authority – No comment.

Environment Agency – No comment.

Canal and Rivers Trust - No comment. Request an informative be placed on a grant of permission.

(b) Parish Council

Newark Town Council - Ask that NSDC officers pay close attention to various concerns raised by the neighbours.

In response to amended plans, comments expected 07.03.2024 which will be reported as a late item.

(c) Representations/Non-Statutory Consultation

Millgate Conservation Society - Comments in respect of the original plans (as opposed to revised plan) as follows:

- 1) Since construction work began the rear gardens of houses on Mill Gate have been subject to substantial flooding, occurring before the copious amounts of rainfall but after construction started indicating a disruption of the existing water drainage and failure of the drainage design of the development site.
- 2) The plans to alter the roof material from slate to Marley man made roofing should be rejected. Similarly the changes to the elevations also erode conservation ideals.
- 3) Appears there has been a land grab, original application excluded the piece of land to the northeast of the proposed access to Millgate and it now includes this land compromising the existing turning head arrangement and local easements.

NSDC Conservation Officer – (20.02.2024) In response to amended plans: Further to recent discussions, we are pleased that many of the key architectural features (chimneys, braces etc) and cedar and natural slate have been reinstated. The boundary changes negotiated improve the scheme. Our only observation is that the boundary to the listed building (White House) would be better served with post and rail or estate fencing rather than a boarded fence, but we are otherwise content for you to reach a decision taking into account any public benefits

to improved security and operational needs (potentially outweighing any very minor harmful impacts in NPPF terms).

NSDC Environmental Health Officers – No objection to amendments.

In response to the original plans, objections have been received from FIVE local residents/third parties that can be summarised as follows:

- Concern that man-made roof material is not appropriate for conservation area nor the close setting of listed buildings;
- The wall finish of cedar cladding is also of concern and could look poor and out of context;
- Dilution of design detailing is not considered appropriate;
- Access – revised gateway arrangement will have a major and untenable impact on the current turning head arrangement for houses ending with no. 96;
- Additional land not within the original scheme forms part of this application;
- Flood – encourage high degree of scrutiny. Gardens to properties on Millgate have flooded since construction works has started, urge a technical review of the matter;
- Construction method is exacerbating water retention and slowing drainage of pluvial water into neighbouring gardens;
- Parking - await further details;
- Land next to no. 96 is used by residents as a turning point for vehicles. Objector indicates they have a deed of easement over the land which means they are responsible for its maintenance – it wasn't included as part of original plans.
- Revised plan show tree and wall not within the application site.

In response to the amended plans, the following additional comments have been made from 2 interested parties:

- Request that consultation period is extended to allow additional comments to be made
- Acknowledge the amendments are reassuring in terms of the impact on the conservation area
- Flooding issues are real and serious and require analysis of the causes
- If the turning area adjacent to number 96 become inaccessible for properties along the existing access road it would cause road safety issues.

7.0 Comments of the Business Manager – Planning Development

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

is confirmed at the development plan level under Policy DM12 of the Allocations and Development Management DPD.

Introduction

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

- a) if the authority decides that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, the authority shall grant planning permission accordingly, and
- b) if the authority decides that planning permission should not be granted subject to the same conditions as those subject to which the previous permission was granted, the authority shall refuse the application.

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

Assessment of the amendments

As is set out in the site history section of this report, planning permission previously existed on this site for a more intensive residential scheme for 69 dwellings. In 2012 an alternative mixed use scheme including for 11 dwellings was granted and since then there have been a number of section 73 applications as detailed in the site history section of this report the most recent of which – application reference 20/01007/S73M – is the ‘working approval’. This has been implemented in that phase 1 (the marina and wildlife park) has been developed out.

The scope of the amendments is narrow and limited only to the impacts arising from the changes now proposed by these amended plans. Pertinent matters are therefore considered to be as follows:

- 1) Can the application be considered under Section 73
- 2) Impacts on the character and appearance of the area (including heritage)
- 3) Flood risk
- 4) Highway matters and
- 5) Impact on residential amenity.

These are discussed below.

Can the application be considered under Section 73

It is noted that both Millgate Conservation Society and local residents have raised concerns that this application represents a land grab with additional land now being included within the application site that previously was not. Applications made under Section 73 are not able to vary (or increase, as is being suggested here) the extent of the originally approved

application site denoted by the red line. It is therefore necessary to go back to the original application granted in 2013 to ascertain the approved application site boundary.

The approved site location plan showing the application site outlined in red is shown on approved drawing reference 812.1005.3 Rev C as noted in Condition 30 (the plan condition) of permission 12/00301/FULM. The image below (left) is an extract of this edged in red, with the site plan of this latest application (which doesn't have to be edged in red) shown to the right for comparison:

Approved Site Location Plan



Proposed Layout



The comments received, refer to both land to the north-east of the proposed access and land next to no. 96 Millgate. From my understanding of the land in question (adjacent to the southern access point) this is in fact within the red line denoting the application site. On the basis of the above, it is considered that the application has been duly made and the application can proceed.

Impacts on the character and appearance of the area (including heritage)

Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') are relevant. Section 16(2) requires the decision maker in considering whether to grant listed building consent for any works, to *"have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possess."* Section 66 outlines the general duty in exercise of planning functions in respect to listed buildings stating that the decision maker *"shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."* Section 72(1) also requires the Local Planning Authority (LPA) to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas.

The duties in s.66 and s.72 of the Listed Buildings Act do not allow a local planning authority to

treat the desirability of preserving the settings of listed buildings and the character and appearance of conservation areas as mere material considerations to which it can simply attach such weight as it sees fit. When an authority finds that a proposed development would harm the setting of a listed building or the character or appearance of a conservation area, it must give that harm considerable importance and weight.

Policies CP14 and DM9 set out the District Council’s objective of enhancement or preservation of heritage assets which aligns with the NPPF and the relevant Act as previously set out. Policies CP9 and DM5 also set out more general design principles and expectations.

When originally approved, the design ethos adopted was for a contemporary and uniquely characterful riverside vernacular which steered specifically away from a suburban character. Design cues were previously taken from Millgate and traditional riverside development and the materials palette comprised of timber cladding, render, glass and steel.

The original plans submitted with this application sought to water down the design approach, a matter which has attracted local objections (as can be noted within the representation section of this report) and was a concern of officers. In response, the scheme has been amended to reinstate the important features, such as the chimneys, the decorative steel eaves detailing and the materials palette has been amended to comprise Spanish slate roof tiles, timber cladding, monouche render and aluminium framed windows and doors. These amendments (including the revised material palette) are considered to be appropriate for the conservation area and help reinstate the original design envisioned.

Examples of the changes proposed are shown below:

Plot 1

Approved north (front) elevations:



Proposed north (front) elevations:



Approved south (rear) elevation):



Proposed south (rear) elevations:

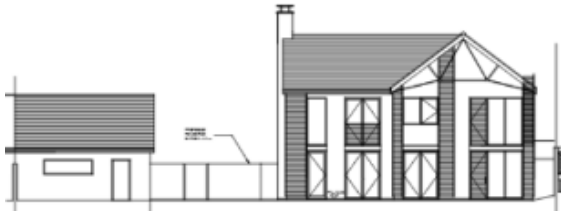


Approved west side elevation:

Proposed west side elevation:

Plot 2

Approved south elevations:



Proposed south elevations:



Approved north elevations:



Proposed north elevations:



Plot 3

Approved east elevations:



Proposed east elevations:



Approved west elevations:



Proposed west elevations:



Plot 4

Approved NW elevations:



Proposed NW elevations:



Approved SE elevations:



Proposed SE elevations:



Plot 5

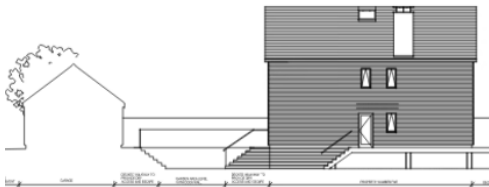
Approved NW elevations:



Proposed NW elevations:



Approved NE elevations:

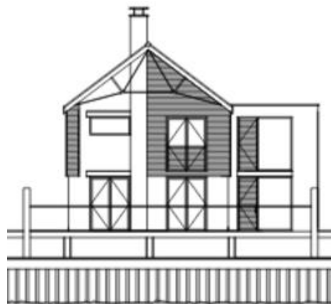


Proposed NE elevations:



Plot 6

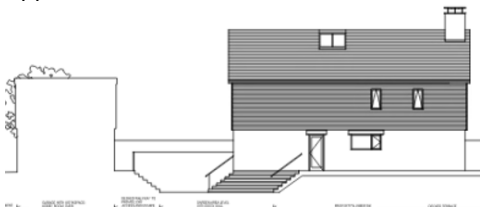
Approved NW elevations:



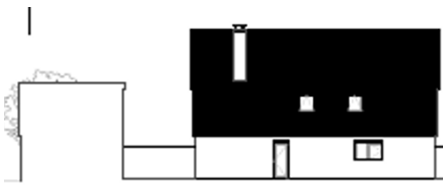
Proposed NW elevations:



Approved NE elevations:

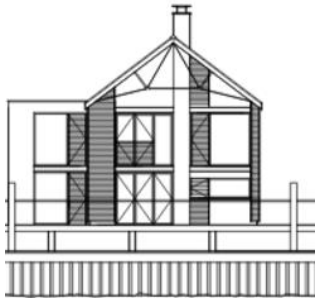


Proposed NE elevations:



Plot 7

Approved NW elevations:



Approved SE elevations:



Proposed NW elevations

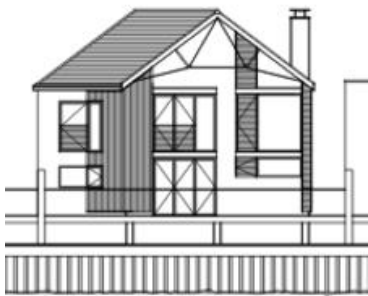


Proposed SE elevations:

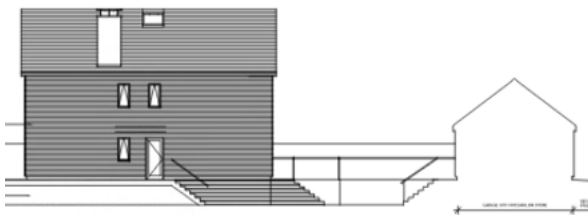


Plot 8

Approved NW elevations:



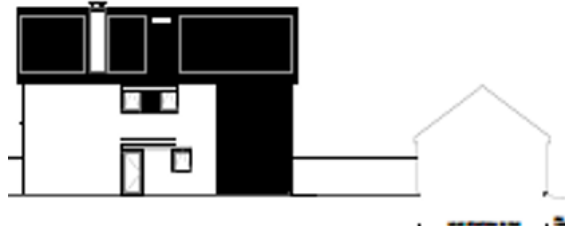
Approved SW elevations:



Proposed NW elevations:



Proposed SW elevations:

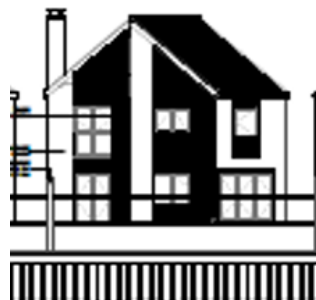


Plot 9

Approved NW elevations:



Proposed NW elevations:



Approved SE elevations:



Proposed SE elevations:



Plot 10

Approved NW elevations:



Proposed NW elevations:



Plot 11

Approved NW elevations:



Proposed NW elevations:



Each plot would utilise natural slate roof tiles and other materials are similar to those previously agreed. It is noted that each dwelling is proposed to include a solar array on its roof. These would be dark in colour that would sit relatively flush against a black slate roof. In this context of contemporary dwellings, this is also considered acceptable to the character and appearance of the conservation area.

Example of appearance of proposed 'Monier-Australia' GSE IN-roof system solar panels:



Boundary Treatments

The boundary treatments proposed have also been amended from the approved scheme and due to concerns raised by officers have also been amended throughout the life of this application. Revisions have omitted previously proposed composite fencing. The proposed treatments have been carefully assessed with commentary as follows:

A retaining wall would sit in front of the plots facing the river. This retaining wall (type A on the plans) would remain similar to previously approved but would now comprise blue engineering bricks with 1.1m high railings atop with a stainless steel satin finish. In this context of contemporary development, the detail of the wall is considered appropriate. Part of the frontage of Plot 3 (which has its private garden fronting the river) would be enclosed by a low retaining wall atopped with a timber post fence, which is again considered appropriate. How this might appear is depicted on the image below.



Post and rail timber fencing (type C on the plans) at a height of 1.1m is proposed between Plots 1 to 3 and the riverside park which is considered appropriate.

The private gardens to the plots would, in the most part, be enclosed by 1.8m high horizontal cedar boarding (types C and D) which are relatively discreetly located, being set back generally and lacking prominence. These are considered acceptable. One exception are the boundaries between plots 1, 2 and 3 which would need to comprise a retaining wall (of varying heights to follow terrain) which would comprise blue engineering brick atopped with 1.8m high horizontal cedar board fencing. These retaining structures would be visible through the post and rail fencing of the wildlife park but are considered to be appropriate given the contemporary material palette and given the approved soft landscaping within the park would help to soften this over time.

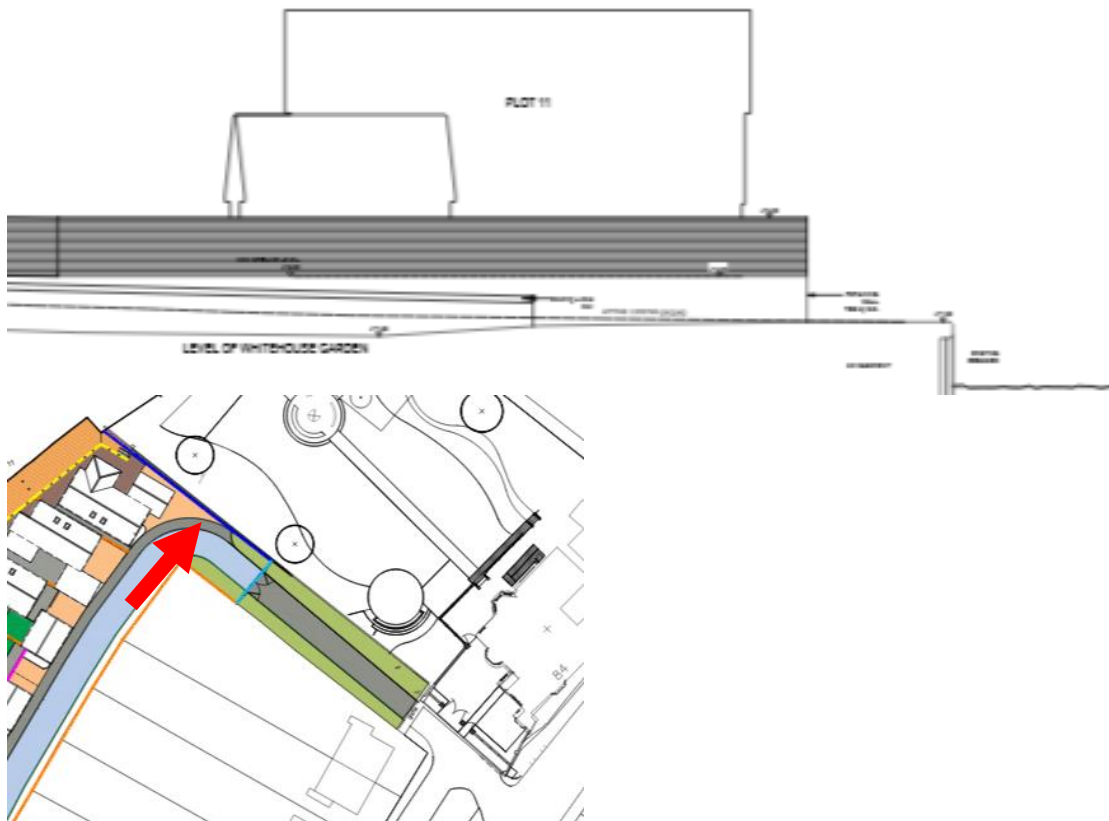


The boundaries that partly enclose Plot 1 from the internal road also comprises a low, blue brick retaining wall topped with 1.5m render wall with grey capping. This will be relatively prominent being visible through the entrance gates but is considered appropriate and reflects the vernacular of the dwellings. This can be seen on the image below behind the red brick entrance wall and gates.



The secondary access to the north (adjacent to the listed White House) would be gated, with red brick piers topped with stone copings, black painted steel gates with adjacent horizontal cedar boarding. The use of red brick here is considered appropriate being the vernacular of Millgate which this would visually read as part of. The boundary of the site with the side/rear garden of the listed building would comprise cedar fencing. Whilst a timber post and rail fencing with landscaping would have been preferable, it is noted that there is a level difference that exposes the existing garden to the development as is shown on the extract below.

LONG SECTION [Extract]
SCALE 1:100



A cedar boarded fence is therefore considered an acceptable boundary treatment in this context and one that Conservation colleagues are comfortable with.

A 1.8m high boundary fence would also front the retaining wall alongside the rear boundaries of the existing properties on Millgate which back onto this development. This is considered acceptable and would help provide a unified and cohesive boundary in the area.

Overall the boundary treatments are considered to be appropriate.

In conclusion the amendments proposed are considered to preserve the character and appearance of the Conservation Area and the setting of the nearby listed building which accords with the policy objectives identified.

Flood Risk

Core Policy 9 requires new development proposals to pro-actively manage surface water. Core Policy 10 of the Core Strategy and Policy DM5 of the Allocations and Development Management DPD along with the NPPF set out the appropriate approach to flood risk.

The site lies in flood zones 2 and 3 - at medium/high flood risk. In this case however, the scope of the application is limited to the differences between the approved scheme and the scheme now advanced. As such there is no requirement to apply the Sequential Test and the development just needs to demonstrate that the changes proposed would be safe for its lifetime and not make flooding any worse for other properties.

In terms of alterations proposed to the drainage scheme, the flood strategy and compensation scheme (which are essentially crates underneath the road) these are limited to relatively minor alterations to land/road levels which have consequently impacted the upon the strategy. These are acceptable to both the Lead Local Flood Authority and the Environment Agency who raise no objections. As such the requested amendments to the conditions are considered acceptable.

It is noted that some residents have raised concerns that the gardens of properties along Millgate (that lie adjacent to the development site) have experienced flooding since the construction on site has commenced.

There is some suggestion that a concrete retaining wall erected along this boundary may be contributing to this by not allowing the water to escape where it has pooled at the end of the gardens, given their sloping nature. This retaining wall is between between 900mm and 1500mm high along the boundary. Part of its design appears to have been to protect the gardens of existing dwellings from fluvial flooding.

Residents appear to have experienced pluvial flooding from excessive rainwater falling onto saturated ground and not being able to escape quickly enough. This is clearly of concern to them, however firstly, it is not clear that the cause of the flooding is a direct result of the development carried out (there has been unprecedented flooding across the District in any event) and secondly, the retaining wall in question has already been approved as part of a previous application (having been subject to consultation with both the Lead Local Flood Authority and the Environment Agency who confirmed the acceptability of the scheme as technical experts). Lastly and importantly it does not form part of the scope of this application as it has previously been approved. It should be noted that this application would see the retaining wall remain with a horizontal cedar board fence placed close to that wall to screen it and guard against the level differences.

Notwithstanding that it doesn't form part of this application, officers have reached out to the applicants to ask them to review the drainage strategy and ascertain if the design is contributing to flooding, to see if there is a design solution that can be achieved. Engagement will take place by Planning Enforcement with the Environment Agency and Lead Local Flood Authority to ensure the approved drainage strategy is what has been implemented. However these discussions will need to take place outside of the application process. Nevertheless, it is understood that the drainage consultants are currently undertaking a period of monitoring and are reviewing the strategy with a view to making changes if it is identified that it may assist.

Highway Matters

SP7 and DM5 set out the broad policy context in requiring development to provide safe and convenient accesses for all, be appropriate for the highway network in terms of volume and nature of traffic generated, to ensure highway safety, convenience and free flow of traffic using the highway are not adversely affected, provide appropriate and effective parking and servicing provision and to ensure that new traffic generated does not create new or exacerbate existing traffic problems.

Construction Access

The applicant's agents have been working directly with the Highways Authority (HA) for some time in order to resolve issues that have arisen as part of the section 278¹ agreement that they require with NCC as the Highway Authority.)

The applicant now wishes to utilise the secondary access, adjacent to the listed White House for construction traffic. This is currently prohibited by Condition 14 which provides that no development should be commenced in respect of the dwellings until the construction access (adjacent to the northern boundary of the wildlife park) has been provided including changes to the parking bay arrangements on Mill Gate and that thereafter this access should be used for residential construction traffic, explicitly stating that the access adjacent to the The White House shall not be used for construction traffic. The reason for the condition was given as 'to provide adequate and safe access to the development'. Going back to the original scheme, it appears that this was included at the request of the Highways Authority.

In commenting on the revisions, the Highways Authority have advised that there are no highway reasons why the alternative access (adjacent to the White House) cannot be used for construction purposes which would require an amendment to the condition. In the absence of any other planning reason to prevent this access from being used by construction vehicles, this is therefore considered acceptable. It should be noted that the gating of this access would take place following the construction of the dwellings and condition 13 is proposed to be amended (with the agreement of the applicant) to reflect this.

NCC Highways Authority also state that the permanent residential access would not have been allowed to have been constructed prior to the Traffic Regulation Order (TRO) in condition 18 being a Made Order as there are interlaced highway works. They go on to state that so long as Condition 18 is revised as suggested, the permanent access can be constructed without restraint. They also suggest wording for a revised condition Condition 14. There are no other reasons why the secondary access could not be used for construction reasons and therefore it is recommended that the condition is altered.

Compensatory Parking

As a result of the access provision, some parking bays on Millgate would be lost in respect of both remaining phases of development. Condition 18 as currently imposed, seeks to ensure that compensatory parking provision is made available to avoid detrimental impacts on highway safety as a consequence.

It is noted that NCC Highways Authority have suggested a revised draft of this condition. This seeks to offer a more flexible route to compensatory parking in that the developer would only have to provide this if it is shown to be required, which would be evidenced by surveys. However there is concern that the revised condition as suggested would not meet the tests of the NPPF. Noting that the residential dwellings would have their own on-site parking, the

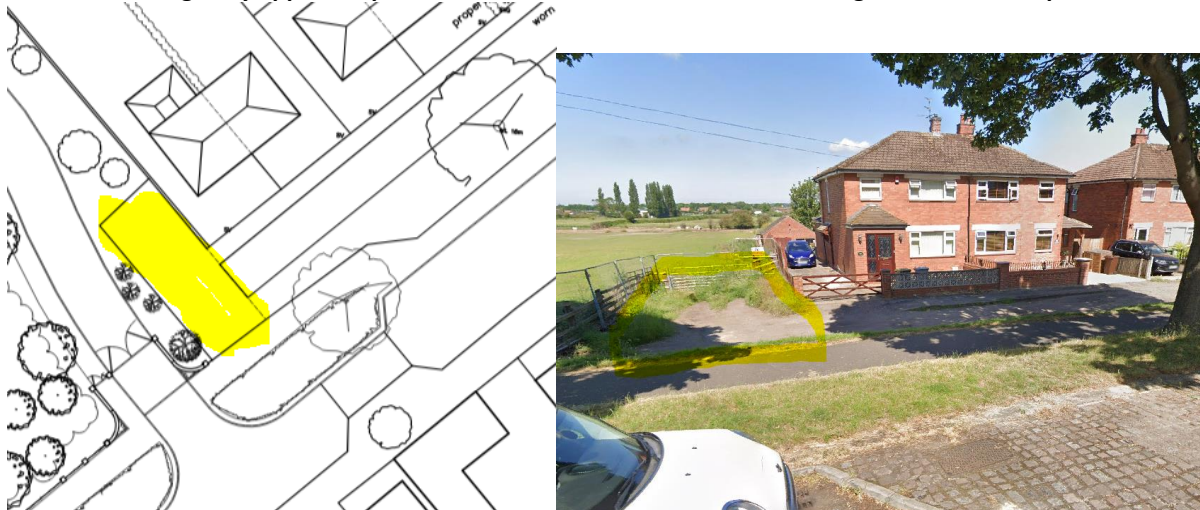
¹ A section 278 agreement is a legal agreement between a developer and a council to make changes to a public highway. It is a section of the Highways Act 1980 that is used when a developer has obtained planning permission and the proposal requires them to alter, modify or reconstruct adopted highways.

loss of the parking bay impacts are likely to be low and felt by local residents and/or possible commuters parking on the fringe of the town. For the health centre phase, the trigger would need to be prior to the building being first brought into use as the risk associated with this element would be the additional traffic generated. Therefore retaining the condition as originally drafted (but referencing the phasing to add clarity) is considered to remain appropriate and provide more certainty on what needs to happen and when.

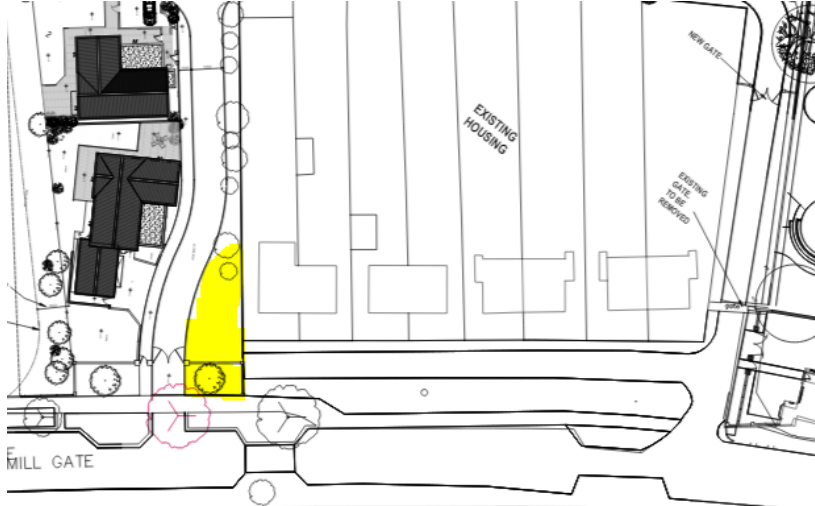
Representations have been made during the course of the application to indicate that the land adjacent to 96 Millgate is currently used by residents as a turning point for vehicles. One such representation indicates that the adjacent property (no. 96) has a deed of easement over the land which means they are responsible for its maintenance and that it wasn't included as part of original plans.

Firstly as already set out, the land in question was contained within the application site as part of the original/host application ref: 12/00301/FULM. At that time the land in question was shown as a rectangular square on the plan (see extract below with area highlighted in yellow) albeit the plan is not annotated to indicate how this was to be treated. It should be noted that the easement location is within the area in highlighted yellow albeit its extent is not known.

Extract from originally approved plan from 12/00301/FULM Streetview image of the land in question



Extract of proposed plan which now shows this to be part of the landscaping



Secondly, a right of easement is a civil matter that is not something that the LPA is able to involve itself in and the owners of number 96 (and anyone else with an easement) would need to take this up with the land owners.

However the highway safety aspect of the scheme is a matter that is clearly material to the application. With regard to this NCC have been asked to provide comment and they have responded as follows:

Whilst we have no comments to make on the additional design information submitted, there are a number of comments that have been made with regards the existing field access at the end of the access road to the northeast of the proposed development access. This is within the red line boundary of the application site but is currently being utilised by residents as a turning facility. We have the following comments as Highway Authority to inform the Local Planning Authority.

This was considered previously, and whilst not ideal for it to no longer be available, all properties (potentially other than number 96 with which an easement is associated) have been taking advantage of the turning ability afforded by this area rather than having a right to use it and its removal therefore does not change the current situation.

Notwithstanding this, considering the effect of its removal against design standards, half of the properties would be within allowable reversing distance leaving the other half having to reverse more than 25 metres. If vehicles were to reverse they would be likely to use the area currently in front of the gate on the northernmost access to reverse into, to allow them to enter adopted highway (Mill Gate) in a forward gear.

All properties have driveways which would allow residents to be able to reverse opposite their property, meaning it should be in the main visitors and delivery vehicles that would have to reverse any distance.

Other than for use by construction vehicles as proposed within this application, it is only subsequently to be used for refuse vehicles. The permanent situation should not therefore create a significant risk of conflict, but given the restricted visibility around the corner adjacent to Marlow House, we would recommend an additional condition (over and above those previously requested) in order to address the risk of conflict during construction, as follows:

The development shall not be commenced until a traffic management plan detailing measures to control the exit of construction vehicles adjacent to Marlow House Reason: In the interests of general highway safety.'

Notwithstanding the Highways Authority comments, Officers have sought to negotiate a turning area within the scheme but the applicant has not amended the scheme and it is acknowledged that this would be difficult to achieve. Ultimately this is not a highway safety matter that would give reasonable grounds for refusal. An additional condition is recommended as condition no. 25 which has been redrafted from the version that the Highways Authority suggested. This would only be triggered once the land used for the turning area was lost allowing the developers to make progress on site and only provide

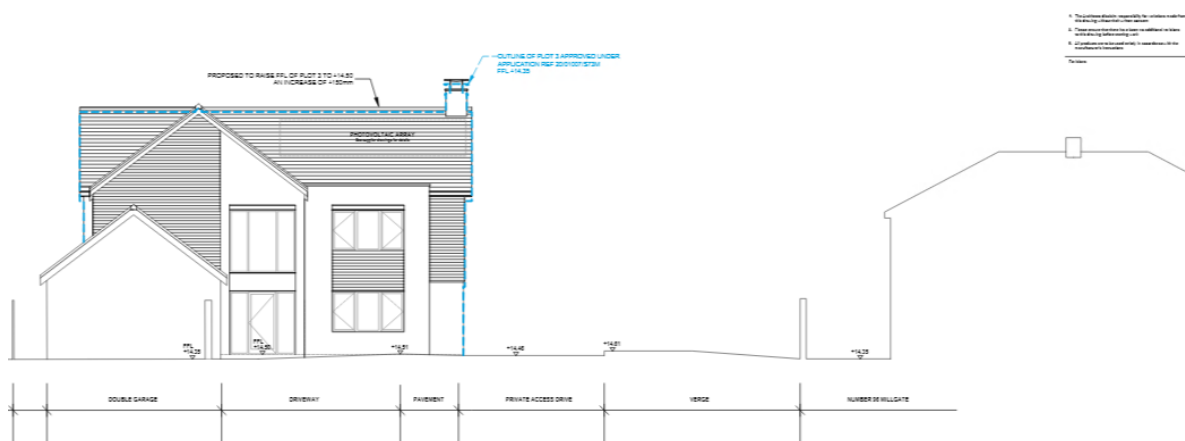
details of a traffic management plan in respect of Phase 2 construction to minimise conflicts during this time, which is considered to be more reasonable.

Impact on Residential Amenity

The relationship between plots has previously been assessed to be acceptable in the context of Policies DM5 and CP9 and only the changes arising from this application are open to consideration.

The distances between Plots 2 & 3 have not been amended as part of this scheme and the windows facing onto 96 Millgate (the nearest dwelling) have not materially changed and the impacts remain the same. Plot 2, for example, would now have a living room, study and entrance lobby windows at ground floor (compared to the previously approved living room, study and hallway window) whilst at first floor there would be two bedroom windows (previously approved) but would omit one landing window previously approved. Plot 3 proposes to substitute 3 living room windows with those serving a kitchen and utility at ground floor and continues to propose two obscure windows serving a bathroom and ensuite at first floor.

Plot 3 is proposed to have its finished floor levels (FFL) raised from the approved 14.35 AOD, by 150mm, to 14.50 AOD. According to the applicant, this is necessary due to a building regulation requirement for the attached garage to have a minimum step of 100mm between the garage and house and that this has been increased to 150mm to work better with the proposed brick dimensions. They also say that it isn't possible to lower the level of the garage due to the gradient across the driveway from the road level being at its maximum allowable. The revised FFL of Plot 3 by 150mm is likely to be imperceptible but nevertheless a section showing the relationship has been provide. This minor change is not considered to tip the impacts to one that is unacceptable.



Other relationships between dwellings have not changed significantly. The existing dwellings fronting Millgate would sit higher than the new dwellings due to topography and the changes to the siting of Plots 9-11 are very minor and there would still be a significant distance (c48m or more) between dwellings to meet the needs of privacy.

It is therefore concluded that the impacts on existing residential dwellings in the area remain acceptable in compliance with policies CP9 and DM5.

Other Matters

There is no change to housing mix or the parking strategy that need to be considered.

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

Following a review of the scheme, officers are satisfied that the scheme constitutes an appropriate material amendment that is capable of being amended through section 73 of the Act and that all of the development, save for some highway works, are within the application boundary of the site.

Following amendments, the impacts upon the character and appearance of the conservation area arising from the changes are considered to be acceptable and there is no harm to the setting of the adjacent listed building.

There are very minimal impacts to the flood compensation scheme and drainage strategy proposed which have arisen only due to minor changes to the land levels necessitating the relevant conditions being amended.

No highway safety issues nor impacts on residential amenity have been identified as part of the amendments proposed.

Considering the limited scope of the application, there is no harm identified that would warrant a reason for refusal and the proposal is considered to be in accordance with the Development Plan. A recommendation of approval is offered.

10.0 Conditions

The following conditions are shown below as previously/last imposed with strikethrough text to show how they would be amended by this approval with new text shown in **bold**. These conditions have been amended where they are no longer relevant or where they require aligning with the revised plans.

01

The development shall be implemented in accordance with the phasing scheme shown on drawing no. 812.1005.3.315 Rev B ~~unless otherwise agreed in writing by the Local Planning Authority.~~

Reason: In order for the development to be delivered in a satisfactory manner in the interests of the environment.

02

Prior to commencement of development for any particular phase pursuant to condition 1, no development other than that required to be carried out as part of an approved scheme of remediation, shall be commenced until Parts A to D of this condition have been complied with for the relevant phase in question. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until Part D has been complied with in relation to that contamination.

Part A: Site Characterisation

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

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

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

Part B: Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Part C: Implementation of Approved Remediation Scheme

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

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

Part D: Reporting of Unexpected Contamination

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

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

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

03

The development hereby permitted shall be constructed entirely of the material details submitted and approved as shown on drawing numbers ~~812.1005.3.313 Rev A (Housing Typical Details Sheet 1), 812.1005.3.314 Rev A (Housing Typical Details Sheet 2) including details of external facing materials as well as drawings submitted with application reference no. 20/01007/S73M comprising 812.1005.105 Rev B (Plot 3 Elevations), 812.1005.103 Rev B (Plot 2 Elevations), 812.1005.101 Rev B (Plot 1 Elevations) and the following drawings which relate to Plots 1 to 3 inclusive: 812.1005.313 (Proposed Typical Details for all house types Sheet 1) and 812.1005.314 (Proposed Typical Details for all house types Sheet 2) unless otherwise agreed in writing by the local planning authority.~~

812.1005.3.311 Rev A (Health Facilities Typical Details Sheet 1)

812.1005.3.312 Rev A (Health Facilities Typical Details Sheet 2)

812.1005.313-(30)-101 Rev A (Proposed Typical Details for all house types Sheet 1)

812.1005.313-(30)-201 Rev A (Proposed Typical Details for all house types Sheet 2)

812.1005.314-(30)-301 Rev A (Proposed Typical Details for all house types Sheet 3)

812.1437.1-(21)-101 Rev A – Plot 1 Elevations,

(21)-201 Rev A– Plot 2 Elevations

(21)-301 Rev A– Plot 3 Elevations

(21)-401 Rev A– Plot 4 Elevations
(21)-501 Rev A– Plot 5 Elevations
(21)-601 Rev A– Plot 6 Elevations
(21)-701 Rev A– Plot 7 Elevations
(21)-801 Rev A– Plot 8 Elevations
(21)-901 Rev A– Plot 9 Elevations
(21)-1001 Rev A – Plot 10 Elevations
(21)-1101 Rev A– Plot 11 Elevations

Reason: In the interests of visual amenity. ~~This condition had previously been discharged so was remodelled to make clear what materials have been approved and to require the scheme to be implemented in accordance with them as per the 2016 permission and this permission.~~

04

The approved hard and soft landscaping scheme shown on drawing nos. **(19) -101 (Hard and Soft Landscaping Plan), MGMN-BSP-XX-XX-D-C-0210-P05, 91-101 Rev A (Proposed Boundary Details)** ~~301 Rev B, 302 Rev A, 303 Rev B, 304 Rev A, 305 Rev B, 306, 307, 308 Rev A, 309, 310 (update received 02.10.2015),~~ **812.1437.1(63)-101 (Proposed Lighting Scheme),** 316 Marina lighting and Services, 'Proposed Finished Levels Final Landform' drawing no. ~~C16032/C/002~~ **410 (Proposed Site Levels Contour Plan) MHMN-BSP-XX-XX-D-C-0210 Rev P05 'Private Levels' plans** and the Updated Ecology Report including percentage mixes of species to be planted, location of bat boxes etc and received 2nd October 2015 shall be carried out in accordance with the approved implementation and phasing plan. The works shall be carried out before any part of the development is occupied **in each phase** or in accordance with the programme agreed with the local planning authority.

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

05

The development permitted by this planning permission shall be carried out in accordance with the Flood Risk Assessment (FRA) and drawing numbers **MGMN-BSP-XX-XX-D-C-0210-P05 (Private Levels)** ~~410 (Proposed Site Levels Contour Plan)~~ C16032/C/001 (Proposed Finished Levels: Flood Plain Compensation), Drainage Strategy 23071_02_020_01, supplemented by drawing no. 412A and the following mitigation measures detailed within the FRA:

1. Provision of compensatory flood storage on a level for level basis for the 1 in 100 year plus climate change scenario.
2. Provision of the improved access for inspection and maintenance of river bank.
3. Identification and provision of safe routes into and out of the site to an appropriate safe haven.
4. Finished floor levels are set no lower than 13.2m above Ordnance Datum (AOD).

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason:

1. To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.
2. To ensure the structural integrity of river bank.
3. To ensure safe access and egress from and to the site.
4. To reduce the risk of flooding to the proposed development and future occupants.

06

The floodplain compensation scheme as shown on drawing numbers C16032/C/001 (Proposed Finished Levels Flood Plain Compensation), ~~410 (Proposed Site Levels, Contour Plan) C16032/C/002 (Proposed Finished Levels Final Landform)~~ **MGMN-BSP-XX-XX-D-C-0210-P05 (Private Levels)** and the ~~Drainage Strategy drawing~~ **MGMN-BSP-XX-XX-D-C-0240-P04 (Private Drainage Layout)** ~~23071_02_020_01 supplemented by drawing no. 412A~~ shall be fully implemented on site prior to first occupation of development of any phase ~~unless otherwise agreed in writing by the Local Planning Authority.~~

Reason: To prevent an increase in flood risk elsewhere.

07

The approved scheme relating to potential replacement sheet piling tie bars at the river's edge (shown on drawing no. BPS 15158/SK01 and as detailed in the Survey of Tie Bars Newark Marina dated September 2015) shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To reduce the risk of failure of the River Trent's banks.

08

The development shall be implemented and subsequently maintained in accordance with the approved surface water drainage scheme shown on drawing numbers **MGMN-BSP-XX-XX-D-C-0210-P05 (Private Levels)** ~~23071_02_020_01, supplemented by drawing no. 412A, 23071_02_02_03 Long Section with Water Level (received 5/01/18), 23071_02_020_02~~ Impermeable Area Calculation, Unreferenced general layout plan received 5/1/18 and Storm Sewer Design Calculations received 5/1/18 and this shall be implemented prior to first occupation of any building ~~unless otherwise agreed in writing by the local planning authority.~~

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

09

The development shall be implemented in accordance with the updated and approved 'Ecology Report, Mitigation Strategy and Ten Year Management Plan' (including the

enhancements contained within Section 7.3). ~~unless otherwise agreed in writing by the local planning authority.~~

Reason: In the interests of maintaining and enhancing biodiversity.

010

The approved scheme to treat and remove suspended solids from surface water run-off during construction works as shown on the BSP Consulting briefing note dated 10th September 2015 shall be implemented as approved.

Reason: The information submitted indicates that the site has a fall towards the River Trent, and that currently run-off is over land towards the river. Therefore, during the demolition and construction phases of the development there is potential for run off containing silt/suspended solids to enter the watercourse.

The Humber river basin management plan requires the restoration and enhancement of water bodies to prevent deterioration and promote recovery of water bodies. Without this condition, the impact could contribute to deterioration of a quality element to a lower status class and/or prevent the recovery of the River Trent (Soar to Carlton) water body because it could contribute to silt/suspended solids entering the River Trent

011

~~No part of the Marina extension hereby approved shall be first brought into use until such time as a parking area of not less than 21 parking spaces are first provided in materials to be first agreed in writing with the Local Planning Authority. The parking shall thereafter be retained for the lifetime of the development.~~ **The marina parking shall be retained for the lifetime of the development.**

Reason: To ensure that adequate parking provision is made and to reduce on-street parking in the interests of highway safety.

012

The vehicular and pedestrian accesses shown on ~~drawing 122 Revision D~~ **MGMN-BSP-XX-XX-D-C-0100 Rev P09** shall be constructed and surfaced in a bound material and no properties shall be occupied until the associated access has been completed and made fully available.

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

013

Prior to first occupation of any dwelling hereby approved within Phase 2, the north-easternmost access (or secondary exit) will be gated in accordance with drawing ~~(19)-101 122 Revision D~~ and, in accordance with the submitted design and access statement, will only be

opened to allow refuse, and emergency vehicles to pass. It shall remain closed at all other times.

Reason: In the interests of safety, by avoiding a proliferation of vehicle and pedestrian movements on an access that is not provided with suitable pedestrian facilities.

014

~~No development shall be commenced in respect of any of the dwellings hereby approved until the construction access which shall be the access to the northern boundary of the wildlife area, including changes to the parking bay arrangements on Mill Gate, has been provided as shown on drawing 122 Revision D to the satisfaction of the Local Planning Authority. Thereafter this access shall be used for residential construction traffic until such time as the residential development is completed. For the avoidance of doubt the access adjacent to The White House shall not be used for construction traffic.~~

No part of the residential development shall be occupied until such time as the access as shown on drawing number MGMN-BSP-XX-XX-D-C-0100 Rev P09, including changes to the parking arrangements on Mill Gate, has been provided.

Reason: To provide adequate and safe access to the development.

015

The accesses shall be constructed in accordance with the approved scheme to prevent the unregulated discharge of surface water from them to the public highway (as shown on drawing **MGMN-BSP-XX-XX-D-C-0210-P05 'Private Levels' 410** ~~Proposed Site Levels Contour Plan C16032/C/002~~) and the implemented scheme shall be retained for the life of the development.

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

016

The gates at the main residential access point and at the health facility access shall open inwards only, be set back a minimum of 5 metres from the highway boundary and be constructed in accordance with the details shown on drawing ~~no. 126A~~ **numbers MGMN-BSP-XX-XX-D-C-0100-P09_S278_General Arrangement, MGMN-BSP-XX-XX-D-C-0130-P09-S278_Construction Layout, MGMN-BSP-XX-XX-D-C-0180-P08_S278 Signage and White Lining and (91)-201 (Proposed Entrance to Housing Access Road)**. The approved gates shall then be retained for the life of the development.

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

017

Trees removed to allow for the construction of the residential access and provision of parking bays on Mill Gate shall be replaced with trees to be first agreed in writing by the Local Planning Authority in liaison with the Highway Authority (species, size and location) prior to occupation of any dwelling.

Reason: In the interests of visual amenity.

018

Prior to first occupation **of each phase**, a scheme for controlled replacement parking on Mill Gate (required as a result of the loss of on-street parking due to the creation of the access points) shall be submitted to and agreed in writing by the Local Planning Authority. The agreed scheme (with associated signs and lining) shall be implemented on site in accordance with a timetable to be first agreed in writing with the LPA and shall thereafter be retained for the lifetime of the development ~~unless otherwise agreed~~.

Reason: To avoid detrimental effect on the on-street parking facilities and to cater for alterations to the on-street parking arrangements as a result of the new access arrangements.

019

The scheme for the disposal of surface water and foul sewage as shown on approved drawings **MGMN-BSP-XX-XX-D-C-0240-P04 (Private Drainage Layout) 23701_02_020_01, 23071_02-02-03 Long Section with Water Level, 23071-_02_020_02 Impermeable Area Calculation and Storm Sewer Design Calculations received 5th January 2018** ~~supplemented by drawing no. 412A~~ shall be implemented on site prior to the development **within each respective phase is being** first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

~~020~~

~~No development shall be commenced in respect of the new bridge (serving the new car parking area) until details of the design, specification, fixing and finish in the form of drawings and sections at an appropriate scale have been submitted to and approved in writing by the local planning authority. Development shall thereafter be undertaken in accordance with the approved details unless otherwise agreed in writing by the local planning authority.~~

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

~~021~~ 020

The approved external lighting as shown on drawing numbers: ~~812.1005.3.309~~ **812.100.3.309 (Lighting Design Scheme)** and Health Facilities;

812.1005.3.316 Marina lighting and Services; RLEC24343; RLEC25440 & SI-RE513-GM ~~and Lighting Scheme plan showing housing plots 1-3 (drawing no.310)~~ shall be carried out in accordance with the approved details **prior to first occupation/use of each respective phase** and retained for the lifetime of the development ~~unless otherwise agreed in writing by the local planning authority.~~

Reason: In the interests of visual and residential amenity and in the interests of crime prevention and secure by design principles.

~~022~~ 021

No hedge or tree that is to be removed as part of the development hereby permitted shall be lopped, topped, felled or otherwise removed during the bird nesting period (beginning of March to end of August inclusive). ~~unless otherwise agreed in writing by the local planning authority.~~

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

~~023~~ 022

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

Class A: The enlargement, improvement or other alteration of a dwellinghouse, including extensions to the property and the insertion or replacement of doors and windows.

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

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

Class D: The erection or construction of a porch outside any external door of a dwellinghouse.

Class E: Development within the curtilage of a dwellinghouse.

Class F: The provision or replacement of hard standing within the curtilage of a dwellinghouse.

Or Schedule 2, Part 2: Class A: The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.

Reason: To ensure that the local planning authority retains control over the specified classes of development normally permitted under the Town and Country Planning (General Permitted Development) (England) Order 2015 or any amending legislation) in the interests of visual amenity and due to its sensitive location adjacent to the river.

~~024~~ 023

Unless otherwise stated explicitly by condition the development hereby permitted shall not be carried out except in complete accordance with the following approved plans, references ~~123 (Site Sections), 3174-1 (Topographical Survey) 812.1005.3 Rev C (Site Location Plan), 812.1005.3.100 (Plot 1 Plans), 812.1005.3.101 (Plot 1 Elevations), 812.1005.414 (Plot 1, Ground floor and layout) 812.1005.101 Rev B (Plot 1 Elevations) 812.1005.100 Rev A (Housing~~

~~Plot 1, Floor and Roof Plans), 812.1005.3.102(Plot 2 Plans), 812.1005.3.103 (Plot 2 Elevations), 812.1005.3.104 (Plot 3 Plans), 812.1005.103 Rev B (Plot 2 Elevations) 812.1005.102 Rev A (Housing Plot No. 2 Floor and Roof Plans) 812.1005.3.105 (Plot 3 Elevations), 812.1005.105 Rev B (Plot 3 Elevations)~~
~~812.1005.104 Rev A (Housing Plot no. 3, Floor and Roof Plans), 812.1005.415 (Contextual Plans and Elevations, Plots 1, 2 and 3), 812.1005.413 (Contextual Elevations to Park), 812.1005.3.106 (Plot 4 Plans), 812.1005.3.107 (Plot 4 Elevations), 812.1005.3.108 (Plot 5 Plans), 812.1005.3.109(Plot 5 Elevations), 812.1005.3.110 (Plot 6 Plans), 812.1005.3.111(Plot 6 Elevations), 812.1005.3.112 (Plot 7 Plans), 812.1005.3.113 (Plot 7 Elevations), 812.1005.3.114 (Plot 8 Plans) 812.1005.3.115 (Plot 8 Elevations) 812.1005.3.116 (Plot 9 Plans) 812.1005.3.117 (Plot 9 Elevations) 812.1005.3.118 (Plot 10 Plans), 812.1005.3.119 (Plot 10 Elevations), 812.1005.3.120 (Plot 11 Plans), 812.1005.3.121 (Plot 11 Elevations) 812.1005.3.122 Rev D (Proposed Site Layout) 812.1005.3.123 (Long Sections) 812.1005.3.126 (Proposed Entrance), 812.1005.3.150 (Health Facilities Ground Floor) 812.1005.3.151 (Health Facilities First Floor) 812.1005.3.152 (Health Facilities Basement) 812.1005.3.153 (Health Facilities Elevations 1) 812.1005.3.154 (Health Facilities Elevations 2) 812.1005.412 A (Proposed Drainage Layout, Positioned Plots 1 – 3 and Wildlife Park), 812.1005.410 (Proposed site levels – contour plan) and 812.1005.122 Rev E (Block Plan and Site Masterplan)~~
812.1005.313-(30)-101 Rev A(Proposed Typical Details for all house types Sheet 1)
812.1005.313-(30)-201 Rev A (Proposed Typical Details for all house types Sheet 2)
812.1005.314-(30)-301 Rev A (Proposed Typical Details for all house types Sheet 3)
MDMN-BSP-XX-XX-D-C-210-P05 (Private Levels)
MGMN-BSP-XX-XX-D-C-0240-P04 (Private Drainage Layout)
MGMN-BSP-XX-XX-D-C-00100-P09-S278 (General Arrangement)
MGMN-BSP-XX-XX-D-C-00130-P09-S278 (Construction Layout)
MGMN-BSP-XX-XX-D-C-0180-P08-S278 (Signage and White Lining)
(19)-101 – Proposed Site Masterplan
(19)-101 Rev B – Hard and Soft Landscaping Plan
(08)901 – General Site Sections and Elevations
22-0023-01-305 Rev R01, Plot 1 Technical Floor Plans Roof
22-0023-02-305 Rev R01, Plot 2 Technical Floor Plans Roof
22-0023-03-305 Rev R01, Plot 3 Technical Floor Plans Roof
22-0023-04-305 Rev R01, Plot 4 Technical Floor Plans Roof
22-0023-05-305 Rev R01, Plot 5 Technical Floor Plans Roof
22-0023-06-305 Rev R01, Plot 6 Technical Floor Plans Roof
22-0023-07-305 Rev R01, Plot 7 Technical Floor Plans Roof
22-0023-08-305 Rev R01, Plot 8 Technical Floor Plans Roof
22-0023-09-305 Rev R01, Plot 9 Technical Floor Plans Roof
22-0023-10-305 Rev R01, Plot 10 Technical Floor Plans Roof
22-0023-11-305 Rev R01, Plot 11 Technical Floor Plans Roof
(91)-101 Rev A Proposed Boundary Details
(91)-201 Proposed Entrance to Housing Access Road
812.1437.1-(63)-101 Lighting Design Scheme_AO
812.1437.1:
(20)-101 Rev A – Plot 1 Floor and Roof Plans
(21)-101 Rev A – Plot 1 Elevations
(20)-201 Rev A– Plot 2 Floor and Roof Plans
(21)-201 Rev A– Plot 2 Elevations

(20)-301 Rev A – Plot 3 Floor and Roof Plans
(21)-301 Rev A– Plot 3 Elevations
(20)-401 Rev A – Plot 4 Floor and Roof Plans
(21)-401 Rev A– Plot 4 Elevations
(20)-501 Rev A– Plot 5 Floor and Roof Plans
(21)-501 Rev A– Plot 5 Elevations
(20)-601 Rev A– Plot 6 Floor and Roof Plans
(21)-601 Rev A– Plot 6 Elevations
(20)-701 Rev A – Plot 7 Floor and Roof Plans
(21)-701 Rev A– Plot 7 Elevations
(20)-801 Rev A – Plot 8 Floor and Roof Plans
(21)-801 Rev A– Plot 8 Elevations
(20)-901 Rev A – Plot 9 Floor and Roof Plans
(21)-901 Rev A– Plot 9 Elevations
(20)-1001 Rev A– Plot 10 Floor and Roof Plans
(21)-1001 Rev A – Plot 10 Elevations
(20)-1101 Rev A – Plot 11 Floor and Roof Plans
(21)-1101 Rev A– Plot 11 Elevations

Technical specification for GSE Integration in roof system solar panels

~~unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.~~

Reason: So as to define this permission.

025-024

The land forward of the visibility splays as shown on Drawing Number MGMN-BSP-XX-XX-D-C-0100 P09 shall be maintained free of all obstruction over 0.6 metres above the carriageway level at all times.

Reason: In the interests of highway safety.

025

Prior to the commencement of the approved access (identified on Drawing Number 812.1005.3.315 Rev B) a Traffic Management Plan (TMP) shall be submitted to and approved in writing by the local planning authority. This shall detail measures to control the exit of construction vehicles adjacent and the parking of vehicles of site operatives and visitors. The approved TMP shall be adhered to throughout the construction period.

Reason: In the interests of residential amenity and to reduce conflicts with vehicles during the construction period.

Notes to Applicant

01

The applicant/developer is advised to contact the Canal and Rivers Trust Infrastructure Services Team on 0303 040 4040 in order to ensure that any necessary consents are obtained and that the works comply with the Canal and Rivers Trust 'Code for Practice for Works affecting the Canal and River Trust'.

02

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

03

The 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 not payable on the development given that there is no net additional increase of floorspace as a result of the development.

04

You are advised that you may require building regulations approval in addition to the planning permission you have obtained. Any amendments to the permitted scheme that may be necessary to comply with the Building Regulations, must also be approved in writing by the Local Planning Authority in order that any planning implications arising from those amendments may be properly considered.

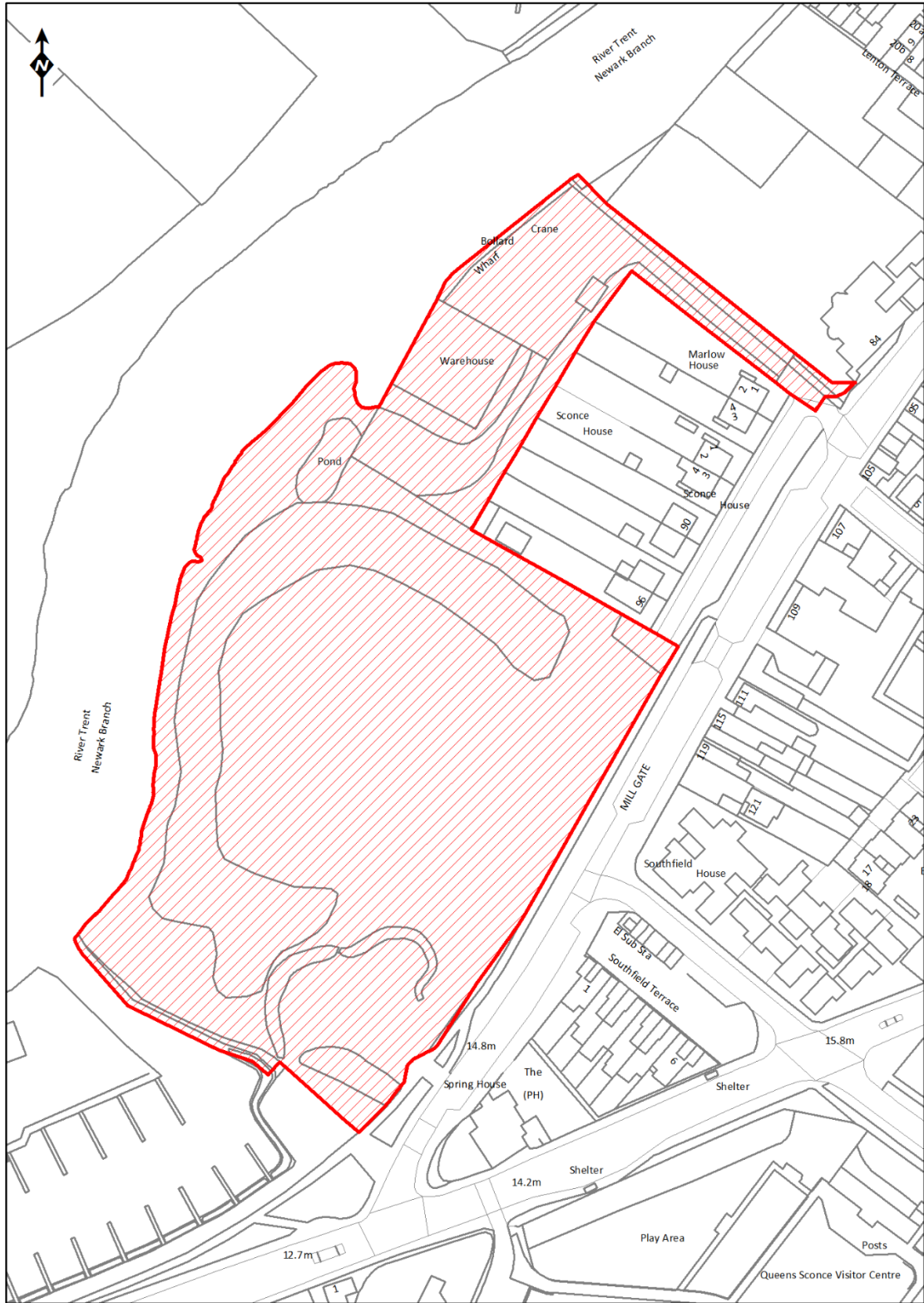
East Midlands Building Control operates as a local authority partnership that offers a building control service that you may wish to consider. You can contact them via email at info@eastmidlandsbc.com via phone on 0333 003 8132 or via the internet at www.eastmidlandsbc.com

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 - 23/02117/S73M



© Crown Copyright and database right 2022 Ordnance Survey. Licence 100022288. Scale: Not to scale

Committee Plan - 23/02117/S73M



© Crown Copyright and database right 2022 Ordnance Survey. Licence 100022288. Scale: Not to scale



Report to Planning Committee 14 March 2024

Business manager Lead: Lisa Hughes – Planning Development

Lead Officer: Yeung Browne – Planner (Development Management)

Report Summary			
Application Number	24/00082/S73		
Proposal	Variation of conditions 2 and 8 attached to planning permission 22/01591/FUL to amend the approved plans and amend the wording in condition 8		
Location	77C Eton Avenue, Newark On Trent, NG24 4JH		
Applicant	Newark & Sherwood District Council - Mr Kevin Shutt	Agent	Studio-G Associates LLP - Mrs Karolina Walton
Web Link	24/00082/S73 - Variation of conditions 2 and 8 to planning permission 22/01591/FUL		
Registered	12.01.2024	Agreed Extension of time	20.03.2024
Recommendation	That Planning Permission is <u>APPROVED</u> subject to the Conditions detailed at Section 10		

This application is before the Planning Committee for determination, in accordance with the Council's Constitution, because the Council is the applicant.

1.0 The Site

The application site was the former Newark and Sherwood District Council housing office with parking facility, located on the corner of Eton Avenue and Devon Road, Newark. The site is predominantly surrounded by residential development with some commercial properties to the north-west.

The proposed site is approximately 2000m², broadly triangular in shape, current vehicle access is from Devon Road. To the northern boundary there are private garden areas from dwellings off Devon Road and a local pharmacy off Eton Avenue. An existing Gas Governor is positioned adjacent to Devon Road, access will be required from both sides.

2.0 Relevant Planning History

22/00629/DEM – Demolition of former NSDC Housing Office. Prior approval required and granted on 13.05.2022

22/01591/FUL – Development of 5 bungalows and associated external works including installation of new dropped kerbs. Application approved 11th November 2022.

23/02190/NMA - Application for non material amendment to substitute new facing brick for approved bricks (now unavailable) attached to planning permission 22/01591/FUL. Application approved 17th December 2023.

23/02239/DISCON - Request for confirmation of discharge of conditions 08 (Off-site traffic management), 12 (Construction Method Statement) and 13 (Surface Water drainage) attached to planning permission 22/01591/FUL; (conditions 12 and 13 approved subject to compliance, condition 8 remain outstanding).

3.0 The Proposal

The application is a Section 73 application submitted to vary the following conditions 2 (plans) and 8 (off-site traffic management) attached to permission 22/01591/FUL (Development of 5 bungalows and associated external works including installation of new dropped kerbs).

Condition 02 – Plans reads:

The development hereby permitted shall be carried out only in accordance with the details and specifications included on the submitted application form, documents and shown on the drawings as listed below:

- *Revised Proposed site and block plans ref: 529-SGA-35-SL-DR-A-00010 Rev P3, received on 14 October 2022*
- *Revised Proposed floor plans ref: 529-SGA-35-OO-DR-A-00011, Rev P2, received on 15 August 2022*
- *Revised Proposed elevation ref: 529-SGA-35-XX-DR-A-00012, Rev P2, received on 15 August 2022*

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

The proposed wording is:

The development hereby permitted shall be carried out only in accordance with the details and specifications included on the submitted application form, documents and shown on the drawings as listed below:

- 529-SGA-35-SL-DR-A-00010 P5 Site Location and Block Plans received 12 January 2024
- 529-SGA-35-OO-DR-A-00011 P3 General Arrangement Plans received 12 January 2024
- 529-SGA-35-XX-DR-A-00012 P3 Elevations received 12 January 2024

The applicant advances that the condition requires amending due to a gas main running across the front of the site. This means the original development cannot be constructed without significant cost. This application proposes the repositioning of the bungalows slightly further within the site and also slightly to the north i.e, it would be set back from Eton Avenue by approximately 4 metres instead of c.2.65m on the previously approved plan. This proposed amendment also results in a small reduction in size of the three, 1 bedroom units.

The associated gardens and landscaped areas have been adjusted to address the new layout

with the overall building reduced in length from approximately 39m to 37.5m; and the depth of the building reduced from approximately 8.6m to 8.5m.

For the avoidance of doubt, the proposed change are detailed below:



**Site layout on approved on application
22/01591/FUL**



**Proposed site layout on current
application 24/00082/S73**

Front and rear elevation approved on application 22/01591/FUL



West Elevation
1:50



East Elevation

Proposed front and rear elevation on current application 24/00082/S73



PL East Elevation
1:50



PL West Elevation

Condition 08 (off-site traffic management) reads:

Prior to the commencement of development, the off-site traffic management works comprising of double yellow lines across the frontage of the site along Eton Avenue, as indicatively shown on the submitted plan ref: 529 SGA 35 SL DR A 00010 rev. P03 received on 14 October 2022 shall be provided in accordance with details to be first submitted to and approved in writing by the Local Planning Authority and retained thereafter unless the highway authority deem their removal appropriate.

REASON: To protect an unobstructed access to the existing bus stop and the free flow of traffic on Eton Avenue all in the interest of highway safety.

The off-site works would be subject to a Traffic Regulation Order (TRO), which would be carried out by VIAEM. The applicant states that implementation of the TRO scheme would, from experience, take a minimum of 6 months which would, without this variation, result in delay to the commencement of the project; representing a significant delay to starting construction. As a result, this application seeks amendment to the wording of this condition to be pre-occupation instead of pre-commencement.

The proposed wording is now suggest to be covered within two conditions with the following wording:

Prior to the occupation of development, the highway works as shown for indicative purposes only on drawing 529-SGA-35-SL-DR-A-00010 Rev P5 received on 12 January 2024 shall be completed. For the avoidance of doubt, these works require a Traffic Regulation Order which will need to be agreed and fully implemented to the satisfaction of the Local Planning Authority in discussion with the Highways Authority.

Reason: To provide adequate & safe access to the site.

and

Prior to occupation of the development, an application shall be made to provide the Traffic Regulation Order (double yellow lines) shown for indicative purposes only on drawing 529-SGA-35-SL-DR-A-00010 Rev P5 received on 12 January 2024 on Eton Avenue in the vicinity of Jersey Street. Any subsequently approved works shall be fully implemented to the satisfaction of the Local Planning Authority in discussion with the Highways Authority.

Reason: To provide adequate & safe access to the site.

The following documents have been submitted with the application:

- 529-SGA-35-SL-DR-A-00010 P5 Site Location and Block Plans
- 529-SGA-35-00-DR-A-00011 P3 General Arrangement Plans
- 529-SGA-35-XX-DR-A-00012 P3 Elevations

4.0 Departure/Public Advertisement Procedure

Occupiers of four properties have been individually notified by letter. A site notice was placed near to the proposed site on 16.01.2024.

Site visit taken on 16.01.2024.

5.0 Planning Policy Framework

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

- Spatial Policy 1 – Settlement Hierarchy
- Spatial Policy 2 - Spatial Distribution of Growth
- Spatial Policy 7 - Sustainable Transport
- Core Policy 1 – Affordable Housing Provision
- Core Policy 3 – Housing Mix, Type and Density
- Core Policy 9 – Sustainable Design
- Core Policy 10 – Climate Change
- Core Policy 12 – Biodiversity and Green Infrastructure
- NAP1 – Newark Urban Area

Allocations & Development Management DPD

- DM1 – Development within Settlements Central to Delivering the Spatial Strategy
- DM5 – Design
- DM12 – Presumption in Favour of Sustainable Development

Second Publication Amended Allocations & Development Management DPD, September 2023

The Draft Amended Allocations & Development Management DPD was submitted to the Secretary of State on the 18th January 2024. This is therefore at an advanced stage of preparation albeit the DPD is yet to be examined. There are unresolved objections to amended versions of the above policies emerging through that process, and so the level of weight which those proposed new policies can be afforded is currently limited. As such, the application has been assessed in-line with policies from the adopted Development Plan.

Other Material Planning Considerations

- National Planning Policy Framework
- National Planning Practice Guidance
- National Design Guide
- Housing Needs Survey 2020
- Residential Cycle and Car Parking Standards SPD 2021

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) Town Council

Newark Town Council – no comment received.

(c) Representations

Nottinghamshire County Council Highway (NCC Highway) – confirmed that the highway authority has no objection to this application to vary Conditions 2 and 8 as attached to 22/01591/FUL.

No representation was received nearby resident or interest parties.

7.0 Comments of the Business Manager – Planning Development

The key issues are:

1. Principle of development
2. Impact on Visual Amenity and the Character of the Area
3. Residential Amenity
4. Impact on Highways

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

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

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

- a) if the authority decides that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, the authority shall grant planning permission accordingly, and
- b) if the authority decides that planning permission should not be granted subject to the same conditions as those subject to which the previous permission was granted, the authority shall refuse the application.

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

Whilst the application has defined which conditions are sought to be varied, the local planning authority has the power to vary or remove other conditions if they are minded to grant a new planning consent. Full planning permission was granted in November 2022 subject to a number of conditions. The conditions to be varied in this application are Conditions 02 (plans) to amend the site layout, and 8 (off road traffic management) to amend the wording of the conditions to allow construction works to commence prior to submission of the off-site traffic management works comprising double yellow lines across the frontage of the site along Eton Avenue. The amended plans and wording would not result in any additional development or physical changes to the appearance of the scheme as approved. As a result, the scope of assessment in this case would be whether the relocation of the building, size alteration of the dwelling and amenity space, as well as the timing of the submission of the details required by these conditions would impact the development as a whole. Each condition will now be taken in turn.

Impact on the Visual Amenities of the Area

Core Policy 9 'Sustainable Design' of the Amended Core Strategy DPD requires new development proposals to, amongst other things, "achieve a high standard of sustainable design and layout that is capable of being accessible to all and of an appropriate form and scale to its context complementing the existing built and landscape environments". In accordance with Core Policy 9, all proposals for new development are assessed with reference to Policy DM5 of the Allocations & Development Management DPD, which, amongst other things, require new development to reflect the rich local distinctiveness of the District's landscape and character through scale, form, mass, layout, design, materials and detailing.

The application seeks to reposition the approved dwellings to avoid the main gas main pipes running across the front of the site. The entire row of 5 bungalows would be set back by c. 1.5 metres compared to the previously approved scheme. The layout and elevations largely remain the same with a slight reduction in overall width by c1.46m, and depth by c.0.11m of the entire structure. The eaves and ridge height of the building would be unaltered.

It is considered that the proposal amendment is acceptable in terms of scale, design and appearance. As such there is no objection to the variation as proposed.

Impact upon Residential Amenity

Policy DM5 'Design' of the Allocations and Development Management DPD states that

separation distances from neighbouring development should be sufficient to ensure that neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy. It also states that development proposals should have regard to their impact on the amenity or operation of surrounding land uses and where necessary mitigate for any detrimental impact.

The overall reduction in length to the entire building (5 bungalows) would be approximately 1.46m, affecting the 3 single bedroom units in the middle. These 3 middle units with a single bedroom for two people would provide a similar floor area to the originally proposed scheme of approximately 55m² GIA.. There is little alteration as each of the 1-bedroom units would reduce by approximately 0.5m in width and 0.1m in depth. The two bookended units with two bedrooms for 3 people would remain unaltered at c. 61m² GIA. Both types of units would meet the minimum GIA and thus internally the units would be acceptable.

The arrangement to the outdoor amenity space proposed to the northeast and southwest of the dwellings have increased slightly but are largely unaltered in terms of total area. The building would be set back from Eton Avenue by approximately 4 metres instead of c.2.65m on the previously approved plan. The rear garden area would measure approximately 6.5m by 6.8m (44.2 m²), compared to the previous approximate size of 5.8m by 7.5m (43.5 m²). This is as a result of the development also relocating the parking spaces off Devon Road closer to the eastern boundary within the application site. It is not considered the proposed re-positioned of the bungalow would have any significantly impact upon existing neighbouring amenity and any future occupiers

Impact upon Highway Safety

Paragraph 114 of the NPPF states that schemes can be supported where they provide safe and suitable access for all. 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.

Condition 8 requires the submission of the detailed off site traffic management for the site prior to the commencement of development other than demolition works (so before any construction of the new dwellings is commenced). The applicant seeks to amend this condition to require the off-site traffic management works to be completed 'prior to occupation' of the dwellings to allow for construction of the dwellings to be commenced prior to the double yellow lines across the frontage of the site along Eton Avenue is provided. The double yellow lines are required due to the location of the parking spaces relative to the dwellinghouses. The applicant has explained the time scale for the off-site traffic management works (Double yellow lines across the frontage of the site along Eton Avenue) will be carried out by VIA East Midland, a contractor for Nottinghamshire Highway Authority. The work would take minimum of 6 months, representing a significant delay to starting construction.

The Highway Authority confirmed that the the pre-occupation condition is considered acceptable and that the application to vary condition 8 should be approved. However, due to the off-site traffic management works being outside of the application site, the proposed wording agreed by highway authority would not be enforceable by the Local Planning Authority. However, as the requirement to provide the double yellow lines is a requirement by the Highway Authority and they are satisfied with these works being provided post

commencement of the development, a pre-occupation is, in this case, considered acceptable. In order to provide comfort to the Council, as Local Planning Authority, notwithstanding NCCs support, it has been agreed with the applicant and their agent to amend the condition so that it is in 2 parts to ensure that the works are completed, as approved via the TRO, prior to occupation.

Assessment of the remaining conditions

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

Following the grant of permission in November 2022 the Applicant has submitted an application for approval of details pursuant to a condition in preparation of commencement of development on site (specifically for conditions 8, 12 and 13). Given some details have been agreed as part of these application these conditions can be re-worded accordingly. For ease of reference the conditions as originally imposed are listed in full below (see section 10) with strikethrough text used to represent parts of the condition no longer required and bold text used to indicate new wording.

8.0 Implications

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

9.0 Conclusion

The application seeks to revise the approved plans through an amendment to the approved plan condition. Externally the changes are minimal and are not considered to adversely affect the character of the area. The relocation of the building would not affect or lead to reduction in amenity value for the existing or future occupiers.

NCC Highways have confirmed they are satisfied with the condition being pre-occupation and have suggested draft wording for such a condition. Notwithstanding this, conditions have to meet certain tests, one of which is that they are enforceable. Engagement has therefore taken place with the applicant to draft wording that would give us, as the decision-maker comfort if the permission is approved, that an application would be submitted to NCC Highways and that the development cannot be occupied until the approved works are implemented. It is therefore concluded that the proposed variation to this condition is acceptable.

No adverse impacts have been identified that would arise from the amendments as proposed. As such, Officers see no justification to resist the proposal and recommend that planning permission is granted subject to the conditions outlined below.

10.0 Conditions

01

The development hereby permitted shall not begin later than **10 November 2025** ~~three years from the date of this permission.~~

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

02

The development hereby permitted shall be carried out only in accordance with the details and specifications included on the submitted application form, documents and shown on the drawings as listed below:

- **529-SGA-35-SL-DR-A-00010 P5 Site Location and Block Plans received 12 January 2024**
- **529-SGA-35-00-DR-A-00011 P3 General Arrangement Plans received 12 January 2024**
- **529-SGA-35-XX-DR-A-00012 P3 Elevations received 12 January 2024**
- ~~Revised Proposed site and block plans ref: 529-SGA-35-SL-DR-A-00010 Rev P3, received on 14 October 2022~~
- ~~Revised Proposed floor plans ref: 529-SGA-35-00-DR-A-00011, Rev P2, received on 15 August 2022~~
- ~~Revised Proposed elevation ref: 529-SGA-35-XX-DR-A-00012, Rev P2, received on 15 August 2022~~

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

03

The development hereby permitted shall be constructed entirely of the materials details submitted on drawings ref: 529-SGA-35-XX-DR-A-1004 RevC04 received 11 December 2023 through the non-material amendment, application reference 23/02190/NMA.

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

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

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

04

No part of the development hereby permitted shall be brought into use until the existing site access, which has been made redundant as a consequence of this consent and as shown on **Site Location and Block Plans 529-SGA-35-SL-DR-A-00010 P5 received 12 January 2024** ~~529~~

~~SGA 35 SL DR A 00010 rev. P03 received on 14 October 2022~~ is permanently closed, and the access crossing reinstated as footway in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

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

05

No part of the development hereby permitted shall be brought into use until all dropped vehicular footway crossings to the proposed driveways with off-street parking bays are available for use and constructed in accordance with plans to be first submitted to and approved in writing by the Local Planning Authority. The highway works shall then be implemented in line with these details to the Highway Authority specification to the satisfaction of the Local Planning Authority.

REASON: To allow vehicles to enter and leave the highway in a slow and controlled manner in the interest of highway safety.

06

No part of the development hereby permitted shall be brought into use until all driveways and any parking areas are provided and surfaced in a hard bound material (not loose gravel) in accordance with details to be first submitted to and approved by the ~~LPA~~ **Local Planning Authority**. The surfaced drives and any parking areas shall then be used only for parking of the vehicles and be maintained in the approved hard bound material for the life of the development.

REASON: To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking in the area and to reduce the possibility of deleterious material being deposited on the public highway (loose stones etc.)

07

No part of the development hereby permitted shall be brought into use until the parking areas are constructed with provision to prevent the discharge of surface water from the parking areas to the public highway. Any proposed soakaway shall be located at least 5.0m to the rear of the highway boundary or hard-bound permeable surfacing should be installed. The drainage scheme shall be provided in accordance with details first submitted to and approved in writing by the Local Planning Authority. The provision to prevent the discharge of surface water to the public highway shall then be retained for the life of the development.

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

08

Prior to the occupation of development, the highway works as shown for indicative purposes only on drawing 529-SGA-35-SL-DR-A-00010 Rev P5 received on 12 January 2024 shall be completed. For the avoidance of doubt, these works require a Traffic Regulation Order which will need to be agreed and fully implemented to the satisfaction of the Local Planning Authority in discussion with the Highways Authority.

Reason: To protect an unobstructed access to the existing bus stop and the free flow of traffic on Eton Avenue all in the interest of highway safety.

~~Notwithstanding the submitted plans, no development shall be occupied until the off site traffic management works comprising of double yellow lines across the frontage of the site along Eton Avenue, as indicatively shown on the submitted plan ref: 529-SGA-35-SL-DR-A-00010 rev. P03 received on 14 October 2022 are provided in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.~~

~~REASON: To protect an unobstructed access to the existing bus stop and the free flow of traffic on Eton Avenue all in the interest of highway safety.~~

09

Prior to occupation of the development, an application shall be made to provide the Traffic Regulation Order (double yellow lines) shown for indicative purposes only on drawing 529-SGA-35-SL-DR-A-00010 Rev P5 received on 12 January 2024 on Eton Avenue in the vicinity of Jersey Street. Any subsequently approved works shall be fully implemented to the satisfaction of the Local Planning Authority in discussion with the Highways Authority.

Reason: To protect an unobstructed access to the existing bus stop and the free flow of traffic on Eton Avenue all in the interest of highway safety.

10 ~~09~~

Prior to first occupation of the development hereby approved, full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:

- i. full details of every tree, shrub, hedge to be planted (including its proposed location, species, size and approximate date of planting) and details of tree planting pits including associated irrigation measures, tree staking and guards, and structural cells. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species;
- ii. existing trees and hedgerows, which are to be retained pending approval of a detailed scheme, together with measures for protection during construction;
- iii. means of enclosures;
- iv. hard surfacing materials;
- v. minor artefacts and structures for example, secure storage sheds and play equipment

Reason: In the interests of visual amenity and biodiversity.

11 10

The approved soft landscaping shall be completed during the first planting season following the first occupation/use of the development, or such longer period as may be agreed in writing by the Local Planning Authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority. All tree, shrub and hedge planting shall be carried out in accordance with BS 3936 -1992 Part 1-Nursery Stock-Specifications for Trees and Shrubs and Part 4 1984-Specifications for Forestry Trees; BS4043-1989 Transplanting Root-balled Trees; BS4428-1989 Code of Practice for General Landscape Operations. The approved hard landscaping scheme shall be completed prior to first occupation or use.

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

12 11

The trees and shrubs along the southern corner of the plot (shown as being retained within the Site Location and Block Plan – Ref. 529-SGA-35-SL-DR-A-00010 Rev P3) shall be retained for the lifetime of the development. Any trees or shrubs which die are removed or are seriously damaged or diseased shall be replaced by trees or shrubs of a similar size and species to those replaced, or otherwise first approved in writing by the local planning authority.

Reason: In the interests of visual amenity.

13 12

The works/development hereby permitted shall be undertaken in full accordance with the Revised Construction Management Plan (dated 05th January 2024) approved under application 23/02239/DISCON.

Reason: In the interests of residential amenity.

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

- ~~i. the parking of vehicles of site operatives and visitors;~~
- ~~ii. loading and unloading of plant and materials;~~
- ~~iii. storage of plant and materials used in constructing the development;~~
- ~~iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;~~
- ~~v. wheel washing facilities;~~
- ~~vi. measures to control the emission of dust and dirt during construction;~~
- ~~vii. a phasing scheme for works to ensure existing residents have access to external amenity space throughout the construction period;~~

~~viii. — hours of construction.~~

~~Reason: In the interests of residential amenity.~~

14 ~~13~~

The works/development hereby permitted shall be undertaken in full accordance with the drainage layout and construction details approved under application (received 18 December 2023) approved under application 23/02239/DISCON as set out in drawings:

- **Drainage layout ref: BSP-XX-XX-D-C-0240_P01 received 18 December 2023**
- **Drainage construction details ref: BSP-XX-XX-D-C-0240_P01 received 18 December 2023**

Reason: To ensure that the site is drained in a satisfactory manner

~~Prior to any works commencing on the construction of the foundations of the dwelling, full details of the manner in which surface water is to be disposed of from the site shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use and shall be maintained for the lifetime of the development.~~

~~Reason: To ensure that the site is drained in a satisfactory manner.~~

15 ~~14~~

The bin storage facilities/area shown on the approved plan reference 529-SGA-35-SL-DR-A-00010 P5 received 12 January 2024 ~~529-SGA-35-SL-DR-A-00010 Rev P3 received on 14 October 2022~~ shall be provided prior to first occupation of any of the dwelling hereby approved and retained for the lifetime of the development.

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

16 ~~15~~

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

~~Class AA: Enlargement of a dwellinghouse by construction of additional storeys.~~

Class A: The enlargement, improvement or other alteration of a dwellinghouse.

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

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

Class D: The erection or construction of a porch outside any external door of a dwellinghouse.

Class E: Buildings etc incidental to the enjoyment of a dwellinghouse.

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

Reason: To ensure that the local planning authority retains control over the specified classes of development normally permitted under the Town and Country Planning (General Permitted Development) (England)

Informative

01

The application as submitted is acceptable. In granting permission without unnecessary delay the District Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) 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 development type proposed is zero rated in this location.

03

Highway works including access reinstatement:

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 or obtain a licence from the Highway Authority, depending on the scale of works required. Please contact hdc.north@nottscc.gov.uk or contact the Highway Authority by calling Nottinghamshire County Council's Customer Services on 0300 500 8080 and ask for a Principal Officer for Newark and Sherwood area for more 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

Traffic Regulation Orders:

The proposed off-site highway works referred to in condition 8 above require a Traffic Regulation Order (TRO) before the development is occupied to provide 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 businessdevelopment@viaem.co.uk or alternatively you can contact Nottinghamshire County Council's Customer Services on 0300 500 8080 and ask for the Improvements Team in Via EM Ltd. Please note that this is a process due to public consultation being part of the procedure; therefore, the applicant is advised to arrange for the TRO process to commence at an early stage of the site redevelopment.

07

Cadent Gas Ltd own and operate the gas infrastructure within the area of your development. There may be a legal interest (easements and other rights) in the land that restrict activity in proximity to Cadent assets in private land. The applicant must ensure that the proposed works do not infringe on legal rights of access and or restrictive covenants that exist.

If buildings or structures are proposed directly above the apparatus the development may only take place following diversion of the apparatus. The applicant should apply online to have apparatus diverted in advance of any works, by visiting cadentgas.com/diversions

Prior to carrying out works, including the construction of access points, please register on www.lineearchbeforeudig.co.uk to submit details of the planned works for review, ensuring requirements are adhered to.

08

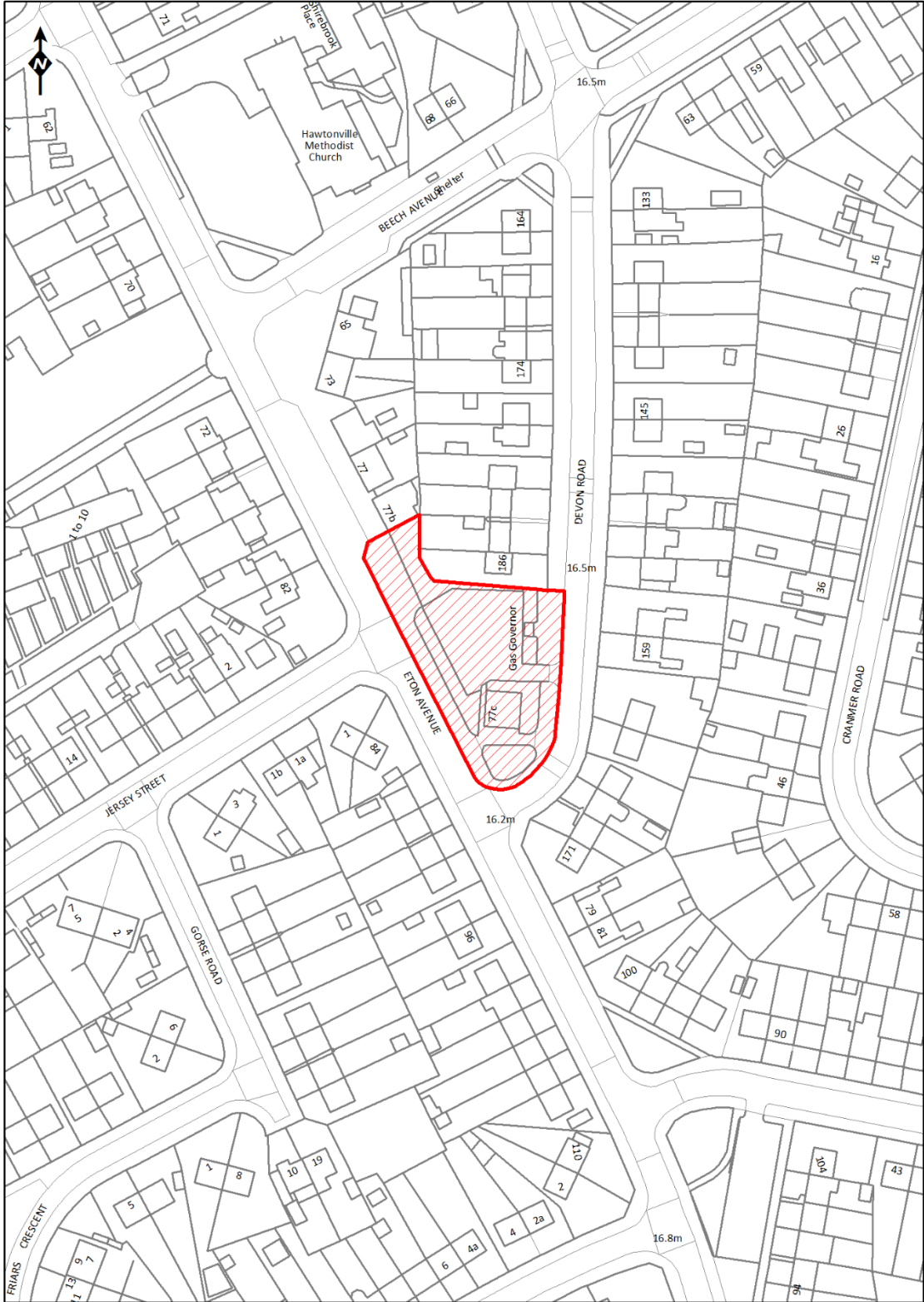
You are advised that you may require building regulations approval in addition to the planning permission you have obtained. Any amendments to the permitted scheme that may be necessary to comply with the Building Regulations, must also be approved in writing by the Local Planning Authority in order that any planning implications arising from those amendments may be properly considered.

East Midlands Building Consultancy operates as a local authority partnership that offers a building control service that you may wish to consider. You can contact them via email at info@eastmidlandsbc.com via phone on 0333 003 8132 or via the internet at www.eastmidlandsbc.com.

BACKGROUND PAPERS

Application case file.

Committee Plan - 24/00082/S73



© Crown Copyright and database right 2022 Ordnance Survey. Licence 100022288. Scale: Not to scale

Committee Plan - 24/00082/S73



© Crown Copyright and database right 2022 Ordnance Survey. Licence 100022288. Scale: Not to scale



Report to Planning Committee 14 March 2024

Director Lead: Matt Lamb, Planning & Growth

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

Report Summary	
Report Title	Planning Constitution Review
Purpose of Report	<p>The report provides:</p> <ul style="list-style-type: none"> (a) a review of the Planning Committee Scheme of Delegation to Officers with suggested amendments (b) a review of public speaking for Planning Committee (c) a review of the Protocol for Members on Dealing with Planning Matters
Recommendations	<p>It is recommended that approval is given to:</p> <ul style="list-style-type: none"> (a) the amended Scheme of Delegation to Officers; (b) changes to the Protocol on Planning Committee (including its title) to facilitate public speaking arrangements, clarification in relation to late representations and other minor amendments on the 8th April 2024 (c) the amendments to the Scheme of Delegation to Officers come into effect on the 8th April 2024 (d) that the changes in the Protocol for Planning Committee relating to public speaking come into effect for Planning Committee meeting to be held on 9th May 2024 (e) the suggested amendments to the 'Newark & Sherwood Local Development Framework, Statement of Community Involvement' in relation to public speaking are noted. A report will be presented to Cabinet seeking approval prior to consultation. (f) A review of public speaking is undertaken after 6-months of operation.

1.0 **Background**

1.1 The Council's Constitution (Part C) – Responsibility of Functions requires C17, 13:

“To adopt a scheme of delegation to Officers, including the ability for District Councillors to reserve matters to Committee in circumstances prescribed by the scheme; the scheme to be reviewed as necessary and at least annually...”

The [‘Planning Committee Scheme of Delegation to Officers’](#) was last reviewed in August 2022.

1.2 Additionally, in order to facilitate the ability for Planning Committee to consider wider public participation, a report was presented to Full Council on 13th February. This report detailed that (Part B) sets out the Council's arrangements for public participation. Changes to this and other parts of the Constitution were agreed at Full Council to facilitate the ability for Planning Committee to consider public speaking. A new section was inserted into Part B ‘Section 4 entitled ‘Planning Committee’ stating ‘*The Planning Committee’s Protocol for Dealing with Planning Matters sets out who is entitled to speak at meetings of the Committee*’.

1.3 Parts C and D were also agreed to be amended. Part C has inserted an additional section ‘*...and may include provision for public speaking*’, whilst Part D has a new Section added (6.8) entitled ‘Public Speaking, stating ‘*Planning Committee may make arrangements for public speaking in its Protocol for Dealing with Planning Matters*’.

1.4 As part of this review and the wider functioning of Planning Committee, consideration has also been given to other areas including:

- a) Public speaking and
- b) Presentation of late representations to Planning Committee Members.

1.5 This report sets out the consideration to each of these elements as well as consequential changes that would be required should approval be given to any or all of these matters.

Scheme of Delegation

1.6 The Scheme of Delegation, when adopted under the new Governance arrangements, had some quite significant changes. This included the provision of the 5-day referral process. This applies to **any application** (except those specifically excluded due to time constraints) to Ward members when the recommendation of Officers is different to the response from the Town/Parish Council. Prior to this, the referral related only to approvals **and** when the proposal related to between 1 and 9 dwellings.

1.7 Reviewing Planning Committee meetings since this change in procedure was introduced and up to February 2024's meeting, this has resulted in 40 applications being referred, which would otherwise have been dealt with under delegated authority. Of these, 10 received a decision contrary to Officer recommendation. The breakdown is provided below. Only those meetings with referrals are shown.

Month	No. on Agenda	Number Referred	Number - Decision Contrary to Recommendation
2022			
July	3	2	None

December	6	3	None
2023			
February	12	3	1 – application refused
March	11	5	None
April	15	5	1 – application approved
June	2	1	None
July	6	1	None
August	7	3	1 – application approved
September	4	4	2 – 1 approved and 1 refused
October	5	2	1 – application approved
November (of those considered)	8	7	2 – applications refused
November (extraordinary)	5	1	None
December	2	1	1 - refused
2024			
January	4	1	None
February	5	1	1 - refused

- 1.8 It can be seen that in 2022, for 4 months (August-November) there were no referred applications (by virtue of their omission from the table). The majority of decisions made by Planning Committee align with the officer recommendation. Of those overturned, all 4 were approved and 6 refused. Applicants have a right of appeal against refused decisions whereas neighbours or other interested parties do not have a third-party right of appeal. Members will be aware that 1 of the refusals was allowed on appeal in December 2023 and a further application is currently at appeal (although this was not a referral), with the inquiry to be held in April 2024. However, 5 of the refused applications are still within their timeframe for being appealed.
- 1.9 Further to this, Michael Gove MP issued a Written Ministerial Statement (WMS) on 19 December 2023 [‘The Next Stage in Our Long Term Plan for Housing Update’](#) as reported to Members at Planning Committee meeting on 18th January 2024 (updates to National Planning Policy Framework and WMS), stated:

“On planning committees, we rightly see elected representatives judge the merits of significant applications – and it is vital that they focus their time on applications that truly merit such scrutiny, and arrive at decisions following legitimate reasoning. On this basis, I have asked the Planning Inspectorate

to start reporting to the department about cases where a successful appeal is made against a planning committee decision, and the final decision is the same as the original officer's recommendation. The overturning of a recommendation made by a professional and specialist officer should be rare and infrequent – such that I have reminded the inspectorate that where it cannot find reasonable grounds for the committee having overturned the officer's recommendation, it should consider awarding costs to the appellant."

1.10 In addition to this, the WMS also refers to the speed at which decisions are made:

"As part of that reporting, we will expose the way in which some local authorities drag their feet. We will strip out the use of Extension of Time agreements, which currently mask poor performance. While I recognise that there will be instances where such agreements are necessary, I am concerned by the increase in their use – in particular for non-major applications, where the figure has jumped from 9% during the two years to March 2016 to 38% during the two years to March 2022. I therefore intend to consult on constraining their use, including banning them for householder applications, limiting when in the process they can apply, and prohibiting repeat agreements."

1.11 This is further to the government's [response to the consultation](#) in relation to increasing planning fees (came into effect on 6th December 2023) which would result in stronger (improved) performance assisted by financial support to assist those local planning authorities with clearing application backlogs. The WMS states:

"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."

1.12 The government has also recently placed two further planning authorities into special measures due to poor performance. For those in special measures, it means that an applicant has the right to bypass the local planning authority with its (major) application and submit this directly to the Planning Inspectorate for an Inspector to determine. As well as the decision not being in local hands, the fee for the application is also given to the Inspectorate whilst the Council would still be responsible for dealing with all of the associated administration.

1.13 In relation to decision-making timescales there is a statutory time period of 13-weeks for major developments (16 weeks when an application is subject to an Environmental Statement) or 8-weeks in all other cases. As Members will be aware from January's Committee report, removing extension of time (EoT) agreements from our performance has significant affect. The rolling 24-month performance is as below, covering 1st December 2021-30th November 2023.

Application Type	Performance without EoT's (December 2021 – November 2023)
Major	52
Non-major (all)	61
Householders	69
Non-major without householders	54

- 1.14 In relation to the performance target to meet (and exceed) in order to not be deemed to be poorly performing is, for majors 60% and for non-majors 70% which includes householders. This is the current target whereby EoTs contribute towards performance. It is anticipated the Government review regarding their use will likely affect this. A review of our processes is underway to review all areas where we might be able to improve performance, noting that EoT agreements are frequently entered into at the applicant's/agent's request. Additionally, with the introduction of the planning application fee increase, the timescale for guaranteeing a decision to be issued for non-major applications has been reduced to 16-weeks (from 26 weeks which now only applies to major developments). This guarantee means that when a decision has not been made within these respective timescales, the fee has to be returned unless an extension of time is agreed between both parties (subject to other exclusions as well). This has significant financial implications e.g. 9 dwellinghouses has a fee of £5,202 associated with it.
- 1.15 Additionally, for applications presented to Planning Committee, the time for determining as well as the overall cost associated with presenting are both increased compared to delegated decisions. It is suggested that consideration should be given to all of these matters in relation to the Scheme of Delegation, whilst not undermining the role of our elected District Members in representing their communities.
- 1.16 In terms of the development proposals that a planning committee should determine (aside from departures and those submitted by senior officers or Members, for example) the general principles are these should comprise proposals that require wider public scrutiny, raise new policy issues (related to planning), or the implications of the decision are wider than local interest.
- 1.17 Notwithstanding the above and whether more substantial changes to delegation are agreed or not, it is suggested the delegation arrangements are simplified to minimise risk to the Council in relation to making a decision for a matter that is not expressly set out within the Scheme of Delegation. This is particularly relevant with some of the changes that are imminent as a result of the Levelling-up and Regeneration Act 2023 (LURA).
- 1.18 Further discussion is given to this in the context of other possible changes below.

Public Speaking

- 1.19 The Local Government Association '[Probity in planning: Advice for councillors and officers making planning decisions](#)' sets out that whether public speaking is permitted is for each council to determine. It sets out that when it is permitted, along with

broadcasting of meetings, that public confidence is generally enhanced and lobbying might be reduced.

- 1.20 In view of this, research has been undertaken into public speaking which explores whether and how other councils across England and Wales allow public speaking in their planning committee and their protocols for allowing public speaking. The research has found that Newark and Sherwood District Council are one of very few councils that do not allow public speaking with the majority of councils having some degree of public speaking protocol in place. A breakdown of this can be found in the table below.

Types of LPA	Public Speaking - Yes	Public Speaking - No
District councils (164)	160	4 (incl. NSDC)
County councils (21)	19	2
Unitary authorities (62)	60	2
Metropolitan districts (36)	30	6

- 1.21 The research has established that the majority of councils permit public speaking between a range of 3 and 5 minutes. Some do allow less time at just 2 minutes, however the majority are 3 minutes. Those who can speak generally include a representative of a neighbourhood plan group (where the neighbourhood plan has planning weight), a Town or Parish Council representative, an individual objector or supporter (this is usually a spokesperson that speaks for all in support or all who object) and either the applicant or their agent. Some councils, such as Bassetlaw also permit the County Councillor to speak whose ward the application site is located within.
- 1.22 Newark and Sherwood District Council is the only Council in the East Midlands that currently does not have public speaking at Planning Committee. Across the last 4-years, a number of applicants (or their agents), supporters and objectors have queried and challenged why public speaking is not allowed. Members of Planning Committee that a report was presented to Full Council on 13th February with various changes to the Constitution to facilitate public speaking for Planning Committee, should the Committee determine that this is what it would like to allow.
- 1.23 Concerns have been raised by some parties in the past in relation to allowing public speaking, that non-material considerations will be raised by speakers; that if an agent speaks, they have an 'advantage' over the general public and 'new' items might be raised. Planning Committee Members will be aware that, as the local planning authority, we determine planning applications in accordance with the development plan and any 'material considerations'. Examples of material considerations include government advice and policy, the impact on residential amenity, highway safety and traffic, noise and disturbance, smell, design and external appearance, the impact on Listed Buildings and Conservations Areas and Trees, etc. Such matters are drafted into the existing ['Protocol for Members on Dealing with Planning Matters'](#) and will be proposed are retained for any variation to this document.
- 1.24 In addition, the Local Government & Social Care Ombudsman have produced a document ['Not in my back yard: Local people and the planning process'](#). This document has been prepared to assist parties who might be looking to raise a complaint to the Ombudsman, in relation to a planning related matter, as to which complaints they are

likely to investigate, the role of councillors and the most common issues and learning points. For information, a number of complaints against the Council in relation to planning have been raised with them over recent years, the majority have not been investigated or, where they have, have not been upheld.

- 1.25 In relation to public speaking (as well as any Scheme of Delegation), the Ombudsman's document addresses the role of local councillors (page 7):

"Councils will often ask councillors on town and parish councils for their view on planning applications.

This can help give a local voice on issues arising from proposed developments. Town and parish councils may recommend that planning permission is granted or refused. However, town or parish council views are given no more or less weight than any other comments a council receives."

- 1.26 This review into the possibility of permitting public speaking also enables a review of the Constitution (planning related only), giving opportunity to consider the wider input of the public, applicant and other interested parties into our decision making.

- 1.27 If public speaking were introduced, there would need to be rules that have to be followed to ensure that the process is fair and transparent for those wishing to partake and also for Members on Planning Committee, to ensure that sound planning judgements continue to be made. The LGA's Probity in Planning, details that those speaking for a development and those against should each be given the same amount of time.

- 1.28 It is therefore suggested that the following would be permitted to speak:

- Objector(s)
- Statutory Consultee
- Parish/Town Councillor
- Applicants or their Agent, or supporter
- Ward Member

- 1.29 This would enable all who might wish to speak, both for or against a proposal to have equal and fair opportunity. Whilst the list includes Statutory Consultees, this would be to ensure there is scope should any wish to. In the past, approximate 4 ½ years, a consultee has only attended on approximately 3 occasions at the specific request of planning officers.

- 1.30 As well as benefits in allowing public speaking, its introduction could have the following implications:

- Longer meetings;
- Non-material planning reasons could be raised; and
- Late new information could be introduced.

- 1.31 In relation to the impact upon the length of a committee, the greatest number of planning application reports the Council has had on an agenda in 2022/2023 was 10 in February and to date in 2023/2024 - April with 15 reports. However, the average across 18 months is 5-6 items per meeting. From past experience of councils elsewhere, it is not practice for all who are permitted to speak to request to do, nor is it known for every report to have someone wishing to speak to it.

1.32 An analysis of time is provided within the table below. This reviews meetings this calendar year and provides details of the number of items, the number of speakers who registered (noting that only ward members and town/parish councils can currently speak), the worst-case scenario if public speaking were introduced and lastly what is expected would be the more likely estimate of time, based on the list above. Due to the frequency of Statutory Consultees wishing to speak, this time has not been included. It is also anticipated that a number of town and parish council representatives and ward councillors speak to Planning Committee due to public speaking not currently being allowed. If it were, then some ward and town and parish councillors might no longer wish (need) to do so. This analysis also takes account of applications submitted by the Council, the majority of which are not controversial. In relation to the likely amount of additional time, the assessment in the final column has taken account of:

- (a) Number of speakers who did register.
- (b) Whether the application was for approval or refusal.
- (c) Number of objections and/or letters of support for the proposal.
- (d) Type of development proposal i.e. controversial? NSDC or member of staff?
- (e) Whether ward and/or parish/town council representative registered.
- (f) Past experience from other authorities in terms of the numbers who have registered.

Date of Meeting 2023	Total number of Items	Number of NSDC applications	Number of speakers registered	Current Arrangements Minutes added (5 minutes per speaker)	Possible minutes added (based on 3 minutes per speaker and parish and ward cllrs, objector, applicant / supporter)	More likely minutes based on 3 minutes per speakers
January	3		1	Up to 5	Up to 36	Up to 6
February	12	5	4	Up to 20	Up to 84	Up to 45
March	11	1	10	Up to 50	Up to 120	Up to 72
April	15	5	10	Up to 50	Up to 120	Up to 75
June	2		0	No additional time	Up to 24	Up to 3
July	6		2	Up to 10	Up to 72	Up to 39
August	7		3	Up to 15	Up to 84	Up to 36
September	4		4	Up to 20	Up to 48	Up to 24
October	5	1	0	No additional time	Up to 48	Up to 9
November*	13	3	6	Up to 30	Up to 120	Up to 63

December	2		1	Up to 5	Up to 24	Up to 16
----------	---	--	---	---------	----------	----------

*This meeting was subject to deferral of items with an extraordinary meeting arranged.

- 1.33 As can be seen from the table, there is not a direct correlation between the number of applications on the agenda and the number of representatives who registered to speak.
- 1.34 If public speaking were allowed, it would necessitate in changes to the '[Newark & Sherwood Local Development Framework Statement of Community Involvement](#)' (SCI) and the Planning Protocol for Members on Dealing with Planning Matters, the latter including its title. The contents of the Protocol would be paramount to ensure that all who are interested in speaking know the arrangements and that meetings continue to be well-run. Changes to the SCI would require approval by Cabinet.

Late Representations

- 1.35 At present, any correspondence received from interested parties, the applicant or consultees etc. after the agenda is published is reported to members of the Planning Committee via, generally up to two, circulations of 'late representations'. The first is circulated on the Tuesday afternoon/early Wednesday before Planning Committee and the second, usually on the morning of Planning Committee.
- 1.36 Generally, the first circulation of late representations provides specific comment or clarification in terms of the contents of specific reports. This is frequently from the applicant. Additionally, neighbours, and other interested parties, will often provide comments particularly when the recommendation is one that they support.
- 1.37 The second circulation is, more often than not, from neighbours and interested parties only due to not being happy with the recommendation, as well as clarification from Officers on particular planning matters. Rarely do the additional late representation add any new matters that have not been considered within the report. Additionally, it has been known for a late representation to be received during the application's presentation to Committee.
- 1.38 All late representations received are published on the Council's website alongside the agenda reports to ensure transparency in the decision-making. The Council's Protocol, at present, is silent in terms of when representations will not be circulated to Members of Planning Committee. Members will be aware the statutory minimum amount of time for consultation and notification is 21-days (excluding any bank holidays). However, responses received after this are always reported and considered when the matters raised are relevant to the development under consideration. This is considered to be good practice.
- 1.39 It is anticipated that if public speaking were permitted, that the number of late representations received would be likely to reduce overall, but especially those received after the initial circulation. However, even if public speaking is not introduced, alternative procedures to current practice are recommended and discussed below.

2.0 Proposal/Options Considered and Reasons for Recommendation Scheme of Delegation

The options for the Scheme of Delegation to Officers are as follows:

Option 1 – Do Nothing

- 2.1 Whether the wider suggested changes below are accepted or not, it is not recommended that a 'do nothing' is appropriate. As referred to above within paragraph 1.17, the LURA will result in changes to legislation which will amend existing legislation titles under which our decisions are made and referred to within the Scheme of Delegation, for example

"1.14. To enter land to execute and recover the costs of works required by a Section 215 notice under Section 219 of the Town and Country Planning Act 1990."

- 2.2 It is therefore recommended that the Scheme is significantly simplified to ensure that decisions are not made when they should not reasonably be withheld. This would not undermine the role of Planning Committee but ensure the risks of judicial review against the Council is minimised.

Option 2 – Omission of Reference to Specific Sections of Law Only

- 2.3 This option would minimise the risks as set out in paragraphs 2.1 and 2.2. However, with consideration to the discussion within section 1.0, it would still mean that a large number of applications are presented to Planning Committee, a number of which with regard to the role of a planning committee to "...judge the merits of significant applications – and it is vital that they focus their time on applications that truly merit such scrutiny..." would not pass this 'test'.
- 2.4 Additionally, it would still result in some unfairness in the process with referrals to Ward Members as a result of Town/Parish Council representations.

Option 3 – Omission of Reference to Specific Sections of Law and Review of Current Arrangements

- 2.5 This would have the benefits as set out in paragraph 2.3. Additionally, the role of Town/Parish Councils (including Meetings) in decision-making is important in ensuring the views of their electorate are represented in the planning process. However, the referral process as it is currently, places each town/parish council in an elevated position over any other party involved in the planning process. All involved should have an equal voice, or the possibility of having an equal voice. Additionally, this puts a greater responsibility on planning officers to ensure that referrals are made and that they are made to the correct councillors. It also adds uncertainty in the planning process for all involved as it is not known whether the decision will be determined by officers or committee as well as adding delay to the process.
- 2.6 Instead, and akin to other council's constitutional arrangements who have Town/Parish Councils (T/PCs), it is proposed that the onus is placed upon them to contact their Ward member(s) should they consider that an application should be considered by Planning Committee. In turn, the Ward Member as recommended would be required to consider the rationale for the T/PC's support or objection and decide that it is a matter requiring the wider debate or advise the T/PC why not, with reference to the suggested amended Protocol. This requirement for why an application is requested to be determined by Planning Committee is in place as part of the current adopted Scheme of Delegation. The majority of Ward Members already do this, so this would unlikely introduce new requirements for the Ward Member.
- 2.7 It is suggested that due to this being a change compared to existing processes that its introduction is delayed to allow full engagement to take place with all T/PCs prior to this coming into effect and enable them to put any necessary arrangements into effect.

It is therefore suggested that its introduction comes into effect 3-weeks after any Planning Committee approval to tie-in with the publication of the weekly list. Additionally, all District Members will be made aware of the changes and what they will be required to do.

(B) Public Speaking

The options for public speaking are as follows:

Option 1 – Do nothing

- 2.8 In view of fairness, openness and enabling parties to take part in the decision-making process, this option is not recommended.

Option 2 – Public speaking is introduced with 3 minutes for each speaker

- 2.9 This is recommended to enable all parties who are interested in a development proposal to actively take part in the whole of the planning process. The amount of time for each speaker, which speakers are permitted to speak and why are suggested below.

- Objector
- Statutory Consultee
- Town/Parish Councillor or Adjoining Town/Parish Councillor (or their representative)
- Applicant or Agent or Supporter
- Ward Member or Adjoining Ward Member

- 2.10 To ensure fairness, it is recommended that all speakers are given the same amount of time to speak. Currently the time limit is up to 5 minutes, however in view of the potential increase in the number who might wish to speak it is suggested this is reduced to 3 minutes maximum for all. This reflects the time allowed within the majority of other council constitutions, although as noted earlier, this does vary.

- 2.11 It is suggested that only 1 Ward or Adjoining Ward member is permitted to speak as well as 1 Town/Parish councillor. This is to ensure that fairness is provided in relation to those in support of and in objection to a development proposal i.e. the number of speakers does not actively skew speakers in either direction. It is proposed that the host Ward and Town/Parish councillors are given priority in terms of being permitted to speak if more than one wishes to.

- 2.12 For members of the Planning Committee, they would have the option of speaking as a Ward member if no other member in their ward registers. This would not prejudice their ability to take part in the debate as a councillor representing the whole of the Council. Members of Planning Committee will be aware that their decision-making is on the basis of the District as a whole, as opposed to their Ward, if applicable, in particular.

- 2.13 Only 1 objector and only 1 person in support would be permitted to speak. In terms of the supporter, this would be either the applicant or their agent, or, if neither wishes to but another party supports the proposal, they would be able to. Consideration was given to allowing a supporter as well as the applicant or agent. However, this has potential for the applicant to actively seek another party to speak, effectively on their behalf in support and would thus also skew the numbers. It is recommended the applicant or their agent has priority over any other supporter.

- 2.14 Statutory consultees do not often wish to speak, however there might be an occasion when they wish to represent the body (and the expertise of) for which they work. It is therefore suggested that they are included within the public speaking scheme to ensure fairness in enabling all interested parties to have their voice heard.

Option 3 – Public speaking be introduced with alternative speakers and time to Option 2

- 2.15 Reducing the time to less than 3 minutes is not considered reasonable to enable speakers to make their point clearly and effectively. Equally, allowing more than 3 minutes would likely result in repetition, matters raised not directly related to the planning application or not being a material planning consideration. Some council's constitutions allow for extra time to be given to speakers at the discretion of the Chairman. However, if this was permitted and it wasn't permitted for the first speaker and thus thereafter all others, it would lead to either unfairness or the need for earlier speakers to have the opportunity to return. This would potentially open up the meeting for public debate which would not be the purpose of allowing public speaking.
- 2.16 Allowing alternative speakers would more than likely, as discussed in the section above, result in skewing of the application to speakers either objecting to or supporting a planning application.
- 2.17 This suggestion is therefore not suggested.

Option 4 – Not allowing all listed as speakers under paragraph 2.9

- 2.18 Not permitting one or more of the suggested speakers in paragraph 2.9. the right to speak or, for example, allowing 2 ward councillors (or adjoining) whilst not allowing the applicant to have any other party speaking in favour of their scheme could lead to actual or perceived bias and potentially result in complaints and/or legal challenge. Allowing more people to speak across all the categories could result in lengthy and potentially unruly meetings.
- 2.19 The suggested people and the time limit is therefore as set out in Option 2.

Concerns and Questions

- 2.20 Some parties have indicated that some speakers might have an advantage over other speakers due to their confidence, knowledge and experience of planning. Equally concern has been raised that speakers might talk about non-material planning considerations.
- 2.21 In relation to the latter, the suggested Protocol for Dealing with Planning Matters, section 12.13, provides a table of examples of both material and non-material considerations to assist. These are also published on our website under '[View or comment on a planning application](#)'. However, the training provided to and undertaken by Planning Committee members enables you to know what can and cannot be taken into account in the determination of a planning application. Additionally, the Officer presenting the scheme would be able, subject to the Chairman's agreement, to respond to what speakers have said to guide the debate.
- 2.22 With regards to knowledge, speakers would be required to collaborate when more than 1 person wishes to speak in a particular 'category' i.e. generally objectors although it could be supporters if the applicant or their agent does not wish to speak. This then enables parties to agree who speaks and, from past experience, this person is generally

someone who is confident at speaking and able to articulate the views of the objectors. When there is only 1 speaker who is perhaps less confident, the guidance contained within the Protocol will assist in providing detail of the process. Additionally, the respect given by members and officers to those wishing to take part in the planning process should assist with any nerves.

- 2.23 There has also been concern that new material planning considerations will be raised. Due to the depth of Officer reports, this is considered unlikely. However, in the event that a speaker raises a matter that has not been considered and requires clarification, it would be reasonable to consider deferring the application for further consideration by the case officer. This scenario could happen now as correspondence is sometimes received from interested parties after the Committee has debated and determined the application. However, this would have the risk of a judicial review and/or complaint.
- 2.24 Lastly, to ensure fairness in relation to the ability to speak to the Planning Committee, it is suggested that only those who have commented on the application 10 days prior to the printing of the agenda will be able to register. This is to try and mitigate the risk of any parties coming together in order to skew the decision-making process in any way.

(C) Late Representations:

Option 1 – Do nothing and continue with the current practice of circulating late representations

- 2.25 The majority of late representations do not raise new material planning considerations as is noted within the word document shared with members prior to meetings. When new considerations are raised, this has resulted in items either being withdrawn from the agenda or clarification provided as part of the late representation circulation as well as within the Officer presentation.
- 2.26 Updates would still be provided by the Officer as part of the presentation and this aspect is covered within Option 2.
- 2.27 This option is not recommended.

Option 2: Circulate late representations received by midday, 2 days before the Planning Committee meeting

- 2.28 Whilst the minimum statutory time period for providing comments to a planning application is 21-days (excluding bank holidays), comments received up until the decision is made need to be considered. Having a cut-off time for all involved in the planning process so they are aware of when correspondence will be circulated provides clarity. Some parties, particularly applicants and agents, who submit comments after the agenda is printed will have the opportunity to speak to the Planning Committee, if public speaking is allowed, which will reduce the amount of correspondence circulated.
- 2.29 If a cut-off time is introduced, correspondence received after this time will be reviewed by the Business Manager – Planning Development or Authorised Officer to determine whether any new material planning considerations have been raised. If they are, then the item will be suggested is withdrawn from the agenda, to enable full consideration and presentation at a subsequent meeting. However, if late correspondence provides clarification on a point e.g. Highways requesting indexation to a financial contribution, this could still be reported verbally without fettering member's ability to determine the application in a sound manner.

2.30 By having the cut-off time at midday, 2 days before the meeting, provides time for officers to collate and evaluate the responses, for these to be shared with Planning Committee members, who would then have sufficient time before the meeting to read and understand any implications in the context of the proposal.

Option 3: Circulate late representations received at an earlier date and time (i.e. prior to the time in Option 2)

2.31 Circulating representations received up to an earlier cut-off time would limit the time for people to make responses to the officer report after it is published. Although new matters are generally not received, the late representations currently circulated within the first tranche of correspondence often raise points of clarification which is helpful to the officer, particularly when this relates to the drafting of a condition, for example. If the cut-off time was brought forwards earlier than in Option 2, there would be a greater chance of matters being raised by speakers (if this is approved) requiring consideration during the debate of the application. This would prevent meaningful discussion between officers, which can often be useful, in advising members on the correct course of action.

2.32 This Option is therefore not supported. The suggested cut-off and circulation time is therefore as set out in Option 2.

(D) Protocol for Planning Committee

2.33 Should all or any of these amendments be approved or alternative amendments, the Protocol would need to be updated to reflect this. Additionally, as part of the review of the Scheme of Delegation (SoD), it is considered more appropriate for some aspects in the adopted SoD to be provided within the Protocol, for example 'rules' for referral.

2.34 Due to the suggested significant number of changes, the Protocol has been redrafted including a suggested change to its title from 'Protocol for Members on Dealing with Planning Matters' to 'Protocol for Planning Committee. This is due to the Protocol having rules for more than just Members.

2.35 In terms of the changes within the draft Protocol, these include:

- Use of social media;
- Details of requests to refer items to Planning Committee;
- Process within the Planning Committee;
- Rules regarding who is able to speak, when and for how long; and
- Site visits, with further clarification of who is able to attend.

2.36 The majority of the changes compared to the existing Protocol are self-explanatory. Areas have been amended to ensure that decision-making is fair and transparent and to enable all who are wanting to be involved have an equally fair opportunity of being able to take part.

Summary

2.37 The suggested amended Scheme of Delegation and Planning Protocol are attached as Appendices to this report. The changes to the Statement of Community involvement (SCI) required as a result of public speaking being introduced, if it is agreed, will require a report to Cabinet as well as consultation. This is proposed to be presented shortly.

3.0 Implications

- 3.1 In writing this report and in putting forward recommendation's 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.

Legal

- 3.2 Legal Services have worked with Planning Development in relation to the review of the Scheme of Delegation, Planning Protocol and this report and are happy with the contents and will be available for any queries or questions at Planning Committee.

Human Rights

- 3.3 Articles 6 'Right to a fair trial' and Article 10 'Freedom of expression' of the Human Rights Act 1998 both apply in respect to this report. Those wanting to be involved in the planning process should be given a fair opportunity to take part alongside anyone else. The suggested amendments within this report and as set out within the appendices would comply with these requirements.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972. Any documents that contain confidential information or personal information about individuals should not be included in this list.

Appendices

Scheme of Delegation – Appendix 1

Protocol for Planning Committee – Appendix 2

The Local Government Association '[Probity in planning: Advice for councillors and officers making planning decisions](#)'

Adopted [Planning Committee Scheme of Delegation to Officers](#)

Adopted [Statement of Community Involvement](#)

Adopted [Protocol for Members in Dealing with Planning Matters – Updated December 2022](#)

Planning Committee Scheme of Delegation to Officers

Effective from XXXXX



Version Control	Adopted
v.1	9th June 2022
v.2 Addition of paragraphs 1.8 – 1.17 inclusive and 1.46i) Amendments to paragraphs 1.28, 1.42, 1.46i), 1.46k) and 1.51	11 th August 2022

Planning Committee Scheme of Delegation to Officers

The Council's Constitution permits a Schemes of Delegation to be approved by Planning Committee including the ability for District Councillors to reserve matters to Committee in circumstances prescribed by the Scheme; the Scheme to be reviewed as necessary and at least annually. Additionally, the Constitution contains the Officer Scheme of Delegation which delegates responsibility to the Director of Planning and Growth in relation to planning related matters.

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

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

- 1.1. To determine applications for planning permission, conservation area consent, consent for the display of advertisements and listed building consent in respect of all listed and the determination of or response to any other application or matter received in respect of the town and country planning function subject in each case to the proviso that any member of the Council may bring the application before the Planning Committee for decision in accordance with the adopted Protocol for Planning Committee.
- 1.2. To exercise all functions in relation to planning and planning enforcement including, but not limited to, applications, approvals, section 106 planning obligations under the Town and Country Planning Act 1990, Planning (Listed Buildings and Conservations Areas) Act 1990, and associated legislation (as amended or may be amended).
- 1.3. To exercise planning and related functions under, but not limited to, the following legislation (or as may be amended) and any other enabling powers:
 - Town and Country Control of Advertisement Regulations 2007
 - Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended)
 - The Proceeds of Crime Act 2002 (or as amended).
 - Planning (Hazardous Substances) Act 1990
 - Community Infrastructure Levy Regulations 2010 (as amended).
 - Licensing Act 2003.
 - Conservation of Habitats and Species Regulations 2017 (as amended).
 - Part 4 Chapter 1 of Anti-social Behaviour, Crime and Policing Act 2014
 - Levelling-up and Regeneration Act 2023
- 1.4. Formulate and issue decision notices following consideration by the Planning Committee in accordance with the resolution of the Planning Committee and as required to make amendments to planning conditions, Section 106 legal agreements or reasons for refusal prior to issuing a decision notice, where the decision has been made by the Planning

Committee, where those changes are minor and non-material and subject to the change(s) having no impact on the substance and terms of the planning decision in order to provide precise and robust conditions or reason(s) for refusal.

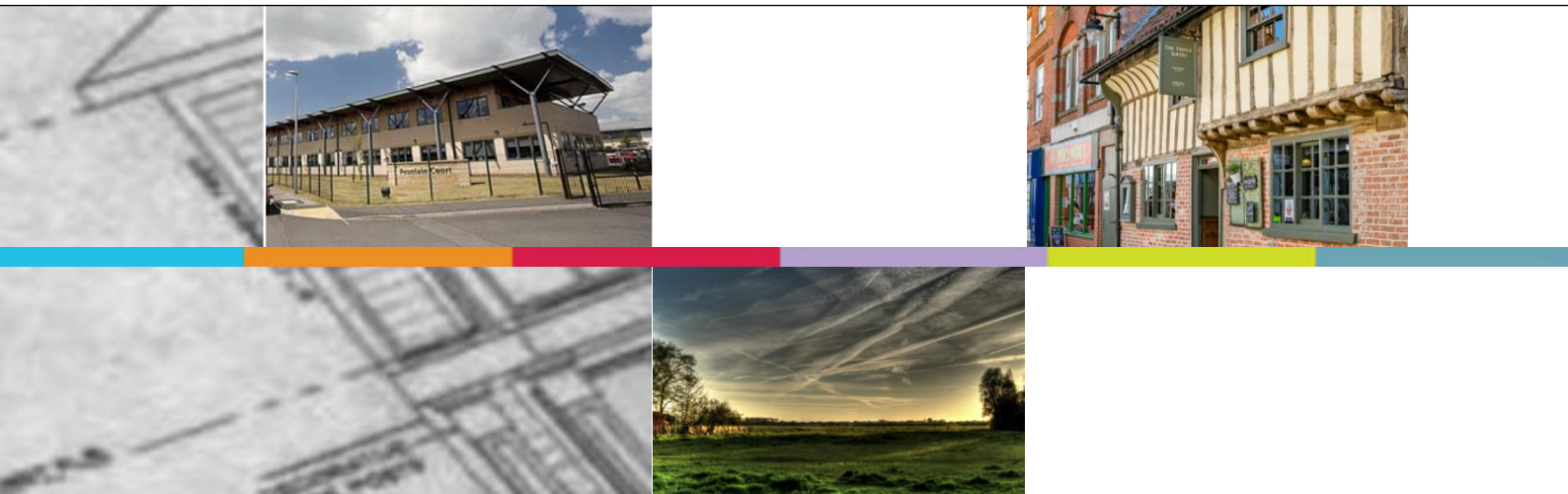
- 1.5. In consultation with the Planning Committee Chairman and/or Vice Chairman, issue a grant of permission without a Section 106 agreement first being signed, where the original Planning Committee resolution requires the prior completion of a Section 106 legal agreement or payment of Community Infrastructure Levy, but where a consultee who required the agreement no longer considers an agreement is necessary and a planning condition can be used to cover their requirements.
- 1.6. Power to make minor alterations to the Planning Application Validation Checklist and Planning Enforcement Plan.
- 1.7. Power to authorise payments or provide other benefits in cases of costs awarded against the Council in respect to planning and related appeals, maladministration and in respect of the local settlement of complaints in respect of matters falling within the remit of the planning function.
- 1.8. Determine all applications in accordance with the scheme of delegation with the exception of the following:
 - a) Environmental Impact Assessment - Applications where an Environmental Statement under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 has been provided.
 - b) Major Developments - All major (defined as 10 or more dwellings, where new floor space would be 1,000m² or greater or have a site area of 1 hectare or greater) applications where the recommendation is one of approval, contrary to the response received from a Statutory Consultee as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015 in respect to that application.
 - c) Major Developments (S73 and/or Reserved Matters following Outline) - Major applications made under Section 73 of the Act where they raise new material planning impacts arising from the subject of the condition(s) being varied/removed and where the previous application was dealt with by Planning Committee.
 - d) Parish or Town Council/Community or Voluntary Organisation Application- The application has been submitted by a community or voluntary organisation, a town or parish council/meeting and could in the opinion of the Authorised Officer, in consultation with the Chairman and Vice-Chairman of the Planning Committee, result in a significant community benefit and would otherwise be recommended for refusal.
 - e) Authorised Officer Referral - Any application which raises significant issues such that in the opinion of the Authorised Officer, it would be prudent to refer the application to Planning Committee for decision.

- f) Departure - Applications where the principle of development would represent a material departure from any policy within the Development Plan where the recommendation is for approval.
- g) Ward member referral – when referred as set out within the Protocol for Planning Committee [\[include hyperlink\]](#) within the 21 calendar days from the emailing of the weekly list or within 10 calendar days of the notification of any significant amendments to applications. Calendar days does not include any bank or public holiday in England and Wales.

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

Protocol for Planning Committee

Effective from xxx



Version Control

Version	Date	Change
v1	xxxx	Protocol Adopted

Contents

1.0	Introduction	3
2.0	Relationship to the Members Code of Conduct.....	3
3.0	The General Role and Conduct of Members and Officers	4
4.0	Registration and Disclosure of Interests	4
5.0	Predisposition, Predetermination or Bias	5
6.0	Development Proposals Submitted by Members and Officers and Council Development	6
7.0	Lobbying of and by Members.....	7
8.0	Requests to Refer Items to Planning Committee.....	8
9.0	Pre-Application Discussions	9
10.0	Officer Reports to Committee.....	10
11.0	Consideration of Business on the Public Agenda.....	10
12.0	Public Speaking at Planning Committees.....	11
13.0	Decisions Which Differ from an Officer Recommendation.....	17
14.0	Committee Site Visits	19
15.0	Voting at Committee	20
16.0	Deferral.....	20
17.0	Biennial Review of Decisions.....	20
18.0	Complaints.....	20

PROTOCOL FOR DEALING WITH PLANNING MATTERS

1.0 Introduction

- 1.1 One of the key purposes of the planning system is to regulate the development and use of land in the public interest.
- 1.2 Planning decisions are based on balancing competing interests and making an informed judgement against a local and national policy framework. Planning necessarily affects land and property interests and as a consequence decision can often be highly contentious.
- 1.3 The risk of controversy and conflict are heightened by the openness of a system which invites public opinion before taking decisions and the legal nature of the development plan and decision notices. Nevertheless, it is important that the decision-making process is open and transparent.
- 1.4 The aim of this Protocol is to ensure that the planning process is undertaken in a fair, impartial and transparent way and so there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.
- 1.5 This Protocol applies at all times when Members, Council Officers and the public are involved in the planning process. This includes meetings of the Planning Committee, meetings of the Council when exercising the functions of the Planning Authority and less formal occasions, such as meetings with Officers or the public and consultative meetings. It applies to planning enforcement matters, to site specific policy issues and to the making of compulsory purchase orders on planning grounds.
- 1.6 This protocol does not constitute legal advice.

IF YOU HAVE ANY QUERIES OR CONCERNS ABOUT THE APPLICATION OF THIS PROTOCOL TO YOUR OWN CIRCUMSTANCES YOU SHOULD SEEK ADVICE EARLY FROM THE MONITORING OFFICER OR DEPUTY MONITORING OFFICER AND PREFERABLY WELL BEFORE ANY MEETING TAKES PLACE

2.0 Relationship to the Members Code of Conduct

- 2.1 The Council has adopted a local Member Code of Conduct which reflects the seven principles of public life, also known as the Nolan Principles. These principles are selflessness, integrity, objectivity, accountability, openness, honesty and leadership. This Code of Conduct for Members can be found in the Council's Constitution.
- 2.2 This Protocol is intended to supplement the Code of Conduct for Members where Members are involved in the planning process.
- 2.3 The rules set out in the Code of Conduct for Members must be applied first and must always be complied with.
- 2.4 Where a Member does not abide by the Code of Conduct for Members and/or this Protocol when involved in the planning process it may put the Council at risk of challenge on the legality of any decision made or at risk of a finding of maladministration.
- 2.5 The failure is also likely to be a breach of the Members Code of Conduct and may be the subject of a complaint to the Standards Committee.

MEMBERS SHOULD APPLY COMMON SENSE IN THE INTERPRETATION OF THIS PROTOCOL

3.0 The General Role and Conduct of Members and Officers

- 3.1 Members and Officers have different but complementary roles. Both serve the public, but Members are responsible to the electorate whilst Officers are responsible to the Council as a whole. Officers advise Members and the Council and carry out the Council's work. They are employed by the Council, not by individual Members. A successful relationship between Members and Officers will be based upon mutual trust, understanding and respect of each other's position. The Council has adopted a Protocol giving guidance on relationships between Officers and Members which can be found in the Council's Constitution.
- 3.2 Both Members and Officers are guided by their respective codes of conduct contained in the Council's Constitution. The Code of Conduct for Members and its relationship to this Protocol are set out in section 2 above.
- 3.3 Planning Officers who are chartered town planners are subject to the Royal Town Planning Institute (RTPI) Code of Professional Conduct breaches of which may be subject to disciplinary action by the Institute. Officers from the Legal Team who are qualified solicitors are regulated by the Solicitors Regulation Authority (SRA) and must uphold the SRA Principles.
- 3.4 In addition to these codes, the Procedure Rules found in the Council's Constitution set down rules which govern the conduct of Council business.
- 3.5 Members and Officers should view with extreme caution any offer of gifts or hospitality, with a view to not only avoiding impropriety but also any perception of impropriety. The Council has adopted separate protocols for Officers and for Members giving guidance on gifts and hospitality and outlining specific requirements in relation to the acceptance of gifts or hospitality.
- 3.6 Serving Members who act as agents for people pursuing planning matters within the District should not be Members of the Planning Committee.
- 3.7 Members and particularly those serving on the Planning Committee are required to receive training on planning when first appointed to the Planning Committee and before they can take any planning decisions. Members should then receive training a minimum of once annually thereafter.
- 3.8 Care needs to be taken in the use of social media by Members and Officers, especially where any posts could relate to decision making functions. Members should be mindful that posts or comments made on social media, in any capacity by Members, could be perceived by Members of the public that a Member is predetermined or biased. The Social Media Protocol for Members can be found in the Council's Constitution.
- 3.9 Members should not participate in social media or exchanges by texting as a Member of the committee during the committee's proceedings as this may give the impression of undue external influence and may give the appearance of bias.

4.0 Registration and Disclosure of Interests

The Code of Conduct for Members sets out detailed requirements for the registration and disclosure of disclosable pecuniary interests and details of other interests. This Protocol should be read as supplementary to these requirements for registering interests. Members should not participate in any decision and should leave the meeting where they have a disclosable pecuniary interest unless they have first obtained a dispensation.

4.2 In addition, unless they have obtained a dispensation they should: -

- **NOT** participate or give the appearance of trying to participate in the making of any decision on the matter by the Council as Local Planning Authority

- **NOT** get involved in the processing of the application
- **NOT** use their position to discuss the proposal with Officers or Members when other Members of the public would not have the opportunity to do so or in any other way seek or accept any preferential treatment or give the appearance of so doing.

4.4 In addition, the Code requires Members to consider whether they have any Other Registrable Interests or Non-Registrable Interests

4.5 In the event that a Member considers that they have an Other Registrable Interest or Non-Registrable Interests in any matter, they should disclose the existence and nature of the interest at or before the consideration of that item of business or as soon as the interest becomes apparent.

4.6 The Member then needs to consider very carefully whether it would be appropriate to participate in discussion and voting on the matter and the requirements in the Code. They should think about how a reasonable Member of the public, with full knowledge of all the relevant facts would view the matter when considering whether their participation would be appropriate.

5.0 Predisposition, Predetermination or Bias

5.1 Planning issues must be assessed fairly and on their planning merits, the decision-making process must be seen to be fair and impartial from the perspective of an external observer. To protect the rights of planning applicants and to preserve the integrity of committee decisions, it is vital that Members do not make up their minds before they have all relevant materials and arguments before them at the Planning Committee meeting.

5.2 Members must not come to a meeting with a closed mind or appear to have a closed mind. Members must maintain an open mind whilst they hear any speakers, the Officer's presentation and other evidence at the Planning Committee when the matter is considered. This is particularly important if a Member is contacted by an external interest or lobby group.

5.3 If a Member has made up their mind prior to the meeting and is not able to reconsider their previously held view then they are predetermined. They will not be able to participate in the decision making of the matter by the Planning Committee because if they did take part in the discussion or vote it would put the Council at risk in a number of ways. Firstly, it would probably, in the view of the Local Government Ombudsman, constitute maladministration. Secondly, the Council could be at risk of legal challenge and leave a decision of the Planning Committee vulnerable to Judicial Review.

5.4 Predisposition is where a Member may have a pre-existing opinion or attitude about the matter under discussion but remains open to listening to all the arguments and changing their mind in light of the information presented at the meeting. Members are able to feel predisposed towards a particular decision but must still be able to consider and weigh relevant factors before reaching their final decision. Predetermination arises when Members' minds are closed, or importantly, reasonably perceived to be closed, to the consideration and evaluation of the relevant factors. Section 25 of the Localism Act 2011 provides that a Member should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter. For example, a Member who states "*wind farms are blots on the landscape and I will oppose each and every wind farm application that comes before committee*" has a closed mind. A Member who states "*many people find wind farms ugly and noisy and I will need a lot of persuading that any more wind farms should be allowed in our area*" does not have a closed mind although they are predisposed towards opposing such applications.

5.5 Members may take part in the debate on a proposal when acting as part of a consultee body (i.e., where they are also a Member of the County or host Parish Council as well as being a Member of the Council) provided that: -

- They make clear during discussion at the consultee body that: -
 - (i) Their views are expressed on the limited information before them only; and
 - (ii) They will reserve judgement and the independence to make up their own mind on each separate proposal when it comes before the District Council's Planning Committee, and they have heard all the relevant information; and
 - (iii) They will not in any way commit themselves as to how they or others may vote when the proposal comes before the District Council's Planning Committee.

5.6 In the interests of transparency, the Member should, in such circumstances, disclose the personal interest regarding their Membership of the consultee body when the District Council's Planning Committee comes to consider the proposal.

5.7 Where a Member has already made up their mind ("fettered their discretion") and therefore declines to speak or vote on a proposal, they do not also have to withdraw (unless required due to an interest and have not obtained a dispensation) but it is preferable to do so.

5.8 If a Member decides to stay in the meeting, they should explain that they do not intend to speak and vote because they have (or could reasonable be perceived as having) judged the matter elsewhere, and why they have decided not to withdraw, so that this may be recorded in the minutes.

5.9 Members who have participated in the development of planning policies and proposals need not and should not normally exclude themselves from decision making on individual applications for that reason.

6.0 Development Proposals Submitted by Members and Officers and Council Development

Proposals submitted by serving and former Members, Officers or their close associates and relatives can easily give rise to suspicions of impropriety. Proposals could be planning applications or local plan proposals.

6.2 Such proposals must be handled in a way that gives no grounds for accusations of favouritism. In particular: -

- If a Member or Officer submits their own proposal to the Council, they should play no part in its consideration.
- The Council's Monitoring Officer should be informed of any proposal submitted by any Member, or any Officer employed by the Council on the grade of Business Manager or above or any Officer who could otherwise have been involved in processing or determining the application.
- Such proposals should be reported to the Planning Committee and not dealt with by Officers under delegated powers.

6.3 A Member will have a disclosable pecuniary interest in their own application and should not participate in its consideration. They have the same rights as any applicant in seeking to assist in the consideration of their application but the Member, as applicant, should also not seek to improperly influence the decision.

6.4 Proposals for the Council's own development should be treated with the same transparency and impartiality as those of private developers.

7.0 Lobbying of and by Members

Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their Ward Member or to a Member of the Planning Committee. The Nolan Committee's 1997 report stated: *"it is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the Members themselves"*.

- 7.2 Lobbying can, however, lead to the impartiality and integrity of a Member being called into question, unless care and common sense is exercised by all the parties involved.
- 7.3 When being lobbied, Members and Members of the Planning Committee in particular, should take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments.
- 7.4 In such circumstances, Members should consider restricting themselves to giving advice about the process and what can and cannot be taken into account.
- 7.5 Members can raise issues which have been raised by their constituents with Officers.
- 7.6 If a Member does express an opinion to objectors or supporters, it is good practice to make it clear that they will only be in a position to make a final decision after having heard all the relevant arguments and having taken into account all relevant material and planning considerations at Planning Committee.
- 7.7 If any Member, whether or not a Planning Committee Member, speaks on behalf of a lobby group at the Planning Committee, they should withdraw from the meeting once the opportunity to make representations has been completed in order to counter any suggestions that Members of the Committee may have been influenced by their continuing presence.
- 7.8 In no circumstances should planning decisions be made on a party-political basis in response to lobbying. The use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration.
- 7.9 Planning Committee Members and Members of the Planning Policy Board in general should avoid organising support for or against a planning application and should not lobby other Members.
- 7.10 Members should not put pressure on Officers for a particular recommendation or decision and should not do anything which compromises, or is likely to compromise, the Officer's impartiality or professional integrity. This would be contrary to the Member Code of Conduct.
- 7.11 Members should pass any lobbying correspondence received by them to the Business Manager – Planning Development at the earliest opportunity.
- 7.12 Any offers made of planning gain or restraint of development, through a proposed S106 Agreement or otherwise should be referred to the Business Manager – Planning Development.
- 7.13 Members should not accept gifts or hospitality from any person involved in or affected by a planning proposal.
- 7.14 Members should inform the Monitoring Officer where they feel that they have been exposed to undue or excessive lobbying or approaches, including inappropriate offers of gifts or hospitality, who will in turn advise the appropriate Officers to follow the matter up.

8.0 Requests to Refer Items to Planning Committee

8.1 District Members may wish to request the referral of sensitive or controversial planning applications, that would otherwise be delegated to Officers, for decision by the Planning Committee. Members can submit a referral request for any planning applications within their Ward in accordance with **paragraph 8.3**. Adjoining Ward Members may also refer applications where the application site is within 100 metres of the Ward boundary and would have significant impact upon that adjoining Ward. Applications subject to strict time limits for determination are excluded and include prior notification and/or approvals, works to trees in a conservation area and certificate of lawfulness.

8.2 Referrals should be made, in writing and setting out the reasons for the referral, as soon as possible after the date a valid application is submitted to avoid unnecessary delays in determining applications, but within 21 days (excluding bank holidays) of the distribution of the weekly list or within 10 days of notification of significant amendments to applications. Referrals can only be made once an application has been validated.

8.3 A referral request **must be** based on the following circumstances:-

- a) The application has attracted an unusually high level of public interest raising material planning considerations to the development being considered, which might be reflected in the number of letters or emails, or a petition received in connection with the application;
- b) There has been a recent and significant change of planning policy (either at national or local level) which would result in a different recommendation being made in respect of an application than would previously have been the case;
- c) The application has wider ramifications of more than just local interest;
- d) Any other reasons based on individual planning merits and circumstances of the application.

8.4 A referral **should not** be made in the following circumstances:-

- a) To resolve a disagreement between an applicant and the objector(s) to an application; or
- b) Because the applicant considers that there is more likelihood of a grant of permission if the application is referred to the Committee for a decision; or
- c) Because the objectors to an application consider that there is more likelihood of a refusal of permission if the application is referred to the Committee for a decision; or
- d) Because the applicant/objector does not agree with the advice given by a Planning Officer.

Ward (or Adjoining) Members who have referred an application to Planning Committee are able to speak to the Planning Committee in accordance with the procedures set out at **Section 11**.

8.5 Referral requests by the Ward Member should set out in writing, preferably email:

- a statement outlining material planning reasons why the proposal needs to be considered by Committee i.e. how it falls within the criteria set out in **8.3**;
- a list of related Development Plan policies (or part of) and, where applicable, national planning policies (including paragraph numbers).

8.6 Referral requests by Adjoining Ward Members must, in addition to the criteria in **8.5**, also set out how:

- in their opinion the application would have a material planning impact on the whole or part of their ward (or the District as a whole or part) having regard to the nature of the development, and
- shall notify the relevant host Ward Member(s) prior to the referral.

Should amendments be received including plans/documents that are subject to re-consultation/notification which result in new material planning impacts not previously notified of, the relevant Ward Member or adjoining Ward Member may refer the application to Planning Committee within 10 days of the notification and subject to the referral criteria set out within this Protocol.

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

9.0 Pre-Application Discussions

9.1 Pre-application discussions between a potential applicant and the Council can benefit both parties and are therefore encouraged. However, it would be easy for such discussions to become, or be seen by objectors to become, part of a lobbying process on the part of the applicant.

9.2 Members have an important role to play in pre-application discussions, bringing their local knowledge and expertise, along with an understanding of community views. Involving Members can help identify issues early on, helps Members to lead on community issues and helps to ensure that issues do not come to light for the first time at Planning Committee. Officers should therefore consider involving the local Ward Member(s) particularly in relation to major applications and where a Development Consultation Forum does not apply (refer paragraph 9.3 below). However, in order to avoid perceptions that Members might have fettered their discretions, such discussions should take place in accordance with the following guidelines: -

- (i) It should be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are personal and provisional. By the very nature of such meetings not all relevant information may be at hand, nor will formal consultations with interested parties have taken place.
- (ii) It should be acknowledged that consistent advice should be given by Officers based upon the development plan and material planning considerations.
- (iii) Officers should be present with Members in pre-application meetings. Members should avoid giving separate advice on the development plan or material considerations as they may not be aware of all the issues at an early stage.
- (iv) Members should not become drawn into any negotiations which should be done by Officers (keeping interested Members up to date) to ensure that the Council's position is co-ordinated.
- (v) A written note should be made of all meetings. An Officer should make the arrangements for such meetings, attend, and write notes. A note should also be taken of any phone conversations, and relevant emails recorded for the file. Notes should record issues raised and advice given. The note(s) should be placed on the file as a public record. If there is a legitimate reason for confidentiality regarding a proposal, a note of the non-confidential issues raised, or advice given can still normally be placed on the file to reassure others who are not party to the discussion.

(vi) Care should be taken to ensure that advice is impartial, otherwise the subsequent report or recommendation to Committee could appear to be advocacy.

9.3 Some pre-application and pre-decision proposals are of a scale or complexity, for example, whereby engaging with Members, Town/Parish Councils and Meetings as well as the public can be of benefit to enable wider understanding. Such proposals will be, with the agreement of the Business Manager – Planning Development, Chairman and Vice Chairman of Planning Committee in consultation with the Ward Member(s), recommended to be presented via a Development Consultation Forum (“DCF”). Such Forum’s will enable wider engagement in accordance with the Council’s Statement of Community Involvement. They will not be a decision-making meeting. The purpose, process and schemes that might be eligible are detailed within the document [‘Development Consultation Forums, Guidance for Developers and Public’](#). The Chairman of the DCF will be agreed prior to the meeting being held and will be either a District Member or Officer of the Planning Development department.

9.4 Although the term “pre-application discussions” has been used, the same consideration should apply to any discussions which occur before a decision is taken.

9.5 Common sense should be used by Members in determining the scale of the proposals to which the guidelines set out in 9.2 above will apply. Members talk regularly to constituents to gauge their views on matters of local concern. Keeping a register of such conversations would be neither practical nor necessary. If for example a Member is approached by an applicant or an objector in respect of what could reasonably be considered to be a minor application, it would be more appropriate for the Member concerned to give advice on process only and what can and cannot be taken into account (see [paragraph 12.14](#)) and to refer the constituent to a planning Officer if they need planning or technical advice.

10.0 Officer Reports to Committee

10.1 Officer reports to Committee should be comprehensive and should include a summary of the substance of any objections and other responses received to the consultation. Relevant information should include a clear assessment against the relevant development plan policies, relevant parts of the National Planning Policy Framework (NPPF), any local finance considerations and any other material planning considerations.

10.2 Reports should have a written recommendation for a decision to be made and should contain technical appraisals which clearly justify the recommendation.

10.3 Reports should be read in full by the Members sat on Planning Committee ahead of the meeting.

10.4 If the reports recommendation is contrary to the provisions of the development plan the reasons must be stated clearly. Determinations must be made in accordance with the development plan unless material considerations indicate otherwise¹.

10.5 Any oral updates or changes to the report should be recorded within the minutes.

11.0 Consideration of Business on the Public Agenda

All applications to be decided by the Planning Committee will be dealt in line with the Committee Procedure Rules contained within the Council’s Constitution and as follows:

- i. Members who have pre-determined the proposal or have a Disclosable Pecuniary Interest (DPI) will be required to leave the meeting whilst the relevant agenda item is debated. Officers with a DPI will also be required to leave.

¹ S.38(6) of the Planning and Compensation Act 2004 c.5*

*Subject to amendments under s.93 of the Levelling-up and Regeneration Act 2023 c.55

- ii. The Chairman will announce the agenda item number.
- iii. The Planning Officer will introduce the application with any relevant updates and provide a visual presentation to aid Members' understanding of the context of the application.
- iv. The Chairman will propose and another Member of the Planning Committee, usually the Vice Chairman will second the Officer recommendation (noting that this does not fetter their ability to vote to the contrary after taking all relevant matters into account).
- v. The Speakers will then be invited by the Chairman to address the Committee from an allocated desk in the following order:
 - i. Objector(s)
 - ii. Statutory Consultee
 - iii. Parish/Town Councillor
 - iv. Applicants or their Agent, or supporter
 - v. Ward Member

Each speaker will be limited to a maximum of 3 minutes.

- vi. The Chairman will invite Officers to respond to any points raised by the speakers for clarification.
- vii. The Chairman will then ask Members if they have technical questions of Officers.
- viii. The Planning Committee will then discuss/debate the application.
- ix. Members may seek further clarification of: -
 - a) particular points from Officers, regarding the application; or
 - b) on points raised by speaker(s), in the main debate, through the Chairman. Officers will respond to issues and questions raised by Members.
- x. The Committee will then make a decision by vote.
- xi. Refusals, contrary to Officer recommendation will, alongside recording each Member's vote, also record the proposer and seconder for the refusal.

11.2 In most cases the debate is heard in public. However, occasionally, the Committee may need to go into closed session, which excludes the press and public, to consider information that is confidential or exempt from publication. If this happens, the Committee will pass a resolution to that effect and any participant who is not a Member of the committee or Officer of the Council will be asked to leave the meeting.

12.0 Public Speaking at Planning Committees

General Principles

12.1 The primary intention is to allow Members of the public, agents, supporters, Parish/Town Councillors, and Newark and Sherwood District Members to speak to the Planning Committee on a specific planning application before the Committee and bring to the Committee's attention concerns already raised during the statutory consultation process.

- 12.2 Although Planning Committee meetings are held in public, they are not public meetings; as a result, a person, who is not attending as a Member or Officer of the committee, may only speak to the committee if they have registered to speak as shown below.
- 12.3 Please note that this Protocol does not interfere with the right of a Member, who is attending as a Member of the Committee, to address the Committee on any application submitted for consideration.
- 12.4 Speakers are expected to make verbal presentations only. Speakers may not circulate statements, papers, photographs or other documents or make slide presentations at meetings of the Committee.
- 12.5 Messages should never be passed to individual committee Members, either from other Members or from the public. This could be seen as seeking to influence that Member improperly and will create a perception of bias that will be difficult to overcome.
- 12.6 Speeches made at the Committee will not be recorded in the minutes of the meeting verbatim.
- 12.7 Who May Speak to a Planning Committee Meeting

All Speakers

- (1) A request to address a specific committee meeting will only be accepted if it relates to a planning application included in the agenda for that meeting.
- (2) No speaker is allowed to address the Committee more than once or for more than 3 minutes.

Members of the Public, Agents, and Applicants

- (3) Any member of the public, agent, and/or applicant may address the Committee subject to the rules of this Protocol. Only Members of the public who have made representation to the application at the time of the agenda being printed will be permitted to speak unless otherwise agreed by the Business Manager - Planning Development in consultation with the Chairman and/or Vice-Chairman of Planning Committee.

Ward Members

- (4) Subject to 12.7(4) below a Newark & Sherwood District Member, who is not attending the Committee as a Member of the Committee and represents the Ward within which the application site is wholly or partially situated may address the Committee.
- (5) A Member shall also have the right to make representations for applications outside their ward area in circumstances where the application site is within 100m of the Ward boundary and it can clearly be demonstrated to the satisfaction of the Business Manager – Planning Development in consultation with the Chairman and/or Vice-Chairman of the Planning Committee that the application will have a material impact on the whole or part of their ward area.

Parish/Town Councillor

References to Town/Parish Councils shall include Parish Meetings.

- (6) Subject to 12.6(6) below, any Parish/Town Councillor or the clerk who represents the Parish or Town Council within which the application site is wholly or partially situated may address the Committee. As such they will be bound by their own Authority's rules on conduct. Any professional agent or other third party appointed by the Town/Parish Council shall have no right to speak at Committee.
- (7) An adjoining Parish/Town Councillor or clerk wishing to speak to Planning Committee may do so when it can be demonstrated to the satisfaction of the Business Manager – Planning

Development in consultation with the Chairman and/or Vice-Chairman of the Planning Committee that the application will have a material impact on the whole or part of their parish/town area and the host Parish/Town Councillor or clerk is not registered to speak.

Statutory Consultees

- (8) Any statutory consultee who has made representation to the application as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) or internal consultee to the Council. However, other consultees who are not statutory may be permitted to speak with the agreement of the Business Manager – Planning Development in consultation with the Chairman and/or Vice-Chairman of the Planning Committee.

12.8 Registering to Speak

All Speakers

- (1) All requests to address the Committee must be in writing. These should be via completion of the following online form [\[insert hyperlink\]](#) or document available via this webpage [\[insert hyperlink\]](#). General enquiries may be sent to the Democratic Services Team by emailing:

committees@newark-sherwooddc.gov.uk

or by letter sent to:

Democratic Services Team, Newark & Sherwood District Council, Castle House, Great North Road, Newark, NG24 1BY

- (2) It is strongly recommended that speakers submit requests via the online form as these can be picked up more quickly.

Members of the Public, Agents, Applicants, Supporters Parish/Town Councillors and/or Statutory Consultees

- (3) Requests to speak at the Committee must be received by Democratic Services Team by no later than 72 hours before the start of the meeting
- (4) The following information is required when registering to speak at the Committee:
 - Contact details, including email address, of the person(s) or organisation(s) who will be addressing the meeting
 - application number and details of the relevant application
 - whether the speaker is supporting or opposing the application
 - that the speaker is happy for their details to be shared with others who register the same request to speak.

Ward Members

- (5) Any Member wishing to exercise their right to speak under this provision shall be required to first notify the Council's Democratic Services team 72 hours before the meeting that they wish to make representations and, if the application site is outside their ward area but within 100m of the boundary, the reasons why they consider that the application will have a material impact on the whole or part of their ward area.
- (6) The following information is required when registering to speak at the Committee:

- application number and details of the relevant application
- whether the deputation is support or opposition of the application

12.9 Failure to Register to Speak

If a speaker does not register in full accordance with Section 12.8 above, they will not be allowed to speak, and the Committee will decide the application without their involvement.

12.10 Limit on the Number of Speakers

Members of the Public, Agents, Applicants and Parish/Town Councillors

- (1) In the event that more than one person wishes to speak as an objector, we will arrange to put them in touch with the other interested people so that they can agree between them who should speak on behalf of all the objectors. In the event that agreement cannot be made, the person in closest proximity to the application site will have the right to speak. Should those wishing to speak be the same distance from the application site, the first person to register as an objector will have the right.
- (2) Only one person can speak in support of an application. Priority will be given to the applicant or their agent. In the event that more than one person wishes to speak and they are not the applicant or their agent, the same process as set out in 12.10(1) will take place.
- (3) Only one Parish/Town Councillor will be able to speak to the Committee on each application. The host Parish/Town Councillor will have the right to speak in the event more than one wishes to speak.

Ward Members

- (4) Subject to 12.9(6) below, only one Ward (or Adjoining) Member can speak on each application. The Ward Member will have the right to speak in the event that Ward and Adjoining Ward Members wish to speak. In the event that more than one Ward (or Adjoining) Member wishes to speak, the first to register will have the right. .

Statutory Consultees

- (5) One representative for each Statutory Consultee is able to speak.

12.11 Notification of speaking

All those who have registered to speak will be notified 48 hours in advance of the meeting by Democratic Services. The notification will confirm whether or not the request has been accepted i.e. whether it complies with the criteria above.

12.12 Speech Texts

All Speakers

- (1) Speakers are permitted to make verbal representations only; slides or any other audio or visual presentations are not permitted.
- (2) Speakers may, if they wish, send a written copy of their proposed speech to the Democratic Services Team before the start of the meeting. Subject to below, such texts will not be circulated to Members or Officers of the Council but will be referred to in the minutes of the meeting and published after the meeting has ended as shown in paragraph 12.12(3) below.

- (3) Speeches are not recorded verbatim in the minutes of the meeting. A speech will be recorded as follows:

Where a speaker does not submit a copy of their speech to the Council before the start of the meeting:

“The Committee was addressed by XXX, who spoke in support/against the application”

Where the speaker submits a copy of their speech prior to the start of the meeting:

“The Committee was addressed by XXX, who reiterated the issues set out in the summary text of their speech submitted prior to the meeting, which had been published on the Council’s website”

- (4) If a speaker does not attend the meeting, any written text summarising the intended speech submitted by, or behalf of the speaker will not be considered by the Committee or referred to in the minutes, unless it is received prior to the closing of receipt of late representations, refer **paragraph 12.19.**

12.13 What should be included in a speech

All Speakers

- (1) It is important to remember that the Planning Committee can only consider certain issues when deciding a planning application. To help you make the most of the time you have been allocated to speak, we have provided examples below of what can and cannot be considered, this is not an exhaustive list.

MATERIAL PLANNING CONSIDERATIONS	NON-MATERIAL CONSIDERATIONS
Design and visual impact	The applicant or agent
Privacy / daylight / sunlight	Land ownership
Noise, smell, pollution	Private rights e.g. access/covenants
Access / traffic	Need (with some exceptions)
Health / health and safety	Property value
Ecology, landscape	Competition
Crime (and fear of)	Loss of view
Economic impact	“moral” issues (e.g. gambling)
Planning history / related decisions	Numbers of representations
Fallback position e.g. PD Rights	Change from previous scheme
Cumulative impact	Building regulation issues
Viability of the development “	“better” use or “better” site

- (2) We strongly recommend that you prepare your speech in advance so that you are able to make all your points in the time available.
- (3) Speakers should avoid defamatory comments in their speech or speech text. If a speaker says or writes something defamatory in public, they may be at risk of legal action.

Parish/Town Councillors

- (4) A Parish/Town Councillor or their nominated representative shall put forward views or representations which reflect the views of the Parish Council which they are representing. They shall not be entitled to put forward personal views or opinions or views which differ from those of the Parish Council which they represent.
- (5) A Parish Meeting shall have the same rights to appoint a representative to speak on their behalf as a Parish Council provided that they are able to evidence that they are reflecting the views of the Parish Meeting (for example as recorded in the minutes of the Parish Meeting) rather than their personal views.

Statutory Consultees

- (6) A statutory consultee shall put forward views or representations which reflect the views of the Consultee which they are representing. They shall not be entitled to put forward personal views or opinions or views which differ from those of the Consultee which they represent.

12.14 Time Limits for Speakers

All Speakers

- (1) The time limits will be strictly followed and cannot be exceeded. All speakers must stop when requested to do so by the Chairman.

Members of the Public, Agents, Applicants, Supporters, Parish/Town Councillors-and Statutory Consultees

- (2) There will be a maximum speaking time of three minutes allocated for each speaker,

Ward Members

- (3) A ward Member will not be permitted to speak for longer than 3 minutes. Ward Members are encouraged to contact the Planning Officer prior to the Committee meeting to clarify any factual issues with the planning application and raise any queries relating to the content of the report to Committee.

12.15 Right to Appoint a Representative

Members of the Public, Agents, Applicants, Supporters, Parish/Town Councillors-and Statutory Consultees

- (1) A speaker may appoint another person to speak in their place if they notify the Democratic Services Team of the change at least 24 hours before the meeting is due to start. The other party appointed must have made a representation prior to the agenda being published or be either the applicant or the agent on the application.

Ward Members

- (2) A Ward Member may appoint another Ward Member to speak in their place provided that:

- (a) the Member is not attending as a Committee Member;
- (b) they notify the Democratic Services Team of the change at least 24 hours before the meeting is due to start.

12.16 Failure of Speakers to attend the Committee

All Speakers

- (1) If a registered speaker or their representative does not arrive at the meeting before the Committee begins, the Committee will continue to consider and determine the application in their absence.

12.17 Deferral of an Application

All Speakers

- (1) If an application is deferred to be considered at a later meeting, any person wishing to speak will need to apply again.

12.18 Procedure for Speakers at the Meeting

- (1) Committee meetings will start at the time and be held at the venue advertised on the Council's website.
- (2) All speakers are recommended to arrive 10 minutes before the start of the meeting. A Member of the Democratic Services Team will be there to greet speakers and explain the procedure, including how to use the microphone.
- (3) No written material, photographs or diagrams or other papers may be distributed by speakers at the meeting itself.
- (4) Speakers cannot give slide or video presentations at the meeting.
- (5) All speakers will be requested to return to the public seating area after they have made their representation. Once the speakers have returned to the public seating area, they are not permitted to enter the debate further. Following the speeches, the Chairman will invite the case Officer to provide any further comments.

12.19 All representations received up to midday 2 days before the Planning Committee meeting will be reported to Planning Committee by means of a late paper summarising any late representations received in respect of items on the agenda for the Committee. Representations received after this time will be considered by Officers as to whether they raise any new material planning considerations not considered as part of the agenda report. Should any representation raise new material planning considerations, the Business Manager – Planning Development or other Authorised Signatory will consider whether the item (development proposal) should be withdrawn from the agenda to enable the matter(s) to be properly considered and addressed in a future report.

12.20 New documents should not be circulated to the Committee. Members may not be able to give proper consideration to the new information and Officers may not be able to check for accuracy or provide considered advice on any material considerations arising.

13.0 Decisions Which Differ from an Officer Recommendation

13.1 The law requires that decisions should be taken in accordance with the development plan, unless material considerations (which specifically include the National Planning Policy Framework (NPPF)) indicate otherwise ². This currently has a pending amendment as follows: "... determination must be

² s.38 Planning and Compulsory Purchase Act 2004 c.5

made in accordance with the development plan and any national development management policies, taken together, unless material considerations strongly indicate otherwise³. Decisions will then be required to be considered in accordance with this, once it is in force.

- 13.2 This applies to all planning decisions. Any reasons for refusal and any approval must be justified against the development plan and other material considerations.
- 13.3 The courts have expressed the view that the Planning Committee's reasons should be clear and convincing. The personal circumstances of an applicant or any other non-material planning considerations which might cause local controversy will rarely satisfy the relevant tests.
- 13.4 Planning Committees can, and often do, make a decision which is different from the Officer recommendation. Sometimes this will relate to conditions or terms of a S106 obligation. Sometimes it will change the outcome from an approval to a refusal or vice versa. This will usually reflect a difference in the assessment of how a policy has been complied with, or different weight ascribed to material considerations.
- 13.5 The Planning Committee should take the following steps before taking a decision which differs from an Officer recommendation: -
- (i) Record the detailed reasons as part of the mover's motion
 - (ii) If necessary, adjourn for a few minutes for those reasons to be discussed and then agreed by the Committee
 - (iii) Ensure that a recorded vote is taken, recording the individual names of those voting for and voting against the motion and the names of those abstaining.
- 13.6 If the Planning Committee makes a decision contrary to the Officer's recommendation (whether for approval or refusal or changes to conditions or S106 obligations), a detailed minute of the Committee's reasons shall be made, and a copy placed on the application file. A number of appeals are confined in the documents that can be used to defend it (Officer report and Committee minutes only). Members should be prepared to explain in full their planning reasons for not agreeing with the Officer's recommendation. The precise wording of such conditions or s106 obligations or reasons for refusal shall be delegated by the Planning Committee to the Authorised Officers.
- 13.7 The Officer(s) shall also be given an opportunity to explain the implications of the contrary decision should one be made.
- 13.8 Applications which are refused contrary to Officer recommendation and subsequently appealed may be required to be defended by either and/or both the proposing or seconding Member to the resolution or any other Member who is willing to defend the Council's decision.
- 13.9 All applications that are clearly contrary to the development plan and constitute notifiable departures must be advertised as such and are known as "departure" applications. If it is intended to approve such an application, the material considerations leading to this conclusion must be clearly identified, and how these considerations justify overriding the development plan must be clearly demonstrated.
- 13.10 The application may then have to be referred to the relevant Secretary of State, depending upon the type and scale of the development proposed (S77 of the Town and Country Planning Act 1990). If the Officer's report recommends approval of such a departure, the justification for this should be included, in full, in that report.

³ Section 93 of [Levelling-up and Regeneration Act 2023](#)

14.0 Committee Site Visits

- 14.1 Committee site visits do not constitute formal meetings of the Council but rather their purpose is to enable Members to observe the site and to gain a better understanding of the issues. Accordingly, attendance by Members at Committee site visits is not essential and non-attendance will not preclude a Member from discussing and voting on the relevant matter at the Planning Committee meeting. Notwithstanding this, Members should make every effort to attend where it is considered that a site visit is necessary and appropriate. In addition, any relevant information which Members have gained from the site visit will be reported back to the Committee so that all Members have the same information.
- 14.2 Site visits should only be conducted where the benefit is clear and substantial. Officers will have visited the site and assessed the scheme against policies and material considerations already. A site visit should not take place unless:
- (i) There are 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; or
 - (ii) There are specific site factors and/or significant policy or precedent implications that need to be carefully addressed; or
 - (iii) The impact of the proposed development is difficult to visualise; or
 - (iv) The comments of the applicant and/or objectors cannot be expressed adequately in writing; or
 - (v) The proposal is particularly contentious, and the aspects being raised can only be viewed on site.
- 14.3 A record should be kept of the reasons why a site visit is called. It is important that the Council adopts a clear and consistent approach on when and why to hold a site visit and how to conduct it to avoid accusations that visits are arbitrary, unfair or a covert lobbying device.
- 14.4 Only Members of the Planning Committee and Officers should participate in site visits. Planning Committee Members should not attend a site visit where they have either an interest in the site as set out in Section 7 of this Protocol and within the Council's Constitution and/or will not be taking part in the debate or the vote for reasons set out within Sections 4 or 5 of this Protocol.
- 14.5 The applicant may be present on site but should be kept a discreet distance away from the Planning Committee Members and Officers so that they cannot be a party to any comments or questions raised. Upon the refusal of the applicant to respect this requirement, the Committee shall leave the site immediately.
- 14.6 Members should not express opinions or views at the site meeting but may ask Officers present questions or seek clarification from them on matters which are relevant to the site investigation.
- 14.7 Under no circumstances should the site visit Members hear representations from any party. If any Member present at a site visit is approached by the applicant or a third party, they should advise them that they should make representations in writing to the Council and should direct them to, or inform the Officer present. Any late correspondence received will be dealt with as set out in paragraph 12.19.
- 14.8 Once a Member becomes aware of a proposal, they may be tempted to visit the site alone. In such a situation, a Member is only entitled to view the site from public vantage points, and they have no individual rights to enter private property. Any request by the owner/occupier of a site to enter on to a premise or by a neighbour to view a site from their premise should be strongly resisted to avoid the risk of the owner/occupier/neighbour trying to influence that Member improperly, potentially creating a perception of bias and risk of legal challenge or allegation of maladministration.

15.0 Voting at Committee

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

16.0 Deferral

16.1 Members should not seek to defer consideration of any item put before the Planning Committee unless there are clear and demonstrable reasons for doing so such as a relevant planning issue arising for the first time not having been previously considered and needing further investigation.

16.2 Where a Member might otherwise be minded to seek deferral of an item by reason that they wish to seek clarification on a particular issue and/or consider that further material information is required on a particular matter or for any other substantial reason, they should seek to obtain such clarification or additional information from the relevant Business Manager or the relevant Case Officer at least two hours prior to the commencement of the Planning Committee meeting.

17.0 Biennial Review of Decisions

17.1 It is good practice for Members to visit a sample of implemented planning permissions to assess the quality of the decisions and the development. This should improve the quality and consistency of decision making, strengthen public confidence in the planning system, and can help with reviews of planning policy.

17.2 Reviews should include visits to a range of developments such as major and minor schemes; upheld appeals; listed building works and enforcement cases. Briefing notes should be prepared on each case. The Planning Committee should formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.

18.0 Complaints

18.1 Complaints relating to planning matters will be dealt with in accordance with the Council's complaints procedures.

18.2 So that complaints may be fully investigated and as general good practice, record keeping should be complete and accurate. Every planning application file should contain an accurate account of events throughout its life. It should be possible for someone not involved in that application to understand what the decision was, and why and how it had been reached. This applies to decisions taken by Committee and under delegated powers, and to applications, enforcement, and development plan matters.



Report to Planning Committee 14 March 2024

Director Lead: Matt Lamb, Planning & Growth

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

Report Summary	
Report Title	Changes to Various Permitted Development Rights: Consultation
Purpose of Report	To set before Planning Committee a consultation by the Government and consider the proposed response to be made
Recommendations	<ul style="list-style-type: none"> a) The contents of the report and the proposal for further permitted development rights to be noted and b) That, subject to any other comments Planning Committee agrees to make, that it endorses the draft Council response in Appendix 1.

1.0 Background

- 1.1 On 13th February 2024, the Department for Levelling Up, Housing and Communities commenced a consultation on Changes to various permitted development rights. The consultation runs for 8 weeks from the 13th February to 9th April 2024.
- 1.2 The accompanying consultation paper is not available as a downloadable format, however it can be viewed using the following link [Changes to various permitted development rights: consultation - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/changes-to-various-permitted-development-rights-consultation). There are 53 consultation questions – attached at appendix A, together with the suggested response of the Council.
- 1.3 Permitted development rights are set out in the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. They are subject to limitations and conditions to manage impacts and protect local amenity.
- 1.4 The Government states it wants to support householders to make the changes they need to meet today’s living demands and maximise the usability of space within their homes. There are currently a range of permitted development rights that allow for enlargements, improvements and alterations to homes. The consultation proposes amendments to these permitted development rights “...to ensure that they are fit for purpose and provide the flexibility needed for householders...”.
- 1.5 The section below provides the Government’s (largely quoted) proposed additional permitted development rights, why they are needed and the suggested changes, in addition to questions whether others should be considered.

2.0 Proposal/Options Considered and Reasons for Recommendation

1. Changes to the permitted development rights for householder development

- 2.1 Householder permitted development rights allow householders to undertake a broad range of works to improve, extend and alter their homes without the need to submit a planning application. The rights allow for the enlargement of a dwellinghouse such as rear or side extensions as well as alterations and extensions to the roof. The rights are subject to limitations and conditions to control impacts and protect local amenity.
- 2.2 The consultation relates to larger extensions, loft extensions, additions and alterations to the roof and bin and bike stores in front gardens. Only those elements of the existing limitations and conditions that are proposed for being amended are detailed below.

The enlargement, improvement or other alteration to homes

- 2.3 An existing permitted development right allows for the construction of single-storey rear extensions, two-storey rear extensions and single-storey side extensions. The right is subject to limitations and conditions, which vary depending on the type of dwellinghouse being extended or the type of extension.
- 2.4 At present, the permitted development right allows for smaller and larger single-storey rear extensions. A smaller single-storey rear extension cannot extend beyond the rear of the original dwellinghouse by more than 4 metres if a detached house, or by more than 3 metres in any other case. Where a dwellinghouse is not in a conservation area or on a site of special scientific interest, single-storey rear extensions can be larger; they cannot extend beyond the rear of the original dwellinghouse by more than 8 metres if a detached house, or by more than 6 metres in any other case. Larger single-storey rear extensions are subject to a prior approval process and consultation with the adjoining neighbours to allow potential assessment of the impact of the proposed development on the amenity of neighbours.
- 2.5 The permitted development right also allows for rear two-storey extensions. In the case of a rear two-storey extension, it cannot extend beyond the rear of the original dwellinghouse by more than 3 metres. In addition, where the extension or enlarged part of the house has more than a single storey, it must be a minimum of 7 metres away from any boundary of its curtilage which is opposite the rear wall of the house being enlarged. A rear two-storey extension is not permitted where the dwellinghouse is in a conservation area.
- 2.6 Single-storey side extensions cannot have a width greater than half the width of the original house. A single-storey side extension is not permitted where the dwellinghouse is in a conservation area.
- 2.7 The changes proposed are:

a) smaller single-storey rear extension:

- i) in the case of a detached house, increase the maximum depth permitted from 4 metres to 5 metres,
- ii) in the case of all other houses, increase the maximum depth permitted from 3 metres to 4 metres.

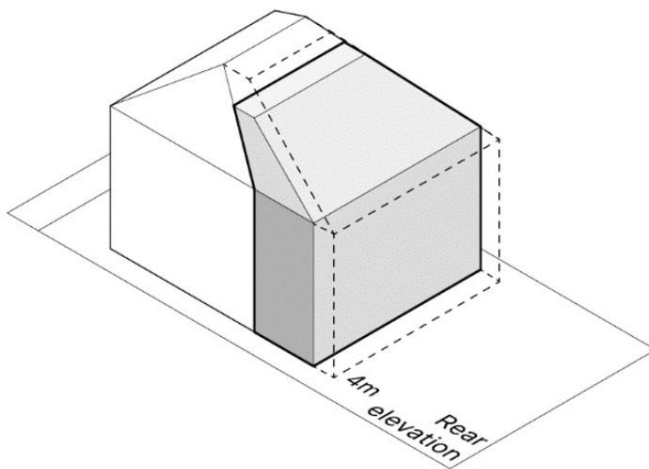
b) two-storey rear extension:

- i) increase the maximum depth permitted from 3 metres to 4 metres,
- ii) amend the limitation that extensions must be a minimum of 7 metres from the boundary of its curtilage (which is opposite the rear wall of the house being enlarged) so that it only applies if the adjacent use is residential. This limitation would not apply where the adjacent use is non-residential.

2.8 The permitted development right also requires that extensions (which includes any extensions delivered under this permitted development right or under a separate planning permission) and other buildings must not exceed 50% of the curtilage of the dwellinghouse. It is proposed to remove this limitation to permit extensions that could cover more than 50% of the curtilage of the dwellinghouse.

2.9 Currently, the height of the enlargement, improvement or alteration cannot exceed the height of the highest part of the roof of the existing dwellinghouse. It also requires that the height of the eaves of the enlargement, improvement or alteration cannot exceed the height of the eaves of the existing dwellinghouse. The consultation proposes where a rear two-storey extension is not visible from the street, this restriction would not apply and the alteration can be as high as the highest part of the existing roof, excluding any chimney (see illustration A below)

Illustration A – the proposed increase to the maximum depth and height of a two-storey rear extension



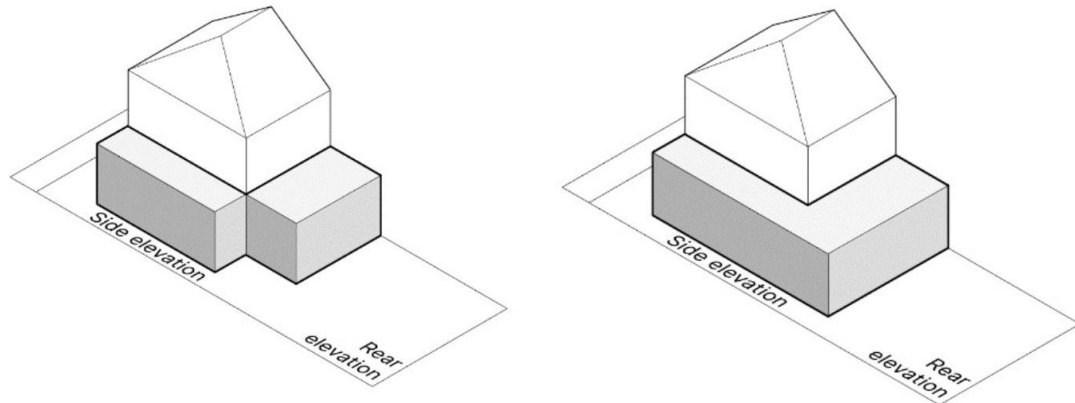
Proposed increase to the maximum depth and height of a two-storey rear extension (dotted line)

2.10 The permitted development right requires that, in all cases, the materials used in any exterior work (other than those used in the construction of a conservatory) must be of a similar appearance to those on the exterior of the existing house. A question is asked as to whether alternative materials might be more appropriate in the construction of an extension, for example, where modern sustainable materials are preferred.

2.11 At present, the permitted development right allows for a rear and side extension, however, it does not permit a “wrap around” extension which extends across the rear and side elevation (see illustration B below). Consideration is being given to allow for

single-storey wrap around L-shaped extensions (which extend across the rear and one side of a home).

Illustration B – wrap around L-shaped extensions



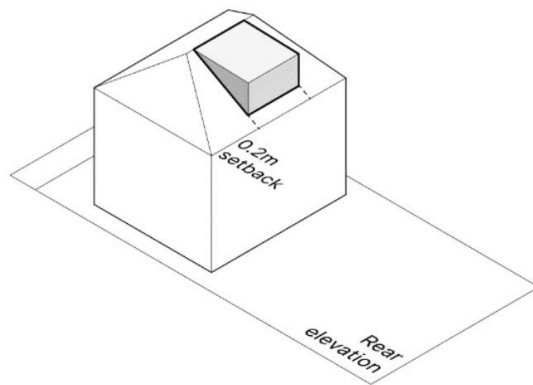
The permitted development right currently allows for a rear and side extension

- 2.12 We are consulting on whether the permitted development right should allow for a single-storey wrap around L-shaped extension (which extends across the rear and one side of a home).

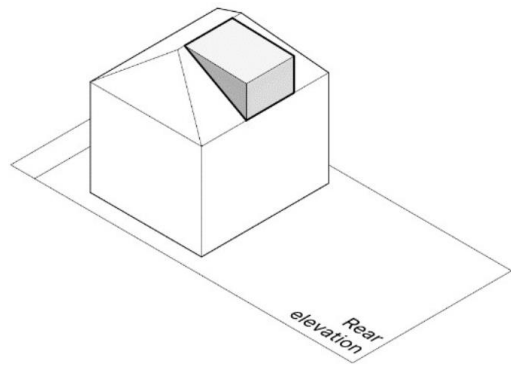
Additions to the roof (including roof extensions)

- 2.13 Roofs can currently be extended subject to complying with limitations and conditions, one of which is the dwellinghouse is not in article 2(3) land which includes conservation areas. Currently, any additional roof space created must not exceed the cubic content of the original roof space by more than 40 cubic metres in the case of a terrace house or 50 cubic metres in all other cases. Resulting roof space means the roof space as enlarged, taking into account any enlargement to the original roof space (whether delivered under this permitted development right or under a separate planning permission).
- 2.14 It is proposed that this limitation is removed so that householders can convert as much of their loft space as is available. The permitted development right requires that the enlargement is constructed so that, other than in a hip-to-gable enlargement or an enlargement that joins the original roof to the roof of a rear or side extension, it is set back at least 20 centimetres from the original eaves.
- 2.15 To maximise space, it is suggested this is amended so that it only applies where visible from the street, and that where the enlargement is not visible from the street, then it can be up to the original eaves with no set back (see illustration C below). This would not apply to a roof slope which forms the principal elevation of the dwellinghouse and fronts a highway.

Illustration C – set back proposal for loft extensions



As existing



As proposed

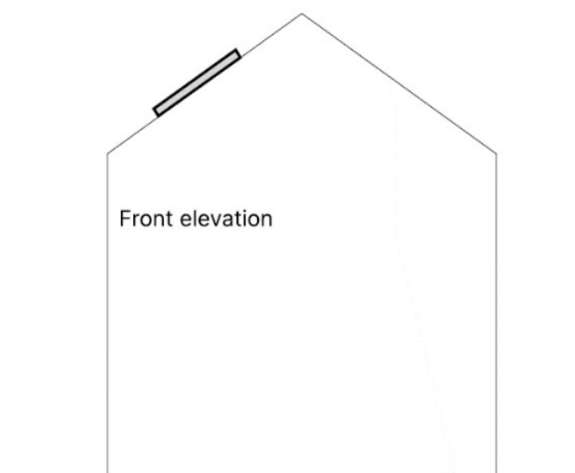
2.16 The permitted development right currently requires that any part of the dwellinghouse cannot, as a result of the works, be higher than the highest part of the existing roof. The highest part of the roof means the ridge line of the main roof (even though there may be other ridge lines at a lower level) or the highest part of the roof where the building has a flat roof. Chimneys, firewalls, parapet walls and other protrusions above the main roof ridge line are not taken into account when considering the height of the highest part of the roof of the existing dwellinghouse.

2.17 It is suggested that this limitation should be amended to allow the ridge height of the original roof to increase by up to 30 centimetres in height. Existing permitted development rights relating to roof alterations do not apply to flats. However, it is suggested that where a flat has loft space, the permitted development right should apply to provide additional living space in flats.

Other alterations to the roof (including roof windows)

2.18 Rights exist for other alterations to the roof of a house. The right does not allow for alterations which would enlarge the roof but it does, for example, allow for the installation of roof lights. The alteration can extend up to 0.15 metres beyond the plane of the roof slope. This limitation is proposed should be amended so that it only applies where the alteration takes place on a roof that fronts a highway, as the visual and amenity impacts are likely to be minimal on other elevations (see illustration D below).

Illustration D – the proposal to allow alterations to extend up to 0.15 metres beyond the plane of the roof slope where the roof fronts a highway



2.19 The permitted development right does not apply where the highest part of the alteration would be higher than the highest part of the original roof. To provide further flexibility to householders to make alterations to their homes, feedback is sought on whether this limitation should be amended so that alterations can be as high as the highest part of the original roof (excluding any chimney).

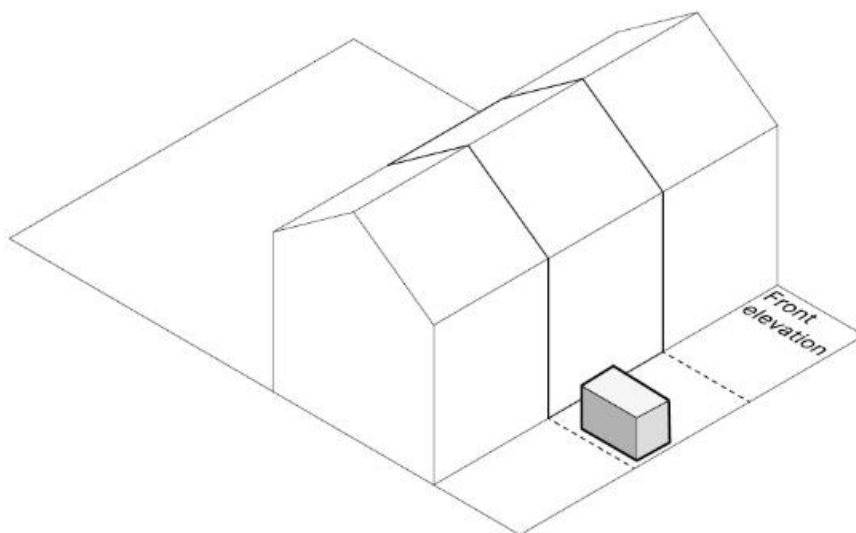
Buildings etc incidental to the enjoyment of a dwellinghouse

2.20 An existing right allows for a building or enclosure, swimming or other pool in the curtilage of a dwellinghouse where it is required for a purpose incidental to the enjoyment of the dwellinghouse. The permitted development right includes a limitation that no part of the building can be in front of the principal elevation of the dwellinghouse. Where a dwellinghouse is in a conservation area then all of the building must be behind the dwellinghouse.

2.21 Houses that only have front gardens (and no rear garden) or those that have limited external access to their rear gardens, such as homes in the middle of a row of terraced houses, are unable to install bin or bike stores in their front gardens under the permitted development right. This can lead to wheelie bins dominating front gardens and impacting on the local amenity of residential streets. It is proposed to allow bin and bike stores in front gardens (see illustration E below). It is proposed that this will also apply in conservation areas.

2.22 it is proposed this right would include limitations on the size or materials of bin or bike stores to minimise visual and amenity impacts. It is proposed that bin and bike stores can only be constructed in front gardens if they are no more than 2 metres in width, 1 metre in depth and 1.5 metres in height.

Illustration E – proposal to permit a bin or bike store in the front elevation of a dwellinghouse



2.23 The permitted development right currently applies where the dwellinghouse or land within its curtilage is designated as a scheduled monument. It is proposed to remove this right to allow for individual consideration of proposals through a planning application where a building etc. incidental to the enjoyment of the dwellinghouse would be erected in the curtilage of a dwellinghouse that was designated as a scheduled monument.

2. Changes to the permitted development rights for building upwards

The upward extension of buildings

- 2.24 An existing suite of permitted development rights allow for the upward extension of buildings to create new homes and provide additional living space. These rights apply to a range of different buildings including mixed use, commercial and residential buildings. The rights are subject to limitations and conditions, for example, they do not apply in conservation areas.
- 2.25 The permitted development rights do not apply if the building being extended was constructed before 1 July 1948. It is proposed that the limitation that the building being extended could be amended to an alternative date, e.g. not apply to buildings constructed after 1930, or removed entirely so that there is no limit.
- 2.26 Feedback is requested on the effectiveness of the prior approval and whether the prior approvals process can be streamlined or simplified.

Construction of new dwellinghouses on a freestanding block of flats

- 2.27 One of the existing building upwards permitted development rights allows for the construction of new dwellinghouses on a freestanding block of flats. The right allows for the construction of up to two additional storeys (up to 7 metres in height) where the maximum height of the extended building is no more than 30 metres in height.
- 2.28 A requirement is that the developer must provide the local planning authority with a report for the management of the construction of the development, which sets out the proposed development hours of operation and how any adverse impact of noise, dust, vibration and traffic on occupiers of the building and adjoining owners or occupiers will be mitigated. The prior approval also requires the consideration of the impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of the light.
- 2.29 The Government has received feedback that this permitted development right can impact on leaseholders who own a flat within a block of flats where the freeholder is undertaking an upward extension. Feedback is sought on the effectiveness of this permitted development right, and in particular, whether any of the existing limitations impact on leaseholders who own a unit within the block of flats.

3. Changes to the permitted development right for demolition and rebuild

- 2.30 Certain single detached buildings can currently be demolished with the construction of a block of flats or a single detached dwellinghouse in its place. It permits the demolition of detached buildings that are blocks of flats or detached buildings in use as offices, research and development and industrial processes that fell within use class B.1(c) on 12 March 2020. This right was introduced to increase housing delivery by replacing older vacant residential and certain commercial buildings that were no longer suitable for their original use. The right is subject to limitations and conditions, for example, it does not apply in conservation areas or if the original building was constructed after 31 December 1989.
- 2.31 It is suggested that this limitation could be removed so buildings built after this date can benefit from the permitted development right, thus increasing the number of buildings in scope allowing for more homes to be delivered.

- 2.32 The permitted development right does not currently include a limit on the maximum age of an original building that can be demolished. Consideration is being to protecting older buildings, so that the permitted development right does not apply to buildings built before 1930.
- 2.33 The permitted development right currently also requires that the new building retains the footprint of the original building. Views are sought on whether the rebuild footprint should be allowed to extend beyond the footprint of the original building. It is suggested this would relate to developments where the original building was in use as an office, or for research and development or industrial processes.
- 2.34 The suggest increase is a maximum of no more than 50% or 100 square metres (whichever is the lesser). However, a consultation from last year to no more than 100% or 200 square metres of floorspace (whichever is the lesser), the outcome of which has not been published. It is suggested that this new rebuild footprint would only apply at the time when the rebuild takes place.
- 2.35 The permitted development right also allows for local consideration of planning matters through prior approval. Changes to prior approval matters that relate to safety, including the impacts on air traffic, or defence assets are not proposed to be changed. However, the Government has received feedback that the existing prior approval can be too burdensome and limit the use of the right. Views are sought on the effectiveness of the prior approvals and whether the existing prior approval could be streamlined or simplified.

4. Changes to the permitted development rights for the installation of electrical outlets and upstands for recharging electric vehicles

- 2.36 Existing permitted development rights allow for the installation of electric vehicle (EV) charging infrastructure in an area lawfully used for off-street parking. The rights allow for the installation, alteration or replacement of a wall-mounted electrical outlet and an upstand with an electrical outlet mounted on it for the purpose of recharging EVs. There are limitations and conditions, for example, they do not apply in the curtilage of listed buildings or within a site designated as a scheduled monument. They do however apply in conservation areas.
- 2.37 The government supports the rollout of EV charging points and “...will make sure that any changes to the planning system support our efforts to combat climate change and help bring greenhouse gas emissions to net zero by 2050”.
- 2.38 The current permitted development rights include limitations on the size and location of the outlet. Wall-mounted outlets are not permitted when would face onto and be within 2 metres of a highway. For electrical upstands, the right does not apply where the installation would be within 2 metres of a highway. It is proposed to remove these limitations so that wall-mounted outlets and upstands can be installed anywhere within an area lawfully used for off-street parking.
- 2.39 Electrical upstands can be up to 1.6 metres in height within the curtilage of a dwellinghouse or a block of flats, or in any other case they can be up to 2.3 metres in height. However, a larger power supply, separate power modules and the potential need for internal battery storage for high powered chargers means higher upstands are required. It is therefore proposed to increase the height of the upstand from 2.3 metres to 2.7 metres when not within the curtilage of a dwellinghouse or a block of flats.

2.40 The Government are also consulting on whether permitted development rights should allow for the installation of a unit for equipment housing or storage cabinets to support the operation of bigger and more powerful EV upstands. It is proposed that the right would be subject to the following limitations and conditions:

- only apply in non-domestic, off-street ground level car parks
- allowing for the installation of no more than one unit per car park
- allowing units up to a maximum size of 29 cubic metres
- allowing units up to a maximum of 3 metres in height
- units would not be permitted within 5 metres of the highway or within 10 metres of the curtilage of residential development

2.41 Views are also sought on how permitted development rights could further contribute to the rollout of EV charging infrastructure. For example, how permitted development rights could be used to accommodate the full range of associated infrastructure (e.g. energy infrastructure and canopies) and industry innovation (e.g. next generation chargers).

5. Changes to the permitted development right for air source heat pumps within the curtilage of domestic buildings

2.42 An existing permitted development right allows for the installation of air source heat pumps on domestic premises. This is subject to a number of criteria including compliance with the Microgeneration Certification Scheme (MCS) Planning Standard (or an equivalent standard). The MCS, inter alia, confirms whether an air source heat pump is compliant with an appropriate (given) noise limit.

2.43 Research has been undertaken in relation to the accuracy of the MCS 020 noise assessment document with a view to making improvements e.g. improving the definition of a solid barrier, background noise level assumptions and updated guidance on location, which in turn is expected should strengthen the noise assessment used for the permitted development right.

2.44 The existing permitted development right for air source heat pumps requires that all parts of the development must be at least 1 metre from the property boundary. The research undertaken indicates this distance was a blunt proxy for noise and that, from a noise control perspective, is not necessary as long as there is an upper limit on the noise at the nearby receptor.

2.45 This limitation has been identified as an unnecessary barrier to heat pump deployment. Additionally, the permitted development right requires that the volumetric size of the air source heat pump's outdoor compressor unit (including any housing) must not exceed 0.6 cubic metres. The review noted this volume restriction is preventing the development of quieter models for the mass market. By increasing the size of the evaporator, increasing the size of the fan and lowering the fan speed, an air source heat pump could run at a lower speed to help minimise noise levels further, without compromising capacity.

2.46 At present, this right does not apply where the development would result in more than one air source heat pump on or within the curtilage of the dwellinghouse or block of flats. Views are sought on whether this could be amended. For example, where the dwellinghouse is detached, it may be appropriate to allow for up to two air source heat

pumps to be permitted, to allow for cascade systems. It may also be appropriate to allow for more than one air source heat pump on a block of flats so that more than one flat can benefit from the permitted development right.

- 2.47 A proposed change to MCS 020 is to create a method to manage the noise emissions from multiple heat pumps installed on the same property. Subject to this methodology being successfully developed, it is proposed to allow two air source heat pumps in the curtilage of detached dwellinghouses. Views are sought on whether to allow more than one air source heat pump on or within the curtilage of a block of flats, possibly subject to prior approval with regard to siting. Feedback is sought on whether any additional limitations may be necessary if multiple air source heat pumps were permitted on a block of flats.
- 2.48 Views on other amendments are requested to further support the deployment of air source heat pumps. For example, whether the permitted development right should be amended to include air-to-air heat pumps, by removing the condition that “the air source heat pump is used solely for heating purposes”; this condition excludes air-to-air heat pumps which can also provide a cooling function.
- 2.49 No changes are proposed for more sensitive areas, for example, within a site designated as a scheduled monument or on a listed building or land within its curtilage. In a conservation area, an air source heat pump cannot be installed on a wall or roof which fronts a highway or where it would be installed closer to the highway than the part of the building nearest to that highway.

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

[Changes to various permitted development rights: consultation - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/changes-to-various-permitted-development-rights)

Appendix A

Q.1 Do you agree that the maximum depth permitted for smaller single-storey rear extensions on detached homes should be increased from 4 metres to 5 metres?

- Yes
- No
- Don't know

This might be acceptable but some detached houses are in very close proximity to neighbouring properties, particularly modern housing development. This depth of extension without any limitation in relation to the proximity to the boundary would be likely to cause harmful impacts to the neighbour's amenity.

Q.2 Do you agree that the maximum depth permitted for smaller single-storey rear extensions on all other homes that are not detached should be increased from 3 metres to 4 metres?

- Yes
- No
- Don't know

For terraced properties, this depth of extension adjoining a neighbouring property would have (or more than likely to) an overbearing impact with ensuing loss of light. Equally, semi-detached dwelling can often be in very close proximity to neighbouring properties (that they do not adjoin), particularly on modern housing development, and harmful impacts to the neighbour's amenity could result.

Q.3 Do you agree that the maximum depth permitted for two-storey rear extensions should be increased from 3 metres to 4 metres?

- Yes
- No
- Don't know

Provided that the eaves limitation within 2 metres of the boundary is retained ((h)(ii) A.1 of Class A, this might be acceptable.

However, if this limitation is removed, the adverse impact that could be experienced by larger 2 storey extensions close to the boundary would likely be adverse. For terraced properties, this depth of extension adjoining a neighbouring property would have (or more than likely to) an overbearing impact with ensuing loss of light. For detached properties, subject to limitations in terms of the distance from side boundaries, this distance might be acceptable.

Q.4 Do you agree that the existing limitation requiring that extensions must be at least 7 metres from the rear boundary of the home should be amended so that it only applies if the adjacent use is residential?

- Yes
- No

- Don't know

The occupiers of the dwelling need to have appropriate space and outlook from their properties. Whilst the occupier(s) of the dwelling looking to extend might look to have unsatisfactory amenity, planning is in the public interest and should ensure that quality homes are provided for all. Additionally, just because an existing adjacent use is currently not residential, this cannot be guaranteed in the future particularly through the existence of and potential introduction of various additional permitted development rights which enable conversions of commercial buildings to other uses, including residential.

Q.5 Are there any circumstances where it would not be appropriate to allow extensions up to the rear boundary where the adjacent use is non-residential?

- Yes
- No
- Don't know

As before (copied): The occupiers of the dwelling need to have appropriate space and outlook from their properties. Whilst the occupier(s) of the dwelling looking to extend might look to have unsatisfactory amenity, planning is in the public interest and should ensure that quality homes are provided for all.

Additionally, if this were permitted, examples would include the use of the non-residential building – if this were noisy or had high walls, it would result in a poor quality of living. Taking account of the 'Agent of Change' principle, there would be a risk that adjustments needed by the non-residential use would result in the business closing.

Q.6 Do you agree that the existing limitation that the permitted development right does not apply if, as a result of the works, the total area of ground covered by buildings within the curtilage of the house (other than the original house) would exceed 50% of the total area of the curtilage (excluding the ground area of the original house) should be removed?

- Yes
- No
- Don't know

Many gardens are tiny, especially those provided by mass housebuilders. The amount of garden available from the outset of development is more often than not at the very minimum that is acceptable. Removing this threshold would limit the amount of private space available which, as was noted during the Covid-19 pandemic, a valuable space for many homeowners.

Furthermore, reducing the space alongside potentially permitting householders to increase the size of their homes which might enable more occupiers to reside there i.e. families will mean that there will not be appropriate space for rest, relaxation and children. It would also limit opportunities for outdoor rotary driers.

Q.7 Should the permitted development right be amended so that where a two-storey rear extension is not visible from the street, the highest part of the extension can be as high as the highest part of the existing roof (excluding any chimney)?

- Yes
- No
- Don't know

It is disagreed that 'where a rear two-storey extension is not visible from the street, the visual and amenity impacts may be limited.' This is not a blanket approach, a view point taken by the Planning Inspectorate in appeal decisions. Visual impact from private areas can be a material planning consideration, not just in areas of heritage value.

With reference to previous responses, terraced properties would be most likely be affected, however, this would equally apply to semi-detached and detached properties where there is little spacing between them. If it is permitted, consideration should be given to *the distance of the two-storey element from adjoining dwelling house(s), be it terraced or detached.*

Additionally, it should be dependent on whether there is a definition of 'visible from the street'. Does this solely mean the street the dwellinghouse is situated on? Would it exclude dwellings on a corner? Could 'the street' be a different street upon which the property backs or where there is intervisibility due to the spaciousness between dwellings?

Lastly, this could have significant impact upon staggered dwellings, be it terraced or detached. This could lead to very poor amenity of adjoining occupiers.

It is considered the original restrictions imposed within the permitted development rights when they were introduced were based on well considered justification with reference to providing high quality homes for occupiers whilst respecting the amenity of those occupiers of surrounding properties. This proposal would likely result in inappropriate development to the detriment of the respective locality failing to provide beautiful places the Government is advocating.

Q.8 Is the existing requirement for the materials used in any exterior work to be of a similar appearance to the existing exterior of the dwellinghouse fit for purpose?

- Yes
- No
- Don't know

The use of modern sustainable materials can often be a trend with popularity of certain materials shifting with the time. Allowing greater flexibility of use could result in streets consisting of a greater range of materials which may be visually jarring over time.

Challenges also arise when there is more than one material on a property which is not infrequent. This is particularly a challenge when the material is only covers a very small area and/or it is not on the same elevation as the proposed development. This sometimes results in poor development in design and visual terms, particularly when it is to the front or side elevation or when the development can be seen from public vantage points.

Whether this limitation is removed or not, it is suggested that clarification is provided regarding materials to ensure poor quality designed development does not result.

Additionally, whilst the consultation states that the limitation in conservation areas preventing cladding, stone etc., if the 'similar appearance' is amended, it should not apply within conservation areas or other Article 3(1) areas.

Q.9 Do you agree that permitted development rights should enable the construction of single-storey wrap around L-shaped extensions to homes?

- Yes
- No
- Don't know

The consultation indicates this might apply to extensions "...which extend across the rear and one side of a home". However, this question does not align with the consultation statement whereby the wrap around could apply to both sides of a home.

Notwithstanding this, it could lead to harmful impacts on amenity for adjoining homeowners. This would be dependent upon the distance to a boundary as well as whether a property is terraced or not. There are many older terraced properties, principally Victorian, that have single or two storey projections constructed as part of their original design. This right, if permitted would result in very poor impacts upon amenity for neighbours.

It is considered the original restrictions imposed within the permitted development rights when they were introduced were based on well considered justification with reference to providing high quality homes for occupiers whilst respecting the amenity of those occupiers of surrounding properties. This proposal would likely result in inappropriate development to the detriment of the respective locality failing to provide beautiful places the Government is advocating.

Q.10 Are there any limitations that should apply to a permitted development right for wrap around L-shaped extensions to limit potential impacts?

- Yes
- No
- Don't know

Whilst the introduction of this right is objected to, if it is introduced there should be limitations in relation to proximity of extensions to adjoining occupiers to ensure their amenity is not detrimentally affected. This should include the height of such an extension, including eaves, as well as the distance to the boundary of the extension i.e. it should not be permitted within a defined number of metres from the boundary. It is recommended that consideration is given to angles from potential nearest habitable windows prior to any introduction of this amendment.

Q.11 Do you have any views on the other existing limitations which apply to the permitted development right under Class A of Part 1 which could be amended to further support householders to undertake extensions and alterations?

- Yes
- No
- Don't know

Remove prior approvals to so that developments require planning permission. The process is overly complex and, frequently, misunderstood by all involved in the process.

Q.12 Do you agree that the existing limitation that any additional roof space created cannot exceed 40 cubic metres (in the case of a terrace house) and 50 cubic metres (in all other cases) should be removed?

- Yes
- No
- Don't know

This permitted volume is, for almost all dwellings, a significant amount of roof space. Taking a two-storey dwelling as an example, this amount of volume in a significant increase even when it is added to any volume created above a two-storey extension.

It is acknowledged that if any additional roof volume has been created within a single storey extension (aside from within a single storey building) that the current volume increases might be restrictive. However, dormer windows, often, are unattractive especially when they are constructed through permitted development rights due to the existing criteria under which they can be constructed. It is therefore considered, that taking the proposed suggested amendments as a whole that this would lead to (further) poor quality development that fails to meet the test of being 'beautiful'.

Q.13 Do you agree that the existing limitation requiring that any enlargement must be set back at least 20 centimetres from the original eaves is amended to only apply where visible from the street, so that enlargements that are not visible from the street can extend up to the original eaves?

- Yes
- No
- Don't know

This will result in poor design, out of character with development that is beautiful and that most councils are always looking to achieve.

Q.14 Should the limitation that the highest part of the alteration cannot be higher than the highest part of the original roof be replaced by a limitation that allows the ridge height of the roof to increase by up to 30 centimetres?

- Yes
- No
- Don't know

Taking account of this in itself but other alterations proposed within this consultation such as potentially allowing dormer windows to have a greater volume and to be sited up to the ridge and down to the eaves, this will result in very poorly designed development.

This form of development, on a street where there is uniformity, would result in an incongruous addition that would fail to respond to the locality and look awkward and contrived.

There is also no suggestion that this would not apply to dwellings that have been extended via the 'upward extension' permitted development right. If this were introduced, it is recommended that the ability to undertake both is removed.

This suggestion, in the vast majority of cases, would not result in beautiful development being created.

Q.15 Do you agree that the permitted development right, Class B of Part 1, should apply to flats?

- Yes
- No
- Don't know

Some flatted blocks are purposely designed and might form part of several blocks with consideration given to their design and relationship to one another when permission was sought and granted. Depending upon the height of the block allowing such development might result in development that does not relate well to other blocks. However, in other cases, it might be acceptable.

Q.16 Should the permitted development right be amended so that where an alteration takes place on a roof slope that does not front a highway, it should be able to extend more than 0.15 metres beyond the plane of the roof and if so, what would be a suitable size limit?

- Yes
- No
- Don't know

It is not agreed that visual impacts are less important on a roof slope that does not front a highway. Good design should not be limited to locations visible from the highway.

Particularly in a Conservation Area, this form of development may harm the overriding build character of the designated area. For example, in rural Conservation Areas, buildings are often detached or more sparsely laid out and, so, there would still likely be oblique views of any alterations to the rear roofslope which may detract from the area's architectural interest. Even in areas with terraced buildings, this form of development would negatively impact the uniformity of the terrace and may still be visible from back lanes servicing these areas thus undermining the reasons for the designation.

Q.17 Should the limitation that the highest part of the alteration cannot be higher than the highest part of the original roof be amended so that alterations can be as high as the highest part of the original roof (excluding any chimney)?

- Yes
- No
- Don't know

Permitted development rights are such that if a development fails to comply with one Class but complies with another, that it may go ahead. Suggesting such an amendment would, in

effect, permit dormer windows to the front elevation. This, as set out within the consultation, is not proposed but would be realised.

Even if any alteration permitted under Class B were removed from Class C, worded to ensure that it did not prevent a dwellinghouse from being able to extend at roof level at all, allowing such extensive alterations would have a harmful impact upon a street scene, character of an area and in turn the achievement of beauty.

Q.18 Do you agree that bin and bike stores should be permitted in front gardens?

- Yes
- No
- Don't know

Potentially yes. However, where a property has a rear garden and/or a form of access to the front for presentation of a bin on the street, this should not be permitted as there is a place where bins and bikes can be stored. This would be a subjective issue and one that is difficult to enforce as a consequence. Control of materials would be essential albeit difficult to define due to differing local contexts. The use of multi variations of storage boxes to the front of dwellings would likely result in a worse visual clutter issue, additional to the issue of wheelie bins being stored to the front of dwellings. This is something that should be controlled via a planning application.

Q.19 Do you agree that bin and bike stores should be permitted in front gardens in article 2(3) land (which includes conservation areas, Areas of Outstanding natural Beauty, the Broads, National Parks and World Heritage Sites)?

- Yes
- No
- Don't know

Many Conservation Areas have been designated for their attractive frontages, both the architectural interest of the building and the appearance of gardens/greenery and boundary treatments along the highway. The permitted development of bike and bin stores to the front gardens could create a cluttered appearance to the streetscene, particularly where there would be no restriction on materials and appearance.

This form of development has the potential of resulting in harm to the significance of a designated heritage asset, which should be properly considered (i.e. if there is any potential harm) through a formal planning application. Where the overriding character of a Conservation Area or part of a Conservation Area would not be affected by this form of development (e.g. large boundary walls), the local authority could issue a Local Development Order.

Q.20 Do you agree that bin and bike stores in front gardens can be no more than 2 metres in width, 1 metre in depth and up to 1.5 metres in height?

- Yes
- No
- Don't know

If this is introduced there should be strict size dimensions to minimise their visual impact. It should also be clear within the drafting of any statutory instrument, if introduced, that this right permits either a bin store or bike store of the dimensions given.

Q.21 Are there any other planning matters that should be considered if bin and bike stores were permitted in front gardens?

- Yes
- No
- Don't know

Where a property has a rear garden and/or a form of access to the front for presentation of a bin on the street (e.g. shared access often typical to older buildings), this should not be permitted as there is a place where bins and bikes can be stored. Q.22 Should the existing limitation that in Areas of Outstanding Natural Beauty, the Broads, National Parks and World Heritage Sites development situated more than 20 metres from any wall of the dwellinghouse is not permitted if the total area of ground covered by development would exceed 10 square metres be removed?

- Yes
- No
- Don't know

No response, this does not affect the Council.

Q.23 Should the permitted development right be amended so that it does not apply where the dwellinghouse or land within its curtilage is designated as a scheduled monument?

- Yes
- No
- Don't know

In order to retain the ability for the LPA to consider the impact of such development upon this heritage asset.

Q.24 Do you think that any of the proposed changes in relation to the Class A, B, C and E of Part 1 permitted development rights could impact on: a) businesses b) local planning authorities c) communities?

- Yes
- No
- Don't know

a) business – *impact resulting from extensions within close proximity of their sites if the 7 metre distance is removed*

b) local planning authorities *-it would prevent proper planning of an area in design terms, leading to poor quality development. It would likely result in complaints from neighbours who are unhappy with the development being constructed with ensuring increased planning enforcement investigations.*

The change would also impact upon the revenue receipt, in relation to the planning application fee compared to the prior approval fee, received by the local planning authority. The work associated with the assessment for both types of application is virtually the same, although the assessment and understanding of whether or not the development can be lawfully implemented via a prior approval is more complex and time consuming, whereas the fee income is significantly less for prior approvals affecting the resources of the Council.

c) communities - *it would likely lead to development that would have a harmful impact upon amenity and poor planning of areas providing communities with development that fails to respond to o be cohesive with its surroundings.*

Q.25 Do you agree that the limitation restricting upwards extensions on buildings built before 1 July 1948 should be removed entirely or amended to an alternative date (e.g. 1930)?

- Yes – removed entirely
- Yes – amended to an alternative date
- No
- Don't know

If you have chosen an alternative date, please specify. Planning commenced in 1947 and therefore there is evidence and recording of developments that have taken place since this time. There is no such recording for 1930 or any other, apparently arbitrary date. It would therefore not be possible to establish whether or not a development is able to either benefit from such a permitted development right or whether it is unlawful. There is no evidence advanced as part of this consultation as to why the date is being reconsidered.

Q.26 Do you think that the prior approvals for the building upwards permitted development rights could be streamlined or simplified?

- Yes
- No
- Don't know

It is not considered necessarily complex at present, in terms of the submission by applicants. However there is confusion in terms of their assessment by both planning authorities as well as professional agents. The application process requires an assessment as to whether prior approval is required in relation to the given matters. This is applicable to all prior approval applications with the exception of Class AA of Schedule 2, Part 1. If a prior approval application is assessed as either not requiring prior approval or is required but is given, the developer concludes that the development may go ahead (subject to complying with the conditions). However, the proposal might not be compliant with one or more of the limitations and/or conditions. The prior approval process does not confirm that the development would be lawful if implemented.

It is therefore suggested that the whole process of all prior approvals could be amended to require developers to (a) seek prior approval as well as (b) the lawfulness of the development. As this would be additional work for the local planning authority, the fees for planning applications should be amended to account for this as well as detail provided within each of the various Classes subject to prior approval.

This is considered applicable whether or not any amendments are made to any of the prior approvals.

Q.27 Do you have any views on the operation of the permitted development right that allows for the construction of new dwellinghouses on a freestanding block of flats (Class A of Part 20)?

- Yes
- No
- Don't know

Newark & Sherwood District Council has not received any of these applications and is therefore unable to provide comment from experience. With the scale of development within the District, it is (currently) unlikely that such a proposal would be received.

Q.28 Do you agree that the existing limitations associated with the permitted development right for building upwards on a freestanding block of flats (Class A of Part 20) incorporates sufficient mitigation to limit impacts on leaseholders?

- Yes
- No
- Don't know

Newark & Sherwood District Council has not received any of these applications and is therefore unable to provide comment from experience. With the scale of development within the District, it is (currently) unlikely that such a proposal would be received. Should any changes be proposed, they are requested to be such that they do not put additional onerous requirements on local planning authorities. This would appear to be a matter that falls outside of the planning process, being a private matter. However, it is unfair for a permitted development right to put any requirement upon a leaseholder to sort out legal matters associated with this permitted development right at a cost to themselves.

46. We would welcome your view on the likely impact of these proposals.

Q.29 Do you think that any of the proposed changes in relation to the Class AA of Part 1 and Class A, AA, AB, AC and AD of Part 20 permitted development rights could impact on: a) businesses b) local planning authorities c) communities?

- Yes
- No
- Don't know

a) business – N/A

b) local planning authorities – altering the dates, such that additional development would benefit from Class A would likely result in an increase in prior approval applications. The restriction in matters that can be considered could prevent proper planning of an area in design terms, leading to poor quality development. It would likely result in complaints from neighbours who are unhappy with the development being constructed with ensuring increased planning enforcement investigations.

The change would also impact upon the revenue receipt, in relation to the planning application fee compared to the prior approval fee, received by the local planning authority. The work associated with the assessment for both types of application is virtually the same, although the assessment and understanding of whether or not the development can be lawfully implemented via a prior approval is more complex and time consuming, whereas the fee income is significantly less for prior approvals affecting the resources of the Council.

c) communities - it would more likely lead to development that would have a harmful impact upon amenity and poor planning of areas providing communities with development that fails to respond to o be cohesive with its surroundings.

Q.30 Do you agree that the limitation restricting the permitted development right to buildings built on or before 31 December 1989 should be removed?

- Yes
- **No**
- Don't know

Buildings built after this date have had more recent consideration given to the proper planning of an area. Modern developments are also more likely to have maximised the developable area of the site (in terms of footprint and height). Allowing such buildings to be demolished and rebuilt without appropriate consideration by the local planning authority prevents proper planning of an area and leads to the many challenges from such developments including amenity, appropriate parking provision, bin storage and community cohesion. These matters are likely to be more challenging in relation to new developments and could lead to greater risk of development with adverse amenity issues/complaints.

Enabling easier replacement of newer buildings would not be in the interest of sustainable development – this relaxation would take away the ability to encourage more sustainable conversion scheme, where appropriate, through mechanisms such as pre application advice

It also means that infrastructure needed to support the new occupants cannot be secured e.g. health provision, community space, education, etc. etc. Such proposals should be considered in a holistic manner through a planning application. Class ZA conditions are so extensive that a simpler process for considering the matters listed would be through a planning application.

Q.31 If the permitted development right is amended to allow newer buildings to be demolished, are there are any other matters that should be considered?

- Yes
- No
- Don't know

A complex series of prior approval requirement/condition would continue to be required.

Q.32 Do you agree that the permitted development right should be amended to introduce a limit on the maximum age of the original building that can be demolished?

- Yes – it should not apply to buildings built before 1930
- **Yes – it should not apply to buildings built before an alternative date**

- No
- Don't know

Whilst developments under this permitted development right have not been received by the Council, there is a significant risk that older building would be lost to the detriment of our heritage and character of the locality it is situated within.

It would be difficult to confirm whether a building, or part of a building, was constructed before 1930 as many areas do not have formal building records before this date and the historic mapping for the early-20th century is limited which would severely inhibit consistent advice and application of this permitted development right.

The right to demolish a building, or part of a building, should also not apply to buildings that are identified as non-designated heritage assets (NDHA), which have undergone proper assessment to establish that they meet the adopted selection criteria for inclusion on a 'Local List' of heritage assets.

It is suggested that it should not apply to buildings built before 1947.

Q.33 Do you agree that the Class ZA rebuild footprint for buildings that were originally in use as offices, research and development and industrial processes should be allowed to benefit from the Class A, Part 7 permitted development right at the time of redevelopment only?

- Yes
- No
- Don't know

This would likely give rise to an increase in developers utilising their ability to extend/alter a building prior to a Class ZA prior approval application for redevelopment. If this is introduced, then yes. This will enable consideration of impacts at the outset of the prior approval process with a good understanding of matters such as appearance as well. A development should also not be permitted to benefit from this permitted development right, or any change to it, more than once.

Q.34 Do you think that prior approvals for the demolition and rebuild permitted development right could be streamlined or simplified?

- Yes
- No
- Don't know

Whilst the considerations are complex, they are necessary to ensure that reasonably good development takes place. Without the requirements, notwithstanding that the permitted development right does not facilitate good planning of an area, very poor outcomes would be achieved. The Government, though the NPPF and design codes is seeking to achieve beautiful development but rights such as this mean it is almost impossible to achieve without a developer's buy-in.

Q.35 Do you think that any of the proposed changes in relation to the Class ZA of Part 20 permitted development right could impact on: a) businesses b) local planning authorities c) communities?

- Yes
- No
- Don't know

a) businesses - *Potential issues in relation to complaints from new residents from adjoining businesses upon their amenity. This potentially can lead to mitigation being required by the business under the 'Agent of Change' principle which could be cost prohibitive and lead to the loss of the business and jobs for local communities.*

b) local planning authorities – *If it is simplified to remove more of the considerations, noting the consultation does not suggest which ones might be removed, there is a likelihood of more complaints being received in relation to the impact of the development and frustration by the general public that they have very little say in such rights.*

The change would also impact upon the revenue receipt, in relation to the planning application fee compared to the prior approval fee, received by the local planning authority. The work associated with the assessment for both types of application is virtually the same, although the assessment and understanding of whether or not the development can be lawfully implemented via a prior approval is more complex and time consuming, whereas the fee income is significantly less for prior approvals affecting the resources of the Council.

c) communities - *Poor quality development without important and necessary infrastructure both for the new residents as well as impact upon any that exist in the locality.*

Q.36 Do you agree that the limitation that wall-mounted outlets for EV charging cannot face onto and be within 2 metres of a highway should be removed?

- Yes
- No
- Don't know

Potentially yes. It appears logical to have such infrastructure closer to the highway to prevent cables from causing a hazard. However, such infrastructure, particularly if a significant number are provided along a street frontage, can harm the character of an area. As such, it is suggested that if this is amended that it should not apply within conservation areas. Within conservation, the existing limits are suggested are retained.

Q.37 Do you agree that the limitation that electrical upstands for EV charging cannot be within 2 metres of a highway should be removed?

- Yes
- No
- Don't know

Potentially yes. It appears logical to have such infrastructure closer to the highway to prevent cables from causing a hazard. However, such infrastructure, particularly if a significant

number are provided along a highway could harm the character of an area. As such, it is suggested that if this is amended that it should not apply within conservation areas. Within conservation, the existing limits are suggested are retained.

Q.38 Do you agree that the maximum height of electric upstands for EV recharging should be increased from 2.3 metres to 2.7 metres where they would be installed in cases not within the curtilage of a dwellinghouse or a block of flats?

- Yes
- No
- Don't know

This is a significant height and could have a very harmful impact upon the character of an area or the amenity of adjoining occupiers should the parking area be in close proximity to, for example, residential properties. Development at this scale should be considered holistically via a planning application or, at the least, be subject to a prior approval process to consider impacts upon amenity and character of any area.

Q.39 Do you agree that permitted development rights should allow for the installation of a unit for equipment housing or storage cabinets needed to support non-domestic upstands for EV recharging?

- Yes
- No
- Don't know

In theory yes. However, any such infrastructure, due to the proposed size (cubic metres) for the equipment could lead to the loss of a significant number of parking spaces resulting in a risk of inappropriate on-street parking.

It is noted that the suggested limitations and conditions includes "units would not be permitted within 5 metres of the highway or within 10 metres of the curtilage of residential development". However, with reference to existing permitted development rights and those under consideration within this consultation, building currently in use for a purpose other than residential could be permitted to have their use change. However, it would not be permitted (at present) to refuse such a scheme if this suggested prior approval had been implemented. Nor is it believed the existing right would enable consideration to this right if it has been implemented. Furthermore, what is the situation in terms of lawfulness if both a conversion was taking place to create dwellinghouses and a housing/storage unit constructed concurrently?

Q.40 Do you agree that the permitted development right should allow one unit of equipment housing in a non-domestic car park?

- Yes
- No
- Don't know

Please provide your reasons. If you think that the permitted development right should allow for more than one unit of equipment housing or storage cabinet, please specify a suitable alternative limit and provide any supporting evidence.

As a maximum, yes, if implemented. However, the infrastructure could lead to a significant loss in the number of parking spaces to the detriment of an area. A method of ensuring that appropriate provision for the locality or development the car park serves should be a matter for a prior approval process.

Q.41 Do you agree with the other proposed limitations set out at paragraph 60 (paragraph 2.40 of the Planning Committee report) for units for equipment housing or storage cabinets, including the size limit of up to 29 cubic metres?

- Yes
- No
- Don't know

In addition to the criteria given, if this is implemented, they should not be permitted within a conservation area, or, if they are then this should be subject to prior approval in terms of its visual impact. They should also not be permitted within the curtilage of or setting of a listed building.

Q.42 Do you have any feedback on how permitted development rights can further support the installation of EV charging infrastructure?

- Yes
- No
- Don't know

Q.43 Do you think that any of the proposed changes in relation to the Class D and E of Part 2 permitted development right could impact on: a) businesses b) local planning authorities c) communities?

- Yes
- No
- Don't know

a) business – unlikely to have significant impact aside from reducing the number of parking spaces available for staff/visitors potentially affecting income / profitability.

b) local planning authorities – greater number of complaints in relation to these developments when the public are unhappy with their installation.

The change would also impact upon the revenue receipt, in relation to the planning application fee compared to the prior approval fee, received by the local planning authority. The work associated with the assessment for both types of application is virtually the same, although the assessment and understanding of whether or not the development can be lawfully implemented via a prior approval is more complex and time consuming, whereas the fee income is significantly less for prior approvals affecting the resources of the Council.

c) communities – positive in relation to those people with EV cars potentially having a greater availability of charging points to access. However, potentially negative in relation to the visual aspects of such development due to the size of some of the proposals being advanced.

Q.44 Do you agree that the limitation that an air source heat pump must be at least 1 metre from the property boundary should be removed?

- Yes
- No
- Don't know

This will be subject to the research being undertaken and the necessary criteria within MCS 020. If the research confirms that there will not be issues in relation to noise or any other effect e.g. vibration, then yes.

Q.45 Do you agree that the current volume limit of 0.6 cubic metres for an air source heat pump should be increased?

- Yes
- No
- Don't know

This should be subject to its location – if visible from a highway or public vantage point, then existing limits should remain unless the appearance is a prior approval consideration. However, the size will be the critical factor. Whilst suggestions of what might be acceptable have been requested, acceptability would be, in design terms, dependent upon its location along with criteria for compliance.

Q.46 Are there any other matters that should be considered if the size threshold is increased?

- Yes
- No
- Don't know

Depending upon the location of the air source heat pump, appearance should be a prior approval consideration. This would be relevant if it is sited to the frontage of a property and/or visible from a highway / public vantage point.

Q.47 Do you agree that detached dwellinghouses should be permitted to install a maximum of two air source heat pumps?

- Yes
- No
- Don't know

To minimise clutter and more industrial in appearance paraphernalia.

Q.48 Do you agree that stand-alone blocks of flats should be permitted to install more than one air source heat pump?

- Yes
- No
- Don't know

Subject to their (a) location by not impacting upon amenity of residents within the block or adjoining; (b) not creating a cluttered appearance visible from the streetscene; (c) not resulting in the loss of outdoor amenity space to the detriment of other occupiers; and (d) the requirement for the initial and each subsequent piece of equipment considering the impact of all equipment cumulatively.

Q.49 Do you agree that the permitted development right should be amended so that, where the development would result in more than one air source heat pump on or within the curtilage of a block flats, it is subject to a prior approval with regard to siting?

- Yes
- No
- Don't know

To ensure it does not create an unattractive appearance within the streetscene and/or lead to loss of amenity space or other valuable quality to the individual site.

Q.50 Are there any safeguards or specific matters that should be considered if the installation of more than one air source heat pump on or within the curtilage of a block of flats was supported through permitted development rights?

- Yes
- No
- Don't know

Noise, siting, loss of functional amenity space for the occupier(s) of the flat itself and any other occupants of other flats. There should be a requirement to undertaken a consultation exercise with other occupiers.

Q.51 Do you have any views on the other existing limitations which apply to this permitted development right that could be amended to further support the deployment of air source heat pumps?

- Yes
- No
- Don't know

79. We would welcome your view on the likely impact of these proposals.

Q.52 Do you think that any of the proposed changes in relation to the Class G of Part 14 permitted development right could impact on: a) businesses b) local planning authorities c) communities?

- Yes
- No
- Don't know

a) business – unlikely with the exception of increased business for those companies making air source heat pumps.

b) local planning authorities – increased complaints and potential prior approval applications. The change would also impact upon the revenue receipt, in relation to the planning application fee compared to the prior approval fee, received by the local planning authority. The work associated with the assessment for both types of application is virtually the same, although the assessment and understanding of whether or not the development can be lawfully implemented via a prior approval is more complex and time consuming, whereas the fee income is significantly less for prior approvals affecting the resources of the Council.

c) communities, or a combination – potential complaints to LPA if they do not support an air source heat pump whether or not a prior approval process is in place.

Q.53 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; Marriage or Civil Partnership; Pregnancy and Maternity; Race; Religion or Belief; Sex; and Sexual Orientation)?

- Yes
- No
- Don't know

It is unlikely that anyone with a protected characteristic would be directly affected as a result of these suggested changes any greater than anyone without.

PLANNING COMMITTEE – 14 MARCH 2024

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 01 February 2024 and 29 February 2024)

Appeal reference	Application number	Address	Proposal	Procedure	Appeal against
APP/B3030/D/24/3336231	23/01590/HOUSE	Riverlyn House Main Street Fiskerton NG25 0UH	Demolition of existing garage and erection of triple garage, changes to driveway landscaping and layout (Resubmission)	Fast Track Appeal	Refusal of a planning application
APP/B3030/D/23/3334318	23/00775/HOUSE	Fernhill Hoveringham Road Caythorpe NG14 7EE	Erection of a summer house, installation of soft matting, service shed and timber shed (retrospective).	Fast Track Appeal	Refusal of a planning application
APP/B3030/D/23/3334319	23/00774/HOUSE	Fernhill Hoveringham Road Caythorpe NG14 7EE	Reconfiguration and landscaping of patio area including construction of retaining walls, pagoda, pergolas and sun pod (retrospective)	Fast Track Appeal	Refusal of a planning application
APP/B3030/D/23/3334324	23/00772/HOUSE	Fernhill Hoveringham Road Caythorpe NG14 7EE	Erection of a car port (part retrospective)	Fast Track Appeal	Refusal of a planning application

APP/B3030/D/23/3335969	23/01439/HOUSE	Woodside Cottage Newark Road Hockerton Southwell NG25 0PW	Erection of Garage and Store with Utility Room over	Fast Track Appeal	Refusal of a planning application
------------------------	----------------	---	---	-------------------	--------------------------------------

APP/TPO/B3030/9170	22/00360/TPO	142 Winthorpe Road Newark On Trent NG24 2AP	Undertake work to Cedar tree identified as T5 protected under TPO N282: T5 Cedar as identified on schedule attached to N282. Remove tree.	Hearing	Refusal of a planning application
--------------------	--------------	---	---	---------	--------------------------------------

APP/B3030/C/23/3334304	22/00393/ENFB	Fernhill Hoveringham Road Caythorpe NG14 7EE	Without planning permission, "operational development" consisting of the erection of security cameras mounted on metal posts (as shown within photographs 1, 2, and 3 and marked with a "A" and "B" on Plan A);	Hearing	Service of Enforcement Notice
------------------------	---------------	---	---	---------	----------------------------------

APP/B3030/C/23/3334306	22/00393/ENFB	Fernhill Hoveringham Road Caythorpe NG14 7EE	Without planning permission, the following operational developments: a) the erection of an outbuilding (as shown within photograph 1 and marked with a "X" on Plan A)	Hearing	Service of Enforcement Notice
------------------------	---------------	---	--	---------	-------------------------------

APP/B3030/C/23/3334309	22/00393/ENFB	Fernhill Hoveringham Road Caythorpe NG14 7EE	Without planning permission, "operational development" consisting of the erection of a raised "platform" area, occupying approximately 348 sqm finished using timber cladding and containing a swimming pool measuring approximately 11m by 3m, set into the raised platform described above and a smaller 3m by 1.8m "spa" pool to the rear of the larger pool.	Hearing	Service of Enforcement Notice
------------------------	---------------	---	--	---------	-------------------------------

APP/B3030/C/23/3334313	22/00393/ENFB	Fernhill Hoveringham Road Caythorpe NG14 7EE	Without planning permission, the following operational developments: a) the erection of an outbuilding (as shown within photograph 1 and marked with a "X" on Plan A)	Hearing	Service of Enforcement Notice
APP/B3030/C/24/3337615	23/00190/ENFB	Mill Farm Gonalston Lane Hoveringham NG14 7JJ	Without planning permission, operational development consisting of the erection of a building (identified with a blue "X" on the site location plan, outlined in red on Plan 2 and shown within photographs 1 and 2)	Hearing	Service of Enforcement Notice
APP/B3030/C/24/3337636	23/00190/ENFB	Mill Farm Gonalston Lane Hoveringham NG14 7JJ	Without planning permission, "operational development" consisting of works and alteration to existing buildings, comprising of: -The insertion of 3 rooflight windows	Hearing	Service of Enforcement Notice

			<p>(figures 1 & 2 within Appendix 1).</p> <ul style="list-style-type: none">-The installation and creation of a glazed openings and door (figure 3 within Appendix 1).-The application of horizontal timber cladding (figure 5 within Appendix 1).-The installation of a glazed window opening and the bricking up of an existing door opening (figure 6 within Appendix 1).- The fixing of rainwater goods to the building. <p>Building B (outlined in blue on plan 2)</p> <ul style="list-style-type: none">-The insertion of 2 rooflight windows (figure 9 within appendix 1).-The erection of "dwarf" brick walls within two of the openings to the front of the building (figure 10 within appendix 1).		
--	--	--	--	--	--

			<p>-The fixing of rainwater goods to the building. Building C (outlined in orange on plan 2) -The insertion of 2 rooflight windows -The erection of a dwarf wall and capping to the eastern gable end of Building C, (figure 11 within appendix 1). -The fixing of rainwater goods to the building. Courtyard (identified within an X on Plan 2). -Erection of brick walls (including "well" type construction) and a pole (figures 12 & 13 within appendix 1). -The creation of a hard surface comprising of slabs and crush stone (highlighted in green on plan 2).</p>		
APP/B3030/C/24/3337637	23/00190/ENFB	Mill Farm Gonalston Lane Hoveringham	Without planning permission, "operational	Hearing	Service of Enforcement Notice

		NG14 7JJ	development" consisting of the laying of hard core/crushed stone to create new access tracks and pedestrian paths (identified outlined in red on "aerial photograph" and shown within photograph 1)		
APP/B3030/C/24/3337638	23/00190/ENFB	Mill Farm Gonalston Lane Hoveringham NG14 7JJ	Without planning permission, "development" consisting of the material change of use of land and buildings from agricultural use to use for the holding of weddings and events.	Hearing	Service of Enforcement Notice
APP/B3030/F/23/3334931	23/00442/ENFB	Sir John Arderne Public House 10 Market Place Newark On Trent NG24 1DU	Without Listed Building Consent, the fixing of security boarding to the ground floor windows and doors, as shown on Images 1 and 2 attached to this Notice.	Written Representation	Service of Enforcement Notice

APP/B3030/W/23/3334410	23/01186/FUL	The Coach House Church Hill Bilsthorpe NG22 8RU	Demolition of existing detached garage and outbuildings. Erection of single storey dwelling.	Written Representation	Refusal of a planning application
APP/B3030/W/23/3334685	23/01429/FUL	Land Adjacent To Fosse Road Farndon	Erection of four bedroom bungalow	Written Representation	Refusal of a planning application

PLANNING COMMITTEE – 14 MARCH 2024

Appendix B: Appeals Determined (01 February 2024 and 29 February 2024)

App No.	Address	Proposal	Application decision by	Decision in line with recommendation	Appeal decision	Appeal decision date
22/00875/FUL	The Paddocks Southwell Road Halloughton Nottinghamshire NG25 0QP	Erection of a new dwelling	Delegated Officer	Not Applicable	Appeal Dismissed	5th February 2024
Click on the following link to view further details of this application: https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RBBDVXLBKQD00						
23/00792/HPRIOR	14 Fern Close Southwell NG25 0DB	Householder prior approval for the enlargement of a dwelling by an additional storey Height of building increased by 2.55m. New height of the building will be 7.05m	Delegated Officer	Not Applicable	Appeal Dismissed	5th February 2024
Click on the following link to view further details of this application: https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RUDYRCLB0FK00						
23/01051/FUL	Land At Lodge Farm Great North Road Weston	Erect 5no. dwellings.	Delegated Officer	Not Applicable	Appeal Dismissed	27th February 2024
Click on the following link to view further details of this application: https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RWI8COLBJ4Z00						
23/01181/HOUSE	2 Birkland Drive Edwinstowe NG21 9LU	Proposed side extension to replace existing outbuilding and material alterations to existing dwelling.	Delegated Officer	Not Applicable	Appeal Dismissed	2nd February 2024
Click on the following link to view further details of this application: https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RXL75SLBJGL00						

23/00996/HOUSE	Tamworth House Palmer Road Sutton On Trent NG23 6PP	Single storey rear extension	Delegated Officer	Not Applicable	Appeal Dismissed	2nd February 2024
----------------	--	------------------------------	-------------------	----------------	------------------	-------------------

Click on the following link to view further details of this application:

<https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RW4Q7HLBJ0Y00>

22/00272/FULM	Land At Windmill Farm Eagle Road Spalford	Proposed caravan and holiday lodge site including amenities building, associated drainage and roadways	Delegated Officer	Not Applicable	Appeal Dismissed	14 th April 2023
---------------	---	--	-------------------	----------------	------------------	-----------------------------

Click on the following link to view further details of this application:

<https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

21/00493/TPO	12 Westfield Way Farndon Newark On Trent NG24 3TP	Undertake works to trees identified as forming part of Group G1 protected by TPO N45; T1 Holly - Fell due to roots causing damage to fence and slabs and overshadowing. T2 Pine/ Fir - crown reduction by 5 metres due to overshadowing, size and lean towards neighboring properties.	Delegated Officer	Not Applicable	Appeal Withdrawn	9th February 2024
--------------	--	--	-------------------	----------------	------------------	-------------------

Click on the following link to view further details of this application:

<https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QPCEXLLBM3N00>

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



Report to Planning Committee 14 March 2024

Director Lead: Matt Lamb, Planning & Growth

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

Report Summary	
Report Title	Permitted Development Rights: Commercial, Business and Services uses to Dwellinghouses
Purpose of Report	To set before Planning Committee the latest permitted development right.
Recommendations	The contents of the report and the permitted development right changes to be noted.

1.0 Background

- 1.1 On 13 February 2023, the Government issued an amendment to an existing permitted development right, which came into force on the 5th March 2024. The amendment relates to Class MA – commercial, business and service uses to dwellinghouses of Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 1.2 The new Statutory Instrument is 2024 No. 141 [The Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) Order 2024](#).

2.0 Detail

- 2.1 Class E (commercial, business and service uses) was introduced into the Town and Country Planning (Use Classes Order) 2007 (as amended) on 1st September 2020 via the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020. A paper was presented to Planning Committee at that time. Class E relates to shops (except certain local community shops), financial and professional services, restaurants and cafes, B1 (business) i.e. offices, non-residential institutions (health services, creche, day centres etc.), commercial, business and service uses (gyms, indoor and outdoor sport/recreation etc.). This use class is therefore quite wide-ranging. Dwellinghouses are those buildings falling within Class C3 of the Use Class Order.
- 2.2 Prior to the change to this permitted development order, a limitation (MA.1. (1)(a) required the building to be vacant for a (continuous) period of 3 months immediately

prior to the date of the application for prior approval. This requirement has been deleted.

- 2.3 A further limitation (MA.1. (1) (c) was that no more than 1,500m² of floor space could change use under this Class. This has also been deleted.
- 2.4 Paragraph 7.5 of the [Explanatory Memorandum](#) to this Statutory Instrument details that *“[T]hese changes will bring additional premises into scope of the right and deliver more homes to buy or to let than would otherwise have been the case.”*
- 2.5 No changes are proposed in relation to those buildings or areas that are excluded - listed buildings continue to be excluded from this permitted development right but those buildings within conservation areas are not.
- 2.6 **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

[The Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) Order 2024 \(legislation.gov.uk\)](#)

[Explanatory Memorandum to the Town and Country Planning \(General Permitted Development\) \(England\) \(Order 2024\)](#)