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Friday, 22 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, 4 April 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

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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, 14 March 2024 at 4.00 pm.

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

Councillor L Dales, Councillor P Harris, Councillor K Melton, Councillor E Oldham, Councillor P Rainbow, Councillor S Saddington, Councillor M Shakeshaft, Councillor M Spoons, Councillor L Tift and Councillor T Wildgust

ALSO IN
ATTENDANCE: Councillor L Brazier

APOLOGIES FOR
ABSENCE: Councillor A Amer, Councillor C Brooks and Councillor J Lee

122 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.

123 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.

124 MINUTES OF THE MEETING HELD ON 15 FEBRUARY 2024

AGREED that the minutes of the meeting held on 15 February 2024 were approved as a correct record and signed by the Chair.

125 SUBMISSION OF THE SECOND PUBLICATION AMENDED ALLOCATIONS & DEVELOPMENT MANAGEMENT DPD

The Committee considered the report of the Director – Planning & Growth relating to the latest position of the submission of the second publication Amended Allocations & Development Management DPD.

The second publication Amended Allocations & Development Management DPD, September 2023 was submitted to the Secretary of State on the 18 January 2024. An Inspector had been appointed and the Local Authority were in the hands of the Inspectorate in relation to timescales for the Examination. It was reported that now the Plan had been submitted, the plan did in part, gain greater weight in the decision-making process. Reference was made to this document and relevant policies within reports to Planning Committee as well as those reports prepared for delegated

decisions.

AGREED that the report be noted and the Planning Committee have consideration to this in decision-making.

Councillor E Oldham entered the meeting at this point.

126 LAND OFF MILL GATE, NEWARK - 23/02117/S73M (MAJOR)

The Committee considered the report of the Business Manager – Planning Development, which sought the variation of conditions 3, 4, 5, 6, 8, 15, 16, 17, 19, 21 and 24 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.

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

Members considered the presentation from the Business 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 Newark Town Council.

The Senior Planning Officer asked the Planning Committee to consider an amendment to condition No. 21, to allow tree and hedgerow removal during bird breeding season subject to having first been inspected by a suitably qualified ecologist and their recommended mitigation measures being implemented in full.

Members considered the application and raised concern regarding the easement for the access road; the tree that would need to be felled to allow the access road; and the increase in flooding in that location, particularly the gardens behind the constructed retaining wall. A Member also asked whether a condition could be put in place for the large tree proposed to be felled to be used to feed saproxylic beetles, as it was considered that the planning process should consider environmental issues. The Senior Planning Officer confirmed that the tree to be removed had already been approved and a condition was already imposed to undertake a replacement tree plan. A condition regarding what to do with the felled tree was considered not reasonable.

AGREED (with 10 votes For, 1 vote Against and 1 Abstention) that Planning Permission be approved subject to the conditions contained within the report and the amendment to condition 21.

127 77C ETON AVENUE, NEWARK ON TRENT, NG24 4JH - 24/00082/S73

The Committee considered the report of the Business Manager – Planning Development, which sought variation of condition 2 and 8 attached to planning permission 22/01591/FUL to amend the approved plans and amend the wording in condition 8.

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

Members considered the application acceptable.

AGREED (unanimously) that Planning Permission be approved subject to the conditions contained within the report.

128 PLANNING CONSTITUTION REVIEW

The Committee considered the report of the Director – Planning & Growth relating to a review of the Planning Committee Scheme of Delegation to Officers with suggested amendments. A review of public speaking for Planning Committee. A review of the Protocol for Members on dealing with planning matters.

The following comments were raised:

A Member objected to public speaking, on the grounds that delaying consideration of schemes at committee would not speed up decision making. Concerns were also raised regarding those too scared to speak at committee and that this would disadvantage them.

The Local Planning Authority should lobby to allow retention of extension of time (EOT) where used properly as it could improve schemes. Concern was also raised about public speaking due to inequality of those who may not be professionally represented etc, and would like all ward Members to be able to speak rather than one. The maximum length of agenda should also be considered.

More flexibility over adjacent ward Members being able to speak. Would like 10-minute break if meeting goes over 4 hours. Disappointed by weight of Parish Council diminished and concerned that professional agents could speak and wanted it de-professionalised. Pointed to paragraph 9.2 of report in respect of pre-app engagement and Southwell Neighbourhood Plan (SNP) which required that officers consider (rather than should).

It was suggested that adjacent ward Members to be able to speak where a development within a certain distance and/or where it had significant impacts (additional of word or).

A Member was in support of public speaking but raised concern about unintended consequences.

It was suggested that a limit of 4 hours with exception of extending and wanted heart strings to be listened to.

It was further commented that Members should express themselves more concisely to cut committee length or have a separate planning day.

A review to take place within 6 months rather than at 6 months.

The Chair suggested the following amendments:

- regarding ward Members, that more than 1 could speak if their views were in opposition,
- amending amendment regarding adjoining ward Member and for them to identify material planning considerations impacts upon their Ward:
 - (a) Para 8.3 insert e: For referrals by Adjoining Ward Members where the application, in their opinion, would have a material planning impact on the whole or part of their ward (refer paragraph 8.1) the referral request shall include a reason or reasons as to how the application will have a material planning impact on their Ward.
- 9.2 must rather than should,
- Review within 6 months rather than at 6 months.

AGREED (with 11 For and 1 Against) that subject to the above amendments:

- (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 come into effect on the 8 April 2024;
- (c) the amendments to the Scheme of Delegation to Officers come into effect on the 8 April 2024;
- (d) that the changes in the Protocol for Planning Committee relating to public speaking would be in effect for Planning Committee meeting to be held on 9 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 within 6-months of operation.

129 CHANGES TO VARIOUS PERMITTED DEVELOPMENT RIGHTS: CONSULTATION

The Committee considered the report of the Director – Planning & Growth relating to a consultation by the Government and the proposed response to be made.

On 13 February 2024, the Department for Levelling Up, Housing and Communities commenced a consultation on Changes to various permitted development rights. The consultation ran for 8 weeks from the 13 February and would end 9 April 2024.

Councillor P Rainbow left during the discussion of this item.

AGREED (unanimously) that:

- (a) the content of the report and the proposal for further permitted development rights be noted; and
- (b) the draft Council response as Appendix 1 to the report be endorsed.

130 APPEALS LODGED

AGREED that:

- (a) the report be noted; and
- (b) Planning Committee Members be informed of the dates of the two hearings noted once fixed.

131 APPEALS DETERMINED

AGREED that the report be noted.

132 PERMITTED DEVELOPMENT RIGHTS: COMMERCIAL, BUSINESS AND SERVICES USES TO DWELLINGHOUSES

The Committee considered the report of the Director – Planning & Growth relating to the latest permitted development rights.

On 13 February 2023, the Government issued an amendment to an existing permitted development right, which came into force on the 5 March 2024. The amendment related 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).

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

Meeting closed at 5.32 pm.

Chair



Report to Planning Committee 04 April 2024

Business Manager Lead: Lisa Hughes Planning Development

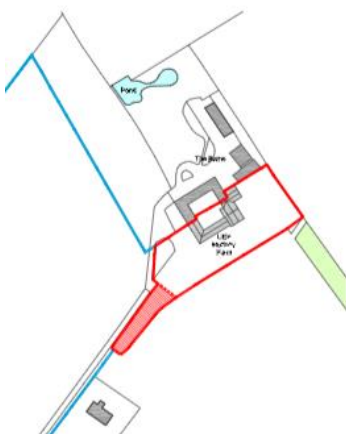
Lead Officer: Yeung Browne – Planner (Development Management)

Report Summary			
Application Number	24/00046/FUL		
Proposal	Change of use of unused land to garden and erection of a Polycrubb		
Location	Little Rudsey Farm, High Cross, Goverton, NG14 7FR		
Applicant	Mr Stephen Smith	Agent	Joseph Kemish Architects LTD - Joseph Kemish
Web Link	24/00046/FUL - Change of use of unused land to garden and erection of a polycrubb		
Registered	12.01.2024	Agreed Extension of time	10.04.2024
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 application is a departure from the Development Plan.

1.0 The Site

The site lies within the rural area of Goverton at Bleasby. The surrounding area to Little Rudsey Farm is predominantly fields and open countryside. Little Rudsey Farm is set back from High Cross by approximately 150 metres, served by a single track road.



The parcel of land subject of this application lies immediately to the southwest of the existing domestic curtilage, measures approximately 40m in length and c.6m on the most southwestern end and c.11.5m adjoining to the existing garden area as showing to the site plan to the left in red area. Little Rudsey Farm is a two storey dwelling with single storey outbuilding and a garage adjoined to The Barn - an adjoined dwelling shares a courtyard. One other dwelling sharing the same single track off High Cross is a cottage known as The Bungalow at Little Rudsey Farm, sited approximately 25m southwest from the most southwest point of the proposed site. No other residential dwellings are nearby. The site is not within a conservation area, nor nearby to any listed buildings.

2.0 Relevant Planning History

20/01570/FUL - Extension of dwelling and extend existing outbuildings to create additional storage / workshop / office space. Approved on 08.12.2020. *The development has started and in the process of completion.*

21/00957/DISCON - Application to discharge condition 04 of planning permission 20/01570/FUL. Condition fully discharged on 07.06.2021.

21/01088/NMA - Application for a non-material amendment to planning permission 20/01570/FUL for minor amendments to the fenestration and re-location of the covered corridor in the extension. Approved on 07.06.2021

23/01272/NMA - Application for non material amendment for minor amendments to fenestration attached to planning permission 20/01570/FUL. Approved on 15.08.2023.

23/01695/FUL - Change of use of storage/offices to Annexe. Approved on 29.11.2023.

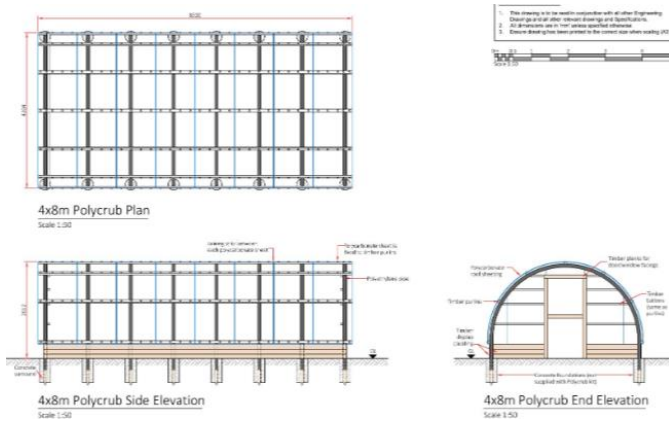
Although the following site histories are included in the site history search, they appear to be related to The Barn rather than Little Rudsey Farm. Nevertheless, they are included in this report for information.

- 33881059 – Conversion of existing barn and outbuildings to form one dwelling and garages.
- 02/00672/FUL - Retrospective change of use from pig unit to catering kitchen.

3.0 The Proposal

This application seeks retrospective consent to change the use of the land to garden associated with the adjacent dwelling Little Rudsey Farm. The land in question measures approximately 11.50 metres in width on the northeast and c.6.0m on the southwest, spanning approx. 40m in depth, which calculate into approx. 320m² of land to residential use.

Permission is also sought for the erection of a 4m by 8m Polycrub on the land with the change of use proposal. The applicant confirmed that the Polycrub would be for personal use as a domestic green house. A Polycrub is a more sturdy poly tunnel type structure, the supporting statement states that the Polycrub was developed and produced in the Shetlands to withstand more extreme weather conditions and is generally more robust than a traditional polytunnel. The Polycrub would have a total height of C.2.6m.



Elevations and layout of the Polycrub



Image of the proposed Polycrub

NB: All measurements above are approximate.

For the avoidance of doubt, the assessment outlined below is based on the following plans and supporting information:

- Site location plan, ref: 1938 P3 00 received 09 January 2024
- Proposed Block plan, ref: 1938 P3 01 received 09 January 2024
- Supporting Statement with details of the Polycrub received 09 January 2024

4.0 Departure/Public Advertisement Procedure

Occupiers of four properties have been individually notified by letter. A site notice has also been displayed near to the site on 21 February 2024. An advertisement was placed on Newark Advertiser, published on 29 February 2024.

5.0 Planning Policy Framework

The Development Plan

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

- Spatial Policy 1 – Settlement Hierarchy
- Spatial Policy 3 – Rural Areas
- Core Policy 9 - Sustainable Design
- Core Policy 12: Biodiversity and Green Infrastructure
- Core Policy 13: Landscape Character

Allocations & Development Management DPD

- DM5 – Design
- DM8 – Development in the open countryside
- DM7 - Biodiversity and Green Infrastructure
- DM12 – Presumption in Favour of Sustainable Development

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 current application has been assessed in-line with policies from the adopted Development Plan.

Other Material Planning Considerations

- National Planning Policy Framework 2023
- Planning Practice Guidance
- Landscape Character Assessment SPD 2013

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/Parish Council

Bleasby Parish Council – No comments received.

(c) Representations/Non-Statutory Consultation

Gadent Gas – stated that the proposed site is in close proximity to their medium and low pressure assets. They have no objection to the proposal from planning perspective but recommended an informative note to be added to the decision notice.

No representations have been received by neighbouring or interested parties.

7.0 Appraisal

The key issues are:

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

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

Principle of Development

The Adopted Development Plan for the District is the Amended Core Strategy DPD (2019) and the Allocations and Development Management DPD (2013). The adopted Core Strategy details the settlement hierarchy which will help deliver sustainable growth and development in the District. The

intentions of this hierarchy are to direct new residential development to the Sub-regional Centre, Service Centres and Principal Villages, which are well served in terms settlements where the Council will focus growth throughout the District. Applications for new development beyond Principal Villages as specified within Spatial Policy 2 will be considered against the 5 criteria within Spatial Policy 3. However, Spatial Policy 3 also confirms that, development not in villages or settlements, in the open countryside, will be strictly controlled and restricted to uses which require a rural setting. Direction is then given to the relevant Development Management policies in the Allocations and Development Management DPD (policy DM8).

Given the nature of the application site, it clearly falls within the Open Countryside rather than in any village - DM8 is therefore applicable.

Policy DM8 of the DPD dictates that, away from the main built up areas of villages, in the open countryside, development will be strictly controlled and limited to certain types of development. The change of use from undeveloped land/paddock to garden does not fall within the list of appropriate development types within the open countryside as set out within Policy DM8. The absence of reference to garden land in DM8 does not automatically mean that the application is not acceptable, however extensions to garden which result in harm to the countryside, are not generally supported as a matter of principle.

Impact on Landscape Character and Visual Amenity

Core Policy 9 requires a high standard of sustainable design that protects and enhances the natural environment and contributes to the distinctiveness of the locality and requires development that is appropriate in form and scale to the context. Core Policy 13 expects development proposals to positively address the implications of the Landscape Policy Zones in which the site lies and demonstrate that the development would contribute towards meeting Landscape Conservation and Enhancement Aims for the area. Policy DM5 of the ADMDPD states the local distinctiveness of the Districts character in built form should be reflected in the scale, form, mass, layout, design, materials and detailing of proposals.

In accordance with Core Policy 13, all development proposals will be considered against the assessments contained in the Landscape Character Assessment Supplementary Planning Document. The application site is located within the Mid-Nottinghamshire Farmlands – MN PZ 39 Thurgarton Village Farmlands with Ancient Woodlands as identified within the Newark & Sherwood Landscape Character Assessment Supplementary Planning Document (2013). This Policy Zone has a landscape condition of “very good”. The area has a unified pattern of elements composed of predominantly arable fields, blocks of deciduous woodland and isolated farms. Landscape sensitivity as “high” and a policy action is “conserve.”

The site is set well back from High Cross (130m approximately). Aerial images obtained from Nottinghamshire insight Mapping show the site reads visually separated from the agricultural land to the southeast. Prior to the application in 2020 (Extension of dwelling and extend existing outbuildings to create additional storage / workshop / office space) the land in question was enclosed with a line of trees and appears to have been part of land associated with Little Rudsey Farm.



Whilst the proposal represents development in the open countryside, given the site circumstances it is not perceptible as an encroachment. The site essentially forms a modest wedge of land between residential curtilages and agricultural land to the southeast. The land immediately to the east is in active agricultural use. It is noted that the site has been used as garden since at least October 2023 with visible raised flower beds on the site visit undertaken at that time. However, the change of use is still within the enforcement period. The impacts on the landscape have therefore already been somewhat realised. The site forms a logical area of garden without imposing landscape harm.

Visually the change of use of the land to the southwest of the dwelling to form part of the garden area has not resulted in any greater impact on the character of the area. The land was formerly laid to grass and is separated from an existing farm track to the agriculture land to the southeast, this land already has a somewhat enclosed character associating with Little Rudsey Farm to the north. Therefore, on the ground the change of use of this land (which is small when considered relative to the wider site arrangement) is not considered to result in any perceivable impact from either inside or outside of the site.

The proposed Polycrub would be positioned on this parcel of land, standing at c.2.6 metres in height. The scale is relatively small in relation to the area and surrounding and the design is not dissimilar to a polytunnel which would be typical in an open countryside environment. Even if permission is granted for the change of use to garden land, any further buildings would need permission being forward of the principal elevation of the dwellinghouse. It is not considered that the Polycrub in itself would result in an adverse impact upon the character of the countryside in this location.

Overall, taking all matters into account and based on the site-specific circumstances in this case, the development does not result in any adverse impact on the wider character or appearance of the area in accordance with the aims of policies CP9 and DM5 and the provisions of the NPPF in this regard.

Residential Amenity Considerations

Policy DM5 states that the layout of development within sites and separation distances from neighbouring development should be sufficient to ensure that neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy.

The only dwelling in close proximity to the site is Little Rudsey Bungalow to the south of the site and the proposed Polycrub. Given the degree of separation from the proposed Polycrub, which has the

distance of c.34m to the northeast boundary of Little Rudsey Bungalow and it is separated by the existing field access, it is considered that there would be no overshadowing or overbearing implications that would result from this proposal. The application therefore complies with Policy DM6 and DM5 of the DPD in this regard.

Highway Safety and Parking

Spatial Policy 7 states that new development should provide appropriate and effective parking provision and Policy DM5 states that parking provision should be based on the scale and specific location of development. The Newark and Sherwood Residential Cycle and Car Parking Standards and Design Guide SPD (2021) provides guidance in relation to car and cycle parking requirements.

Parking provision would be unaffected, access is unaffected and acceptable. The proposed development makes no material changes to the access route to the site and will not give rise to highways impact.

With the above in mind the proposal is therefore considered acceptable from a highways perspective and complies with policy DM5 of the ADMDPD as well as Spatial Policy 7 of the ACS and Paragraph 114 for the NPPF.

Impact on Trees and Ecology

Policy DM5 states that in accordance with Core Policy 12, natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced. Paragraph 136 of the NPPF also states that trees make an important contribution to the character and that existing trees are retained wherever possible.

The proposed site has a row of trees on the west/northwest boundary adjacent to the access road to the dwelling. The change of use of the land would not affect the existing trees and the proposed Polycrub would be positioned well within the plot away from the existing trees. Taking consideration of the height and design of the Polycrub, it is not considered the proposal would have any negative impact to the existing trees within the site. The application therefore complies with Core Policy 12 of the ACS and DM5 of the DPD in this regard.

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

Whilst domestic features such as the Polycrub proposed here would ordinarily be acceptable in principle as a householder development, owing to the positioning of the Polycrub within land that was not originally consented for residential use, the proposal would result in the change of use of land to residential. The expansion of domestic use into the open countryside does not fall within the list of appropriate development types within the open countryside as set out within Policy DM8 and as such the application has been advertised as a departure on this basis.

However, it has been concluded that the change of use of the land and the proposed positioning of the Polycrub would not result in harm to the wider surrounding area and character of the open countryside. Therefore, whilst noting that the development would be contrary to the Development Plan, it is considered in this case that the lack of any identified visual or character harm on the area, or indeed any other form of harm, are material considerations that weigh in favour of the proposal. A lack of demonstratable harm in this case would outweigh the development not neatly falling within any of the potentially permissible exceptions within Policy DM8. It is therefore recommended that planning permission is granted subject to the conditions outlined in Section 10. A time condition is not necessary given the part retrospective nature of the application.

10.0 Recommendation

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

Conditions

01

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

- Site location plan, ref: 1938 P3 00 received 09 January 2024
- Proposed Block plan, ref: 1938 P3 01 received 09 January 2024
- Supporting Statement with details of the Polycrub received 09 January 2024

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

02

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

Reason: In the interests of visual amenity.

Informatives

01

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

02

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

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development given that there is no net additional increase of floorspace as a result of the development.

03

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.

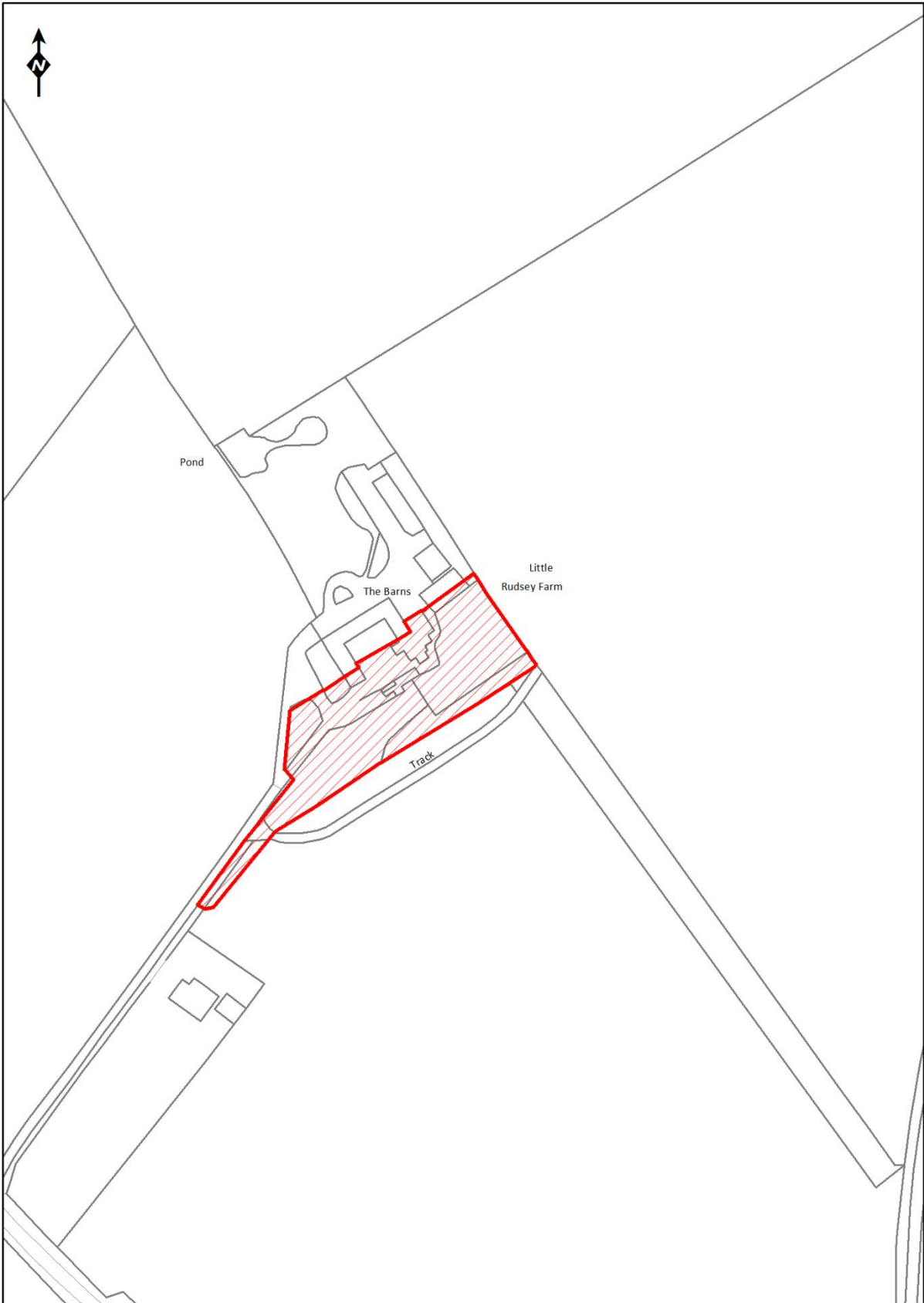
If buildings or structures are proposed directly above the apparatus the development may only take place following diversion of the apparatus. The applicant should apply online to have apparatus diverted in advance of any works, by visiting cadentgas.com/diversions

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

BACKGROUND PAPERS

Application case file.

Committee Plan - 24/00046/FUL



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Report to Planning Committee 4 April 2024

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Jamie Pegram, Planner, ext. 5326

Report Summary			
Application Number	24/00208/FUL		
Proposal	Convert existing first floor flat into two 1-bedroom flats		
Location	39 Kings Court, Southwell, NG25 0EL		
Applicant	Kevin Shutt	Agent	Mrs Karolina Walton
Registered	29 January 2024	Target Date	01 April 2024
		Extension of time	15 April 2024
Web Link	24/00208/FUL Convert existing first floor flat into two 1-bedroom flats 39 Kings Court Southwell NG25 0EL (newark-sherwooddc.gov.uk)		
Recommendation	That planning permission be <u>APPROVED</u> , subject to the conditions set out in Section 10.0 of this report.		

This application is before the Planning Committee for determination, in accordance with the Council’s Constitution, because Newark and Sherwood District Council is the Applicant.

1.0 The Site

The application site is situated on Kings Court in Southwell, just north of King’s Street. The majority of the site is situated just outside the Southwell Conservation Area; however, a small part of the site (where there are existing car parking spaces) falls just inside the Conservation Area. The building itself is not within the Conservation Area. There are nearby Grade II listed buildings along King Street the closest being C23.5m away to the south. The host building relates to part of the local authority housing site on Kings Court. The proposal relates to the first floor flat within the red brick and concrete tile building with white UPVC windows. There are bin stores situated to the north of the building and a parking area for the residents to the northwest of the wider site as well as directly adjacent the building to the southeast.



The site is situated within flood zone 1 and is at very low risk of surface water flooding.

2.0 Relevant Planning History

No Relevant History

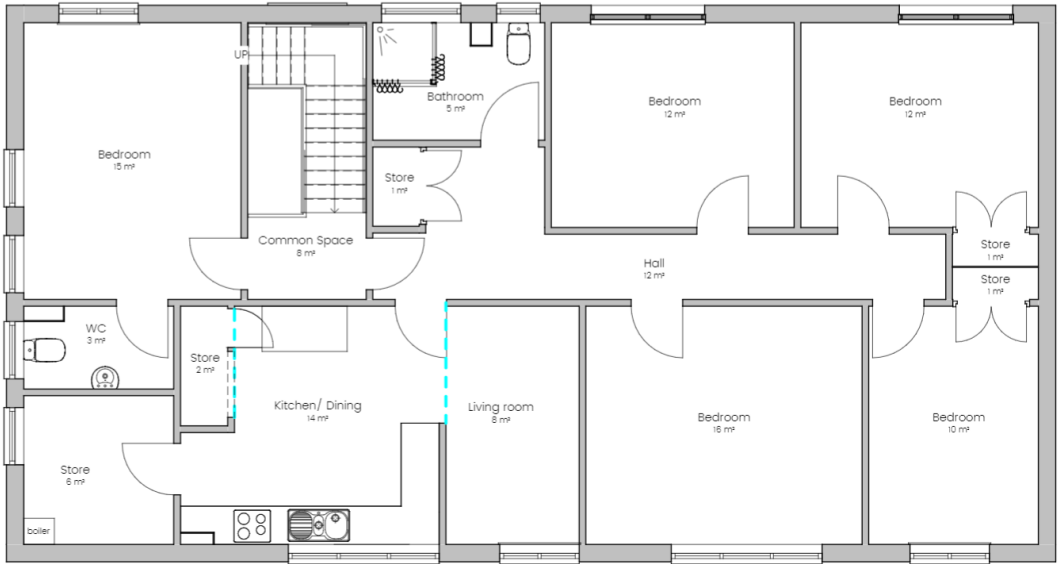
3.0 The Proposal

Permission is sought for the conversion of the existing first floor flat into two 1-bedroom flats. There would be no external changes to the building, the railings to the north of the site would be re-located. The proposal would include the creation of associated car parking spaces, 1 of these would be to the southeast and would involve extending an existing parking bay and two of these would be to the north of the building.

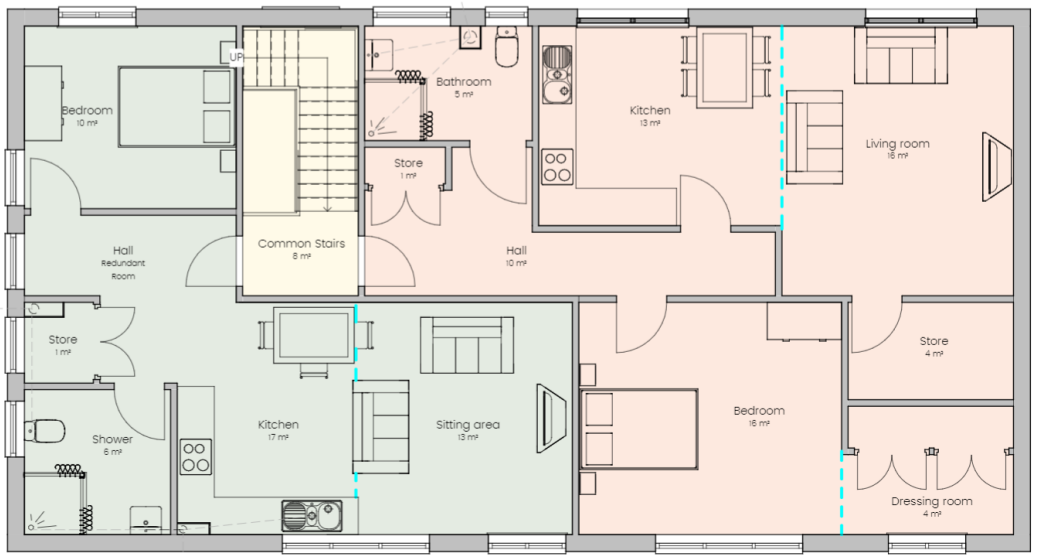
The proposal also outlines the replacement of hardstanding outside the building to the southeast with grey paving stones, the relocation of the lamp post to the southeast 2.2m to the north and the planting of an additional tree. However, these elements would either not constitute development (the planting of the tree) or appear to benefit from permitted development under part 12 Class A of the General Permitted Development Order. These elements have therefore not been assessed further.

The application has been submitted with the following documents:

- Existing Site Plan 656 SGA xx SL DR A 0001 REV P1
- Existing Elevations as Proposed 656 SGA XX SL DR A 0003 REV P1
- Proposed Floor Plans 00005 REV P1
- Proposed Floor Plans 656 SGA XX ZZ DR A 0005 REV P1
- Proposed Site Plan 656 SGA XX SL DR A 0004 REV P1
- Existing Floor Plans 656 SGA XX ZZ DR A 0002 REV P1



Existing First Floor Plan



Proposed First Floor Plan



Proposed Site Layout

4.0 Departure/Public Advertisement Procedure

Occupiers of seventeen properties have been individually notified by letter. A site notice has been displayed close to the site expiring 08.03.2024 and an advert has been published in the press expiring 07.03.2024.

Site visit undertaken on 16th February 2024

5.0 Planning Policy Framework

The Development Plan

Southwell Neighbourhood Plan

- Policy SD1 – Delivering Sustainable Development
- Policy DH1 – Sense of Place
- Southwell Design Guide

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 6 – Shaping Our Employment Profile
- Core Policy 9 - Sustainable Design
- Core Policy 12 – Biodiversity
- Core Policy 14 - Historic Environment

- Policy DM5 – Design
- Policy DM7 – Biodiversity and Green Infrastructure
- Policy DM9 - Protecting and Enhancing the Historic Environment
- Policy DM11 – Retail and Town Centre Uses
- Policy DM12 - Presumption in Favour of Sustainable Development

Other Material Planning Considerations

- National Planning Policy Framework
- Planning Practice Guidance (Online Resource)
- National Design Guide – Planning practice guidance for beautiful, enduring, and successful places September 2019
- Sections 16, 66 and 72 of the Planning and (Conservation Areas and Listed Buildings) Act 1990
- Newark and Sherwood Residential Cycling and Car Parking Standards and Design Guide Supplementary Planning Document 2021
- Technical housing standards – nationally described space standard March 2015 (statutory guidance)

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.

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/Parish Council

Southwell Town Council – No Objection

(c) Representations/Non-Statutory Consultation

Conservation – The proposal site is adjacent to Southwell Conservation Area (a designated heritage asset). When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation, as stipulated in paragraph 205 of the NPPF. Local planning authorities should look for opportunities for development within Conservation Areas, and within the setting of heritage assets, to enhance or better reveal their significance. Proposal that preserves those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably. Policies CP14 and DM9 of the Council’s LDF DPDs offer additional advice on the historic environment. We urge you to take this into account in reach your view. Whilst we have determined not to comment in this case, it should not be construed that we support the proposal.

One anonymous representation has been received from residents/interested third parties. However, in accordance with details provided on our [website](#), anonymous comments will not be considered by the Case Officer.

7.0 Comments of the Business Manager – Planning Development

The key issues are:

1. Principle of Development
2. Impact on Character and Heritage
3. Impact on Residential Amenity
4. Impact on Highways
5. Impact on Trees

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

Principle of development

The Adopted Development Plan for the District is the Core Strategy DPD (2019) and the Allocation and Development Management Policies DPD (2013). The adopted Core Strategy details the settlement hierarchy which will help deliver sustainable growth and development in the District. The intentions of this hierarchy are to direct new residential development to the Sub-regional Centre, Service Centres and Principal Villages, which are well served in terms of infrastructure and services. Spatial Policy 2 (Spatial Distribution of Growth) of the Council's Core Strategy sets out the settlements where the Council will focus growth throughout the District.

The site is within Southwell which is a 'Service Centre' of the district therefore the principle of residential development on this site is acceptable.

Impact on Character and Heritage

Core Policy 9 (Sustainable Development) states that the Council expects that all new development should achieve a high standard of design which contributes to and sustains the rich local distinctiveness of the District. Policy DM5 (Design) states that the rich local distinctiveness of the Districts character of built form should be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development.

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

Paragraph 203 of the NPPF states 'In determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness.' As above, the majority of the site, including the building is outside of the designated Conservation Area.

Section 12 of the NPPF refers to achieving well designed places. Paragraph 131 states that good design is a key aspect of sustainable development by creating better places in which to live and work in and helps make development acceptable to local communities. Paragraph 139 of the NPPF advocates that where a development is not well designed and fails to reflect local design policies and government guidance on design planning permission should be refused.

Taking all of the above into consideration the external appearance of the host building would not change as a result of the proposed development. External alterations would include the proposed railings which are being relocated as part of the application to allow space for new parking spaces. These are relatively modest in height at 1.2m and already exist within the site. Their relocation would therefore have a negligible impact on the setting of nearby heritage assets or the character of the area.

The existing parking bay outside the building to the south would be made wider to allow the creation of an additional space. In addition to this space a further two spaces would be created to the north of the building. These would be formed in existing areas of hardstanding so as above, the impact on the character of the area and setting of heritage assets would be minimal.

Overall, it is considered that the proposal accords with Core Policy 9 (Sustainable Development) and Core Policy 14 (Historic Environment) of the Core Strategy DPD and DM5 (Design) and DM9 (Protecting and Enhancing the Historic Environment) the (Allocations and Development Management DPD as well as the NPPF which is a materials consideration. Section 66 & 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 has been given due consideration.

Impact on Residential Amenity

The NPPF seeks to secure high quality design and a high standard of amenity for all existing and future occupants of land and buildings. Policy DM5 'Design' of the Newark and Sherwood Allocations & Development Management DPD states that development proposals should ensure no unacceptable reduction in amenity and mitigate for any detrimental impact.

The proposal would involve the conversion of the first floor flat into two 1-bedroom flats. There would be no alterations to any of the existing openings with windows remaining as existing, the external appearance of the building would remain the same. The current first floor flat currently has 5 bedrooms across 120m² of floor space with 8m² of common stair landing space.

The government has Technical Housing Standards for the sizes of units depending on the level of people they are intended to serve. The District Council has not adopted these standards, but they do nevertheless form a useful guide to an amenity assessment.

The proposed flats would have a floor space of 48m² and 72m², both with an open plan layout apart from the separate bedroom and shower rooms. As both flats propose shower rooms instead

of bathrooms, the Technical Housing Standards Require each of them to provide 37m² of space for a 1 bedroom and 1 person occupying each flat, this would increase to 39m² if the shower room were to be proposed as a bathroom. If each of the 1-bedroom flats had 2 people living in them 50m² of space would be required by each flat. With this in mind the proposed 48m² flat would be acceptable for single occupation against housing standards and flat two would be acceptable for 2-person occupation against housing standards.

No external private amenity space would be provided to either of the flats however whilst the units would not have any external amenity space, they are located in an area where there are areas of publicly accessible green space within a reasonable walking distance. The plans show that all habitable rooms within the flats would be provided with adequate sources of natural light.

With the above in mind, I consider the proposal acceptable in terms of amenity to both the occupiers and other nearby residents.

Impact on Highway Safety

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

The submitted site location plan shows that the scheme proposes to provide 3 additional parking bays off the unclassified road.

Two spaces would be provided to the north of the building and would measure 3m by 5.5m. The railing would be offset from the space to the north by 0.3m. One additional space would be provided to the southeast of the building measuring 3.0m by 5.0m. Whilst the parking space to the southeast does not meet the parking standards of 3.0m by 5.5m, it would be the same length as the existing parking bays to the southeast. If the space were to be made longer it would be at odds with the adjacent spaces therefore I consider this additional parking space acceptable. The parking spaces to the north would be compliant with parking standards at 3m by 5.5m with a 0.3m offset against the railing. The number of spaces would exceed that required for 2 1-bedroom units in this part of the District as set out by the Councils SPD on residential parking standards.

With the above in mind, I consider the proposed parking to be acceptable and don't consider there to be impact to highway safety as a result of the proposal. Furthermore, the additional parking would provide adequate additional parking provision for the flats however it is considered that this parking should be secured by appropriately worded condition if the application were to be approved.

Impact on Trees

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

No trees would be impacted by the proposal. There would be one new tree proposed to the southeast of the building with railing around the tree to protect it and to match the market square detail but this is not deemed as necessary to make the development acceptable and therefore

does not need to be subject to condition. Overall, no trees would be impacted by the proposal therefore the proposal is considered acceptable in relation to trees.

Other Matters

The site plan shows bin storage to the north and west of the building as well as a further bin store to the north therefore the proposal has provided an acceptable level of bin storage at a reasonable distance to the flats.

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

Given the above, I am satisfied that the proposal would comply with the relevant aims of the NPPF and Spatial Policies 1, 2 and 7 and Core Policies 9, 12 and 14 of the Newark and Sherwood Amended Core Strategy and Policies DM5, DM7 and DM9 of the Allocations and Development Management DPD. Accordingly, I recommend that Planning Permission be granted subject to the conditions outlined in Section 10.0 of this report.

10.0 Conditions

01

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

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

02

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

Existing Elevations as Proposed 656 SGA XX SL DR A 0003 REV P1

Proposed Floor Plans 00005 REV P1

Proposed Floor Plans 656 SGA XX ZZ DR A 0005 REV P1

Proposed Site Plan 656 SGA XX SL DR A 0004 REV P1

Reason: So as to define this permission.

03

The materials to be used in the construction of the external surfaces of the development hereby permitted shall be as stated in the application.

Reason: In the interests of visual amenity.

04

The development hereby permitted shall not be brought into use until the parking shown on Proposed Site Plan 656 SGA XX SL DR A 0004 REV P1 has been provided. The parking areas shall be retained permanently thereafter for the parking of vehicles for residents/occupiers of the development permitted and shall not be used for any other purpose.

Reason: In the interests of highway safety.

Informatives

01

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

02

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

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

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.

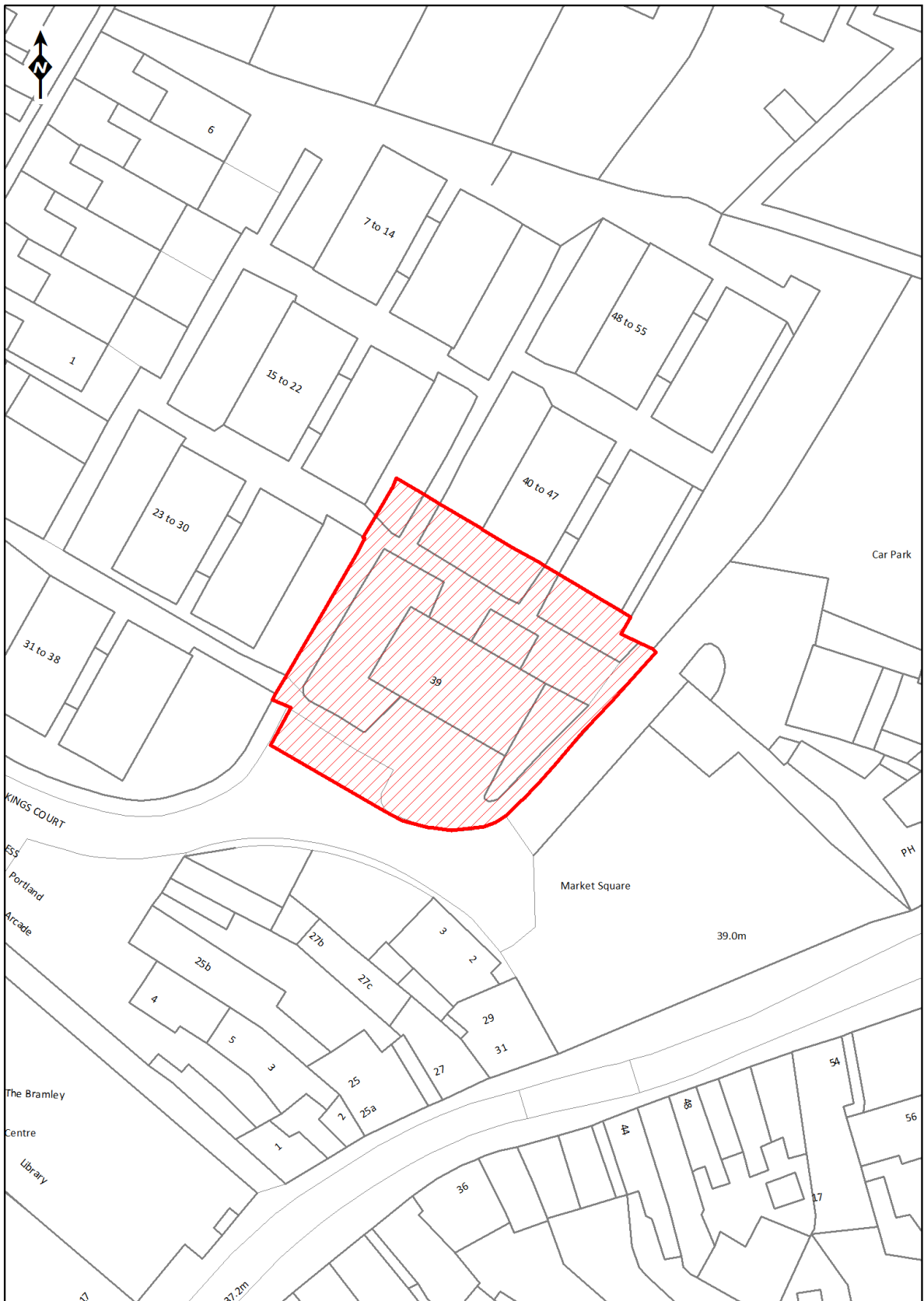
East Midlands Building Control operates as a local authority partnership that offers a building control service that you may wish to consider. You can contact them via email at info@eastmidlandsbc.com via phone on 0333 003 8132 or via the internet at www.eastmidlandsbc.com.

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 - 24/00208/FUL



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Report to Planning Committee 4 April 2024

Director Lead: Matt Lamb, Planning & Growth

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

Report Summary	
Report Title	Accelerated Planning System: Consultation
Purpose of Report	To set before Planning Committee a consultation by the Government and consider the proposed response to be made
Recommendations	<p>a) The contents of the report and the proposal for an accelerated planning system to be noted and</p> <p>b) That, subject to any other comments Planning Committee agrees to make, that it endorses the draft Council response in Appendix 1.</p>

1.0 Background

- 1.1 On 6th March 2024, the Department for Levelling Up, Housing and Communities (DLUHC) commenced a consultation on 'An Accelerated Planning Service'. The consultation runs for 8 weeks from the 6th March to 1st May 2024.
- 1.2 The accompanying consultation paper is not available as a downloadable format, however it can be viewed using the following link [An Accelerated Planning Service](#). There are 35 consultation questions – attached at appendix A, together with the suggested response of the Council.
- 1.3 This consultation follows on from recent interventions the government has undertaken including the increase in planning fees, range of funding streams, for example Skills Funding that we were successful in being awarded and streamlining of the development management process.
- 1.4 The consultation proposes new measures for an accelerated planning system which is said would *“provide greater certainty to applicants and enable delivery partners to bring forward much needed housing, commercial and infrastructure development at greater pace”*. This would be achieved through an *“Accelerated Planning Service for major commercial development, new measures to constrain the use of extension of time agreements and identifying local planning authorities who are using these excessively. It will also be achieved by broadening the simplified process for written representation planning appeals.”*

- 1.5 The plans are to have a service that would allow local planning authorities (LPAs) to recover the full costs of major business applications in return for being required to meet guaranteed accelerated timescales. If a LPA fails to meet the timescales, fees will be refunded automatically with the applications being processed free of charge, in other words a prompt service or your money back.
- 1.6 For major planning applications, the statutory timescale for deciding major planning applications is 13 weeks or 16 weeks when the application is subject to an Environmental Impact Assessment (EIA). For non-majors, the timescale is 8 weeks. Our current performance in relation to meeting performance deadlines without extension of time agreements is shown in the table below. This displays performance figures over a 12-month period and includes performance within statutory time limits, excluding extension of time agreements.

	Percentage of major decisions made within the statutory time period (13 weeks) MAJORS	Percentage of decisions made within the statutory time period (8 weeks) HOUSEHOLDERS	Percentage of decisions on applications for non-major development (excluding householder development) made within the statutory time period (8 weeks) NON-MAJOR EXCL. HOUSEHOLDERS	Percentage of decisions on applications for non-major development made within the statutory time period (8 weeks) NON MAJOR (ALL)
Newark and Sherwood	39	64	47	57
Average across the Country	19	56	37	49

- 1.7 The government's proposal is to apply the accelerated service to major commercial applications initially due to their being fewer of these than major residential. All LPAs will be required to offer this service for a higher fee, with the decision required within 10 weeks or the fee will be refund the fee. In relation to this, the consultation is exploring two options for the detailed design of this service. The first is that applicants can choose whether to use this service, subject to meeting the qualifying criteria. The second is that the Accelerated service is mandatory to all applications in a given development category. The details and scope of the service is provided within Section 2.0 of this report. Due to the implications of the potential changes, the majority of the consultation document is addressed below, with narrative as appropriate.
- 1.8 In summary, the proposed measures within the consultation are:
- i. the introduction of a new Accelerated Planning Service (APS) which would offer a new application route with accelerated decision dates for major commercial applications and fee refunds wherever these are not met;
 - ii. changes in relation to extensions of time agreements, including a new performance measure for speed of decision-making against statutory time limits,

- and an end to the use of extension of time agreements for householder applications and repeat agreements for the same application for other types of application;
- iii. an expansion of the current simplified householder and minor commercial appeal service for more written representation appeals; and
 - iv. detail on the broadening of the ability to vary a planning permission through section 73B applications and on the treatment of overlapping planning permissions.

2.0 Detail

1. Accelerated Planning Service

- 2.1 For both the discretionary or mandatory options it is proposed that the following would apply.
- 2.2 Scope of the Service: The Accelerated Planning Service (APS) would initially apply to applications for major commercial development which create 1,000 sqm or more of new or additional employment floorspace. For Newark and Sherwood, this relates to an average of 40 applications per annum. This category includes offices, storage and warehousing, retail, general industry, research and development, light industry and advanced manufacturing. Mixed use developments (if they meet the employment floorspace criteria) are suggested would also be eligible to use the Accelerated Planning Service.
- 2.3 The APS would not apply to applications which are screened as EIA development due to further duties and requirements on applicants and local planning authorities. Notwithstanding this, the government is interested in receiving views on whether there is scope for EIA development to also be covered by an Accelerated Planning Service that offers a guaranteed decision before the current 16-week statutory time limit.
- 2.4 The following applications are proposed to be excluded from the APS:
 - subject to Habitats Regulations Assessment (as they require an appropriate assessment to be undertaken and the consideration of mitigation measures);
 - within the curtilage or area of listed buildings and other designated heritage assets, Scheduled Monuments and World Heritage Sites (as they require special considerations); and
 - for retrospective development (as the regularisation of unauthorised development should not be prioritised).
- 2.5 Both section 73 and 73B applications which seek to vary existing planning permissions for relevant commercial development would fall under the APS.
- 2.6 The initial focus of the APS is for major commercial applications which the government state are vital to economic growth. Over time, this service will be explored as to whether it might also apply to similar major infrastructure and residential developments. The government want to ensure the Service works for commercial development before any further development proposals are included, given that there are significantly more residential applications and often a larger number of matters to be considered with these types of applications.

- 2.7 Nature of the Service: Planning applications using the APS would be subject to the same statutory requirements for publicity and consultation and would be determined on the same basis as other major development applications. Local communities and statutory consultees would still get at least 21 days to consider and make representations on the proposals. Local planning authorities would be required to determine the application in the usual way, that is in accordance with the development plan unless material considerations indicate otherwise.
- 2.8 Such applications would need to be prioritised to get through our, as LPA, internal processes faster, e.g. Planning Support with the validation of the application. However, other parties to the process e.g. internal consultees (Environmental Health, Conservation) as well as the Legal team would also need to ensure they have the expertise on hand; and, when applicable that Planning Committee meetings are convened to enable the meeting of this timescale. In relation to the Legal team, this is of particular relevance with the introduction of mandatory biodiversity net gain and the need to secure, as a minimum monitoring fees, via a section 106 planning obligation which requires co-operation from the Applicants legal team as well as all interested parties (e.g. landowners). A decision (of approval) cannot be issued until the legal obligation has been completed. The proposed higher planning fee is intended to ensure that local planning authorities have the resources to do this.
- 2.9 The timescale of 10 weeks would be the statutory timeframe for decisions to be made on applications, and against which performance on these applications would be measured. It would be used as the trigger point for when appeals can be made against non-determination and for monitoring the performance of local planning authorities (LPAs).
- 2.10 However, in order to meet the timescale of 10 weeks without leading to more refusals, it is crucial that the applications submitted are of good quality with the right information. Research and engagement with the sector, by the government, over the last decade has highlighted the most common causes for delay with these types of major development applications are a) inadequate or missing information requirements and b) the time taken to agree and finalise any section 106 agreements. To ensure this occurs, it is proposed that:
- LPAs should offer a clear pre-application service so they can discuss their proposals, key issues, information requirements and any other issues (such as EIA screening), and applicants will be strongly encouraged to use these services. It is not proposed to mandate the use or content of a pre-application service, but it will be beneficial to all parties to engage in it. The consultation details that innovation emerging from practice will be disseminated across the sector building on the work the Planning Advisory Service has been undertaking on pre-application services;
 - prior to submitting their application, applicants should notify key statutory consultees which are likely to be engaged that they are making an application under the APS. The consultation details that it is known that the determination of some planning applications can be held up by continued discussions with specific statutory consultees on particular matters (which are outside the control of the LPA). DLUHC has begun a review of the role of national statutory consultees in the planning application process and will

make recommendations about how their performance can be improved. The government will look to use its oversight of statutory consultees to prioritise applications under the APS and to monitor their performance.

- 2.11 If the APS is introduced, these 'suggestions' are welcomed. However, the drafting of applicants 'should' engage with key statutory consultees does not make it obligatory. Neither is any suggested timescale given for the applicant to notify the statutory consultee. If they do this one day ahead, this would more than likely not give sufficient time to re-prioritise any existing work. Furthermore, the requirements of one statutory consultee might necessitate in changes to a scheme that, as a result, affect the response from a different statutory consultee. Lastly, the list of statutory consultees is quite narrow and, aside from the local highway authority (i.e. NCC Highways) invariably most applications require a response from a non-statutory consultee e.g. Environmental Health, County Archaeology (currently provided by Lincolnshire County Council), Conservation, Trees and Landscaping. As the consultation is currently drafted, none of these would be notified. Views are sought about how statutory consultees can best support this accelerated service, with a reference that in most cases, early pre-application engagement will be important.
- 2.12 Planning fee proposals: To cover the additional resourcing costs, it is proposed to set a premium fee for an application through the APS. Planning fees are set by government and cannot exceed the cost in providing that service. In order to maintain a fair and consistent approach to fee-setting for statutory services, the method of fee calculation would continue to be set centrally. It is proposed that the premium fee would be set as a flat fee uplift, which would be a percentage of the normal planning application fee: the applicant would pay the normal planning application fee plus the fee uplift.
- 2.13 It is recognised that it may not be possible to achieve full cost recovery in every case. However, in order to set the fee uplift at a level that most closely meets, but does not exceed, full cost recovery, the consultation is seeking views on what the percentage fee uplift should be, with supporting evidence if possible.
- 2.14 The APS would represent a new statutory planning application route and, as such, planning performance agreements for these applications should not be necessary. Where an applicant chooses to agree a bespoke planning performance agreement programme, they would not be able to benefit from the APS.
- 2.15 It is proposed that an applicant or the LPA would still have the ability to propose an extension of time to the determination of the application for instance, if there is an outstanding matter which could be readily resolved to make an application acceptable. This should be an exception and it would not affect any potential refunds.
- 2.16 Fee guarantee: It is proposed that either all or a proportion of the statutory application fee must be refunded by the LPA if the application is not determined within the 10-week timescale, even if an extension of time has been agreed. This refund policy differs from the existing Planning Guarantee where a refund is not provided if an extension of time has been agreed.
- 2.17 The consultation considers whether it is appropriate for the whole fee to be refunded in this scenario, with recognition that if the whole fee is refunded at 10 weeks, there is no incentive for the LPA to make a decision on the application. To mitigate this, an alternative option suggested is to stagger the fee refund. For example, if no decision

has been made within 10 weeks, the premium part of the fee or 50% of the whole fee could be refunded at that point, with the remainder of the fee refunded at 13 weeks, if the application was still undecided.

Options for an Accelerated Planning Service

- 2.18 The consultation details that a key design choice is the extent to which the APS is discretionary or mandatory for relevant commercial development applications. Two options are explored: a discretionary model where applicants could choose to opt in to the APS where their application meets the qualifying criteria; or a mandatory model where the APS is the only available application route for all applications in a given development category.

Option 1 - Discretionary Accelerated Planning Service

- 2.19 The ambition is for applicants for major commercial development to have the choice of using either the APS or the usual planning application service. It is proposed that in order to opt in to the discretionary APS, applicants would need to provide a set of additional prescribed information requirements with their planning application to ensure the application can be determined quickly. Without this additional statutory information, the application would be treated as a normal application for major development.
- 2.20 These information requirements would include a prescribed planning statement setting out how the application proposals meet key local and national planning policies relevant to the development. This is said to help to standardise and streamline information requirements to reduce the burden on both applicants and LPAs. Further information on specific matters may still be required depending on the development, but the exclusion of applications set out at paragraph 2.4 above would reduce information requirements.
- 2.21 Views are welcomed on whether there should be any further additional information requirements to ensure decisions can be made quickly. The inclusion of a draft section 106 heads of terms, for instance, could speed up the agreement of a section 106 for the development and in turn enable the decision to be made more quickly. The consultation details that not all applications may require a section 106 and the draft heads of terms may not include all relevant matters. However, with consideration to mandatory biodiversity net gain and the need to secure monies for the monitoring of the net gain over a period of 30-years, it is anticipated that the significant majority, if not all, major commercial developments will require the completion of a section 106 agreement.

Option 2 - Mandatory Accelerated Planning Service

- 2.22 An alternative option suggested could be to establish a new, mandatory application route for a clearly defined category of major commercial applications which would be carved out of the current major development category. The application route is proposed would still offer a guaranteed decision within 10 weeks in return for a higher fee with a refund if no decision has been made within that period. The proposed fee uplift and refund mechanism would be the same as that proposed for the discretionary option above. However, there would be no additional statutory information requirements.

- 2.23 Applications which meet the development criteria for this mandatory option would have to use it and pay the higher fee. This would give certainty to the LPA and applicants. The consultation details the key disadvantage with a mandatory approach is that the quality of applications could vary, some may still have complex issues to resolve, and there is less opportunity for the applicant and LPA to agree to pause the application while further information is being asked for or an issue is being resolved. The consequence is likely to be greater rates of refusals requiring applicants to resubmit better applications which creates delays.
- 2.24 In view of the consultation indicating that extension of time (EoT) agreements would not mean the fee would not need to be refunded, even subject to a possible sliding scale, it is difficult to envisage a situation when a LPA would 'wish to' enter into an EoT and then be penalised. However, this does in part depend upon the responses from consultees being timely and reasonable as well as resources within other teams, e.g. Legal being available for the completion of s106 legal agreements, subject to timely instruction as well. The ability of a LPA managing the resources and response times of many consultees is outside of our direct control, as we are a two-tier authority. There ought to be a mechanism, although how this could work in reality is unknown, that if a consultee does not respond or provides an unsound response and we, as the LPA, are not in a position to make a well-considered decision and thus need to agree an EoT, the party responsible for the delay should reimburse the LPA. This would be akin to an award of costs whereby if a consultee recommends refusal for a reason but is unable to satisfactorily defend that reason, they are required to pay the respective costs application.
- 2.25 However, subject to consultees meeting timescales, noting that a reason (or reasons) for refusal always need to be sound and defensible, it is not considered that refusing the application at, or just before the expiry of the 10-weeks, would be likely to lead to additional successful costs applications from the Appellant. In fact, an Applicant knowing about the strict time limits on LPAs should look to engage at the earliest opportunity i.e. submit a pre-application enquiry.
- 2.26 Implementation: Changes to legislation would be required to implement the APS. The consultation details the government will work with the sector on its practical implementation and provide sufficient time before introduction to allow LPAs to prepare to deal with these applications.

2. Planning performance and extension of time agreements

- 2.27 As Members will be aware, an extension of time agreement is a mechanism by which an applicant can agree with the LPA an extended time period to determine a planning application, beyond the statutory time limit. This allows more time for the consideration of issues raised during the application process and to enable amendments to schemes which may make a scheme acceptable when otherwise it would not be. Currently, if an application is determined within an agreed extended time period, it is deemed to be determined 'in time' and does not count against the overall performance of a LPA.
- 2.28 Extension of time agreements can offer benefits to both a LPA and applicant, particularly now that the ability to have a 'free-go' for a resubmission has been removed. The consultation details that "*the government knows that extension of time*

agreements can also be used by authorities to compensate for delays in decision-making, which masks poor performance and does not incentivise local authorities to determine applications within the statutory time limit.”

- 2.29 Whilst this may or may not be true of some LPAs, in the case of ourselves, the majority are agreed in order to enable negotiation / additional information etc., in order to secure a positive outcome.
- 2.30 The consultation details the increase in the use of extension of time agreements and, in response has published a new Planning Performance Dashboard, an extract of which is provided within the table above under paragraph 1.6.
- 2.31 The consultation provides detail regarding designation of planning authorities, which is assessed against 2 measures - speed and quality of decision making. It notes that any revisions to the performance criteria and thresholds or assessment periods would need updating. There are now five LPAs that are designated with St Albans and Bristol having been designated (March 2024) for their performance in relation to non-major developments. Other LPAs are on the threshold of being designated. In such cases, Applicants may apply directly to the Planning Inspectorate (on behalf of the Secretary of State), rather than the LPA, for the category of applications (major, non-major or both) for which the authority has been designated.

Proposal

Monitoring speed of decision-making against statutory time limit

- 2.32 The government is proposing, due to their concern about the high use of EoTs to introduce a new performance measure for speed of decision-making for the proportion of applications that are determined within the statutory time limit only i.e. within the 8 for non-major or 13 weeks for major unless subject to an EIA (16 weeks) and potentially 10 weeks.
- 2.33 The consultation proposes that the new performance thresholds would be:
- major applications – 50% or more of applications determined within the statutory time limit; and
 - non-major applications – 60% or more of applications determined within the statutory time limit.
- 2.34 The consultation details these *“proposed thresholds do not preclude the use of EoT agreements and planning performance agreements (PPAs), but the expectation is that such agreements are used only in exceptional circumstances. The proposed threshold is also lower for major applications in recognition that, in more instances, extension of time agreements may still be required due to the more complex nature of the applications and major applications are also more likely to be subject to a planning performance agreement.”* However, with mandatory biodiversity net gain for non-majors having come into effect on the 2nd April, in order to secure the monitoring fee associated with this, it is estimated that for NSDC, approximately 250 non-major applications will be subject to a planning obligation i.e. those approved. This represents approximately 27% of non-major applications approved annually. This number does not account for those that might be allowed on appeal which would need to be subject to a planning obligation.

- 2.35 The government proposes to continue publishing performance data on performance against statutory timescales and agreed extensions. In time, it is proposed to measure performance against both the current measure, which includes extension of time agreements and planning performance agreements, and the new measure, which would cover decisions within statutory time limits only. These would continue to measure major and non-major applications separately.
- 2.36 The consultation details that LPAs would be at risk of designation for speed or decision-making in the following circumstances:
1. if a local planning authority does not meet the threshold for the current measure, inclusive of extension of time agreements and planning performance agreements (as per current regime), or
 2. if a local planning authority meets the threshold for the current measure, inclusive of extension of time agreements and planning performance agreements, but does not meet the new threshold for the proportion of decisions within the statutory time limit, or
 3. if a local planning does not meet the threshold for both the current and the new measure
- 2.37 From the performance table above, performance in both categories would be missed, albeit for non-majors (including householders) is only slightly lower than the proposed target at 57% (compared to 60%). However, this is without the challenge of requiring s106 planning obligations meaning reaching this target will be challenging and require changes to processes.

Assessment period for performance for speed of decision-making

- 2.38 The assessment period for speed of decision-making is currently across a 24-month period. The consultation states that *"...this assessment period means that underperformance may be identified later in the process as it is concealed by previous good performance. Assessing performance across a 24-month period also makes it difficult for authorities to demonstrate improvement in performance data, with previous poor performance concealing positive progress. To ensure that both improvement and underperformance are identified effectively at an earlier stage, we propose that performance for speed of decision-making should be assessed across a 12-month assessment period."*
- 2.39 Performance in relation to quality of decision-making is measured by the proportion of decisions that are allowed at appeal. The number of relevant cases is lower than that for the speed of decision-making and if measured over 12 months would represent too few cases to provide an accurate measure of performance. It is not proposed to change this assessment period.

Transitional arrangements for assessment of the speed of decision-making

- 2.40 The consultation recognises that LPAs will currently be working to the performance regime that is in place, and that time will be required to adjust to a new regime. It is also acknowledged that it would be unreasonable to make designation decisions against the proposed new measure until a whole 12-month assessment period following introduction of the new measure has occurred. In light of this, proposed transitional arrangements are provided (below). This allows for the continuation of the current

regime until September 2024, with data collection for the new 12-month assessment period for the new performance measure beginning from 1 October 2024. The intention is for the first designation decisions against the new performance measure to take place in the first quarter of 2026.

Measure and type of Application	Threshold and assessment period LPA decisions: October 2022 to September 2024	Threshold and assessment period LPA decisions: October 2024 to September 2025
Speed of major Development (District and County)	60% of decisions within statutory time limit or an agreed extended period (extension of time or planning performance agreement)	Either or both of: 60% of decisions within statutory time limit or an agreed extended period (extension of time or planning performance agreement) OR 50% of decisions with statutory time limit only
Speed of non-major Development	70% of decisions within statutory time limit or an agreed extended period (extension of time or planning performance agreement)	Either or both of: 70% of decisions within statutory time limit or an agreed extended period (extension of time or planning performance agreement) OR 60% of decisions with statutory time limit only

2.41 The consultation paper notes that performance will continually be reviewed with the aim of local government efficiencies to support housing delivery and economic growth.

Removing the ability to use extension of time agreements for householder applications and for repeat agreements on the same application for other types of application

2.42 The consultation details the government’s concern regarding the use of EoTs for smaller and less complex householder applications, reported to be “...without good reason, to compensate for delays in decision-making and poor performance.” In order to ensure that LPAs focus on efficiently determining householder planning applications, it is proposed to remove the ability to use extension of time agreements for householder applications.

2.43 In addition, it cites that “*Extension of time agreements enable matters to be resolved prior to decision without the need for an applicant having to submit a new planning application...requirement for additional material from the applicant or comments from statutory consultees...allows completion of section 106 agreements.*” LPAs are encouraged to agree realistic timetables to determine applications in the shortest time

period possible, including for the signing of a section 106 agreement. Views are sought on the use of repeat extension of time agreements for the same application and whether this is something that should be prohibited.

3. Simplified process for planning written representation appeals

2.44 The consultation recognises that a fair and transparent appeal process is central to the operation of the planning system. Timeliness of appeal decisions is essential to give certainty to developers and other appellants and also to communities that need to know what development is acceptable in their areas. A balance needs to be struck between opportunities in the appeal process to provide relevant evidence to the Planning Inspectorate and the need for timely decision making.

2.45 The expedited written representations procedures (Fast Track) - Householder Appeals Service (HAS) and the Commercial Appeals Service (CAS) provided a simplified process for determining these less complex, small-scale cases by removing opportunities for the main parties and other interested parties to provide additional information at appeal stage.

2.46 The government considers there is scope to expand the simplified appeals procedure to cover more written representation appeals. Such a change would:

- reduce pressure on LPA by removing the need for them to submit an appeal statement and final comments, instead relying on their decision notice or officer's report
- encourage applicants to submit information or amended proposals to LPAs instead of appealing, supporting the principle of keeping decisions local
- support the Planning Inspectorate's timely processing of written representation appeals and help sustain its improving performance

2.47 The consultation details that most written representations appeals are straightforward and can be considered without the need for further representations. Where this is not the case, the Planning Inspectorate will retain the power where they have it now to change the appeal procedure to a hearing or inquiry or to follow the current non-simplified written representation procedure.

Proposal

2.48 The following types of appeal are proposed for inclusion within a simplified process, mirroring the HAS and CAS process:

- appeals relating to refusing planning permission or reserved matters;
- appeals relating to refusing listed building consent;
- appeals relating to refusing works to protected trees;
- appeals relating to refusing lawful development certificates;
- appeals relating to refusing the variation or removal of a condition;
- appeals relating to refusing the approval of details reserved by a condition;
- appeals relating to the imposition of conditions on approvals;
- appeals relating to refusing modifications or discharge of planning legal agreements;
- appeals relating to refusal of consent under the Hedgerow Regulations;
- appeals relating to anti-social high hedges.

- 2.49 This simplified route would not apply against appeals for non-determination or against an enforcement notice. Other limited scenarios might also apply, such as where evidence needs to be tested. In such cases, the appeal would continue by the current process, with the Inspectorate retaining the power to determine the appropriate appeal procedure. Where an individual case requires a hearing or inquiry all interested parties will be able to provide supporting statements and additional representations as at present.
- 2.50 Should an appellant have requested a hearing or inquiry but the Inspectorate considers it could proceed by the simplified written representations procedure, the additional evidence submitted will be returned to the appellant.
- 2.51 Similar to HAS and CAS, the consultation proposes that appeals determined through the simplified route would be based on the appellant's brief appeal statement plus the original planning application documentation and any comments made at the application stage (including those of interested parties). There would be no opportunity for the appellant to submit additional evidence, to amend the proposal, for additional comments to be made from interested parties or for the main appeal parties to comment on each other's representations.
- 2.52 The process for the LPA would be the same as for existing HAS and CAS along with timescales for appealing remaining unchanged.
- 2.53 Views are sought in relation to engagement during the application stage and "*...the way in which information is provided and consulted on at application stage. For example, it could lead to an applicant providing more material upfront with their planning application to compensate for this, should they need to appeal the decision.*" It notes that LPAs would also need to ensure that adequate opportunities are made for interested parties to provide additional representations if the proposal is amended during the course of the application.
- 2.54 Ensuring that interested parties (e.g. neighbours) are made aware of amendments is a process that already takes place notwithstanding there is no statutory provision for this within the Town and Country Planning (Development Management Procedure) Order 2015, as amended. This, therefore, should not result in any change. However, this needs to be considered in light of this consultation paper wanting to speed up the speed of decision-making, not being able to enter into extension of time agreements for householder developments.

5. Varying and overlapping planning permissions

- 2.55 Members will be aware that a number of applications are varied after they have been granted planning permission. There are a variety of reasons for doing so and this prevents the need to submit a 'brand new' application. Applications may be varied either through a section 73 (variation or removal of condition(s)) application or as a non-material amendment.
- 2.56 In relation to section 73 applications, these cannot be used to amend the description of the planning permission, thus limiting the scope of amendments. However, under section 110 of the Levelling-up and Regeneration Act 2023 a new route (section 73B) would enable material variations to planning permissions.

2.57 Views are sought on the implementation of section 73B and the treatment of overlapping permissions (including the role for drop in permissions) to ensure there are effective, proportionate and transparent routes to manage post-permission changes to development.

Implementing section 73B

2.58 The consultation provides some detail regarding the introduction of s73B, but in practical terms an applicant would be able to make an application for development which can be a variation of both the description and conditions of an existing planning permission, providing the development was not substantially different from the existing development.

2.59 Implementation of this would require changes to legislation, with the consultation detailing that the government want to prepare guidance on the use of the route to aid applicants and LPAs. Details of how this might be approached is set out within the consultation.

2.60 It is suggested that the application fee should be the same as for existing section 73 applications. However, it is recognised that the current flat fee for a section 73 application (£293) does not capture the amount of work often undertaken by a LPA in relation to these applications. It is therefore proposed to restructure the fees for these applications so that the fee is banded reflecting different development types.

2.61 Three separate fee bands are suggested:

- householder applications where the fee would be set lower at £86. This lower fee addresses an anomaly that the flat fee for a s73 application is currently higher than the fee for a householder application at £258.
- non-major development, the fee would remain at £293
- major development, there would be a higher fee. The fee would be less than the fee for the original planning application and be proportionate to the work necessary to consider the proposed variations. Views are sought on where this fee should be set.

2.62 Other questions are raised in relation to the use of section 73 and 73B and when applications may or may not use this route.

3.0 Summary

3.1 The changes in relation to performance targets, use of Extension of Time agreements will have a consequential impact in relation to the service we deliver and how we do so in order to not become a standards authority. Whilst consultation responses will need to be considered and a response provided by government, it is anticipated that they will come into effect, principally in the form set out. The consultation also details that there will be a transition period. However, it is considered necessary to consider resources and impacts across the various departments that would be affected by such change to ensure that they look to make arrangements as required in order to respond. It will also be necessary to make other departments aware, who submit applications to us for decision-making that our ability to negotiate and make changes during the consideration of an application will be unlikely.

3.2 Resources and process will be assessed by the Planning Development team.

4.0 Implications

- 4.1 In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Digital and Cyber Security, Equality and Diversity, Financial, Human Resources, Human Rights, Legal, Safeguarding and Sustainability, and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.
- 4.2 The changes will have a significant impact upon many teams across the Council and their resources. A further report will be prepared in relation to this for presentation to the appropriate Committee/Council meetings.

Background Papers and Published Documents

[An Accelerated Planning Service.](#)

[Written statements - Written questions, answers and statements - UK Parliament](#)

Appendix A

Question 1. Do you agree with the proposal for an Accelerated Planning Service?

Yes / **No** / Don't know

In theory this is commendable. However, the majority of LPAs look to make decisions at the earliest opportunity available. The significant number of applications submitted are of poor quality, without sufficient information, do not respond to the context of the locality and planning policies of the respective Councils. Planning officers undertake significant work to try and secure a development that will respond appropriately to an area and deliver the outcomes that are aspired to. Generally, this will take place during the consideration of an application due to Applicants not submitting pre-application enquiries. It can also be difficult to engage with all consultees in the process – especially those that are statutory due to their resources.

The reality is that if the Accelerated Planning Service is introduced, authorities will need to make a decision at or just prior to the 10-week expiry in order to retain the fee. Consideration within the associated report would have been given to the risk of an appeal being made and also the potential of a costs award or legal challenge as a result of the decision, as occurs with every determined application. This Service is therefore unlikely to achieve the outcomes set out within the consultation.

The consultation indicates that s106 planning obligations may be required. However, the reality is that since the introduction of mandatory biodiversity net gain, all applications for major commercial will require a planning obligation in order to secure the necessary monitoring fees for 30 years.

Question 2. Do you agree with the initial scope of applications proposed for the Accelerated Planning Service (Non-EIA major commercial development)?

Yes / No / Don't know

if this is introduced which, by the language used in the consultation and previous communications from government, will be, then this category of development is good in order to understand the implications of this proposal.

Question 3. Do you consider there is scope for EIA development to also benefit from an Accelerated Planning Service?

Yes / **No** / Don't Know. If yes, what do you consider would be an appropriate accelerated time limit?

As noted within the consultation, these types of applications can take some significant time to be considered due to the (necessary) length of the associated impact reports. These applications are infrequent and therefore a LPA and respective consultees often need to procure the necessary expertise or back-filling of posts to be able to assess and consider the information provided. They would be unlikely to have such expertise 'on hold' to assist. This timescale is therefore not realistic and risks poor and rushed decision-making. This would lead to an even greater risk of legal challenge by

interested, affected parties delaying the process for the Applicant and incurring resource implications for the LPA and consultees.

Question 4. Do you agree with the proposed exclusions from the Accelerated Planning Service – applications subject to Habitat Regulations Assessment, within the curtilage or area of listed buildings and other designated heritage assets, Scheduled Monuments and World Heritage Sites, and applications for retrospective development or minerals and waste development?

Yes / No / Don't Know

Question 5. Do you agree that the Accelerated Planning Service should:

a) have an accelerated 10-week statutory time limit for the determination of eligible applications

Yes / No / Don't know. If not, please confirm what you consider would be an appropriate accelerated time limit

If an Accelerated Planning Service is actually required and if it is brought into effect, noting the phrasing of the consultation and objections raised by this Council in relation to the feasibility of being able to determine applications in a positive manner (i.e. approval) within a 'guaranteed' 10 week timescale, this length of time is accepted.

b) encourage pre-application engagement

Yes / No / Don't know

*This should be mandatory for an Applicant to be able to benefit from this Service **and** be eligible for a fee refund. However, it is noted that pre-application engagement needs to be effectively delivered by all parties involved, including consultees (both statutory and non-statutory).*

There is, however, question marks in relation to being able to deliver both effective pre-application advice and meet a 10 week deadline. The same resources are needed for both elements of the service provision. Resources are limited and therefore focus will more likely be towards planning applications.

Whilst the consultation indicates increased fees to enable more resource, experienced and qualified planners who are able to deal with such applications are not available. Recent recruitment exercise undertaken by ourselves and adjoining LPAs for qualified town planners have not been successful. Trying to secure agency staff instead is often cost prohibitive and the quality of many agency staff are not of a calibre or experience that their employment is possible. Whilst efforts are being made to bring new planners into the profession, the time for them to gain the experience necessary for this type of development is at least 5-years. Resources from experienced officers are required to help support and train these new officers meaning (significantly) less time for dealing with applications.

c) encourage notification of statutory consultees before the application is made

Yes / No / Don't know

This also needs to relate to non-statutory consultees as well. In the majority of applications, aside from the local highway authority, the majority of consultees are 'local' e.g. Environmental Health, Ecology, Landscape, Conservation.

It is questioned what support (financial) is being given to consultees to enable them to secure the resources that they will need in order to meet the potential for this new Service. Without their ability to support this, it will not be possible for the LPA to positively meet this deadline.

Question 6. Do you consider that the fee for Accelerated Planning Service applications should be a percentage uplift on the existing planning application fee?

Yes / No / Don't know. If yes, please specify what percentage uplift you consider appropriate, with evidence if possible.

Theoretically, the fee for the application should reflect the amount of time required in determining the planning application although this is not always the case as it will depend upon the quality of the application.

In order for the LPA to secure the resource for itself and have some, relative, certainty of budgets, it is suggested that at least a 50% uplift is levied.

Question 7. Do you consider that the refund of the planning fee should be:

- a. the whole fee at 10 weeks if the 10-week timeline is not met
- b. the premium part of the fee at 10 weeks if the 10-week timeline is not met, and the remainder of the fee at 13 weeks
- c. 50% of the whole fee at 10 weeks if the 10-week timeline is not met, and the remainder of the fee at 13 weeks
- d. none of the above (please specify an alternative option)**
- e. don't know

A refund of the fee is not supported. However it is recognised that if an Applicant pays more money for a service they should expect a speedier outcome (noting the outcome might not necessarily be better). Due to the resource implications of any fee refunds and the time needed to manage this i.e. review and analyse each application, understand the stage it is at to determine whether it is eligible for a fee refund, it is suggested that only one fee refund 'trigger' should be used.

It is recommended that only the uplift fee is refunded. If an additional incentive is considered necessary to encourage LPAs to meet the 10 week deadline, an additional 10% of the uplift sum.

Question 8. Do you have views about how statutory consultees can best support the Accelerated Planning Service?

They need to be given a mechanism, in addition to any increase in planning fees which will be for the benefit of the LPA and not the consultee, to be able to recruit more staff. It is not known whether across the different consultee disciplines whether there is a similar shortage of the necessary skill sets as it is for planning officers. If there is for any area, additional measures on top of any support required to enable timely responses, should be put in effect as a matter of urgency to enable the respective bodies to appoint experienced and qualified staff.

Question 9. Do you consider that the Accelerated Planning Service could be extended to:

a. major infrastructure development

Yes / **No** / Don't Know

b. major residential development

Yes/ **No** / Don't know

c. any other development

Yes / **No** / Don't know. If yes, please specify

If yes to any of the above, what do you consider would be an appropriate accelerated time limit?

For the reasons given above, resources available and their capability (expertise) as well as across statutory consultees and non-statutory consultees, the complexity of planning in general and need for legal agreements, meeting any accelerated service is not feasible without negative consequences (increased refusals, poor decision-making).

Question 10. Do you prefer:

a. the discretionary option (which provides a choice for applicants between an Accelerated Planning Service or a standard planning application route)

b. the mandatory option (which provides a single Accelerated Planning Service for all applications within a given definition)

c. neither

d. don't know

For the reasons given, it is not considered that this should be introduced. It is also likely to mean that these applications will be prioritised over all others if it is, to the detriment of housebuilding.

However, if it is introduced, to enable a LPA to potentially consider resourcing this, also noting that all LPAs will likely be looking for additional qualified and experienced staff at the same time and thus unlikely to be successful, it should be mandatory.

Question 11. In addition to a planning statement, is there any other additional statutory information you think should be provided by an applicant in order to opt-in to a discretionary Accelerated Planning Service?

All information specified within the respective Council's local planning application validation checklist, relevant to the proposal being considered. If limited information is requested, this should include draft heads of terms, ideally a draft planning obligation as well as solicitor and title information.

Question 12. Do you agree with the introduction of a new performance measure for speed of decision-making for major and non-major applications based on the proportion of decisions made within the statutory time limit only?

Yes / No / **Don't know**

In theory this is supported. However, it is likely that there will be a significant increase in the number of applications that are refused in order to meet the timescales, rather than seeking minor amendments. This is likely to lead to an increase in appeals.

However, there should be incentives for LPAs to determine the majority of applications within the timeframe. This would need to be subject to a number of exclusions, for example (this list is not exhaustive), (a) did the applicant apply for pre-application advice and if they did, did they follow it?; (b) has the applicant submitted all the information reasonably necessary for the application to be determined at the time of submission and is this of good quality; (c) have requirements in relation to planning obligations been provided when the application was submitted; and (d) if amendments are sought during the application, has the applicant provided this within a reasonable timescale to enable determination without an EOT?

Another possibility is, also noting that the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) is silent in relation to amendments during the course of an application is to prevent these from being submitted. What is submitted as part of the original application is what the decision will be determined on. This should, in turn, encourage pre-application discussions and a more timely decision.

It should also be noted that with each passing year planning becomes more and more complex for all involved in the process. All measures that have tried to simplify the process have been unsuccessful. This complexity is a responsibility for both an applicant and a LPA to deal with, but LPAs are the sole party that comes under scrutiny (criticism) for performance.

Question 13. Do you agree with the proposed performance thresholds for assessing the proportion of decisions made within the statutory time limit (50% or more for major applications and 60% or more for non-major applications)?

Yes / No / **Don't know** If not, please specify what you consider the performance thresholds should be.

This performance measure is acceptable on the understanding that it is not solely down to LPAs in relation to performance. A significant number of times this is due to poor submissions and applicants wanting the LPA to, in effect, be their planning agent during the application's consideration.

The timescales are acceptable on the understanding that there will be less engagement during the course of an application with the only potential caveat (also depending upon the outcome of the Accelerated Planning Service consultation and expanding this to further development categories) is to only engage and seek an extension of time agreement when a planning obligation is necessary.

Question 14. Do you consider that the designation decisions in relation to performance for speed of decision-making should be made based on:

a) the new criteria only – i.e. the proportion of decisions made within the statutory time limit; or

b) both the current criteria (proportion of applications determined within the statutory time limit or an agreed extended time period) and the new criteria (proportion of decisions made within the statutory time limit) with a local planning authority at risk of designation if they do not meet the threshold for either or both criteria

c) neither of the above

d) don't know

Although further performance criteria is not supported, if this is introduced, noting that the speed of decision-making is not solely due to the performance of the LPA in the majority of cases, then it should be based on both criteria. This would be more likely to enable some engagement with applicants thus providing a better customer service (though still significantly poorer than at present), along with the completion of legal agreements. This would enable some minor amendments to be submitted and considered allowing a decision to be approved. Without this, there is a significant likelihood of a greater number of refusals, thus appeals and also resubmissions.

Question 15. Do you agree that the performance of local planning authorities for speed of decision-making should be measured across a 12-month period?

Yes / No / **Don't know**

In theory this is supported for the reasons given. However, for unforeseen reasons, it could be that a LPA has a 'blip' in relation to its performance. This would be highlighted by only measuring against a 12-month period. Any criteria relating to performance and in turn designation should be clear to all LPAs about (a) how performance is measured (which the outcome of this consultation should do if there are any changes to current criteria), (b) when they might be designated and (c) if they were to be designated, what they would need to achieve in order to no longer be designated.

Question 16. Do you agree with the proposed transitional arrangements for the new measure for assessing speed of decision-making performance?

Yes / No / Don't know

If this is introduced noting the concerns regarding impact upon applicants in relation to the likely increase in number of refused applications and consequential increase in the number of appeals, then the transition suggested would enable measures to be put in place in order to achieve these new targets.

Question 17. Do you agree that the measure and thresholds for assessing quality of decision-making performance should stay the same?

Yes / No / Don't know

Question 18. Do you agree with the proposal to remove the ability to use extension of time agreements for householder applications?

Yes / No / Don't know

It is agreed that realistic timescales for determining an application should be secured when an extension of time is entered into. However, an applicant will often not agree a suitable timescale to enable information to be submitted, appraised and decision to be made. This can be due to them wanting to know that the additional information will result in a positive outcome, which cannot be guaranteed. Furthermore, an extension of time agreements is often entered into but the applicant is then delayed in providing the additional information due to inability to secure the necessary consultants, for example, and thus additional time is needed. Not being able to enter into more than one agreement could mean an applicant has their application refused whilst they are trying to engage leading to complaints and frustration.

It should be recognised that a local planning authority is often asked to enter into an extension of time agreement that is not feasible in terms of the timescales, taking account of the need for consultation, planning committee, completion of planning obligations for example. It should be highlighted to applicants within government literature and communications that there is no obligation for a local planning authority to do so and for this information to be clear that it is without penalty of the risk of a costs award at appeal in such circumstances, should one be submitted.

Question 19. What is your view on the use of repeat extension of time agreements for the same application? Is this something that should be prohibited?

No for the reasons given to question 18 – copied for reference.

It is agreed that realistic timescales for determining an application should be secured when an extension of time is entered into. However, an applicant will often not agree a suitable timescale to enable information to be submitted, appraised and decision to be made. This can be due to them wanting to know that the additional information will result in a positive outcome, which cannot be guaranteed. Furthermore, an extension of time agreements is often entered into but the applicant is then delayed in

providing the additional information due to inability to secure the necessary consultants, for example, and thus additional time is needed. Not being able to enter into more than one agreement could mean an applicant has their application refused whilst they are trying to engage leading to complaints and frustration.

It should be recognised that a local planning authority is often asked to enter into an extension of time agreement that is not feasible in terms of the timescales, taking account of the need for consultation, planning committee, completion of planning obligations for example. It should be highlighted to applicants within government literature and communications that there is no obligation for a local planning authority to do so and for this information to be clear that it is without penalty of the risk of a costs award at appeal in such circumstances, should one be submitted.

Question 20. Do you agree with the proposals for the simplified written representation appeal route?

Yes / No / Don't know

The reports prepared for all application types at Newark and Sherwood District Council are detailed with all matters being addressed within its drafting. Little additional information is provided as part of the Council's appeal statement aside from responding to the appellants case. Subject to an appellant not being able to amend or enhance the information provided as part of the application at appeal, this simplification is supported.

It is also anticipated that this will assist the Planning Inspectorate in the future when a greater number of appeals are likely to be received if any/all of the potential changes set out within this consultation are brought into effect.

Question 21. Do you agree with the types of appeals that are proposed for inclusion through the simplified written representation appeal route? If not, which types of appeals should be excluded from the simplified written representation appeal route?

Yes / No / Don't know

Lawful development certificates for existing uses or developments should be excluded, particularly in relation to a use when examination of the evidence is more often than not required in order for a sound decision to be reached. This is especially the case with an Inspector allowed to propose an alternative site location plan.

Question 22. Are there any other types of appeals which should be included in a simplified written representation appeal route?

Yes / No / Don't know. Please specify.

Prior approval applications.

Question 23. Would you raise any concern about removing the ability for additional representations, including those of third parties, to be made during the appeal stage on cases that would follow the simplified written representations procedure?

Yes / **No** / Don't know. Please give your reasons.

Question 24. Do you agree that there should be an option for written representation appeals to be determined under the current (non-simplified) process in cases where the Planning Inspectorate considers that the simplified process is not appropriate?

Yes / No / Don't know

Question 25. Do you agree that the existing time limits for lodging appeals should remain as they currently are, should the proposed simplified procedure for determining written representation planning appeals be introduced?

Yes / No / Don't know

This should give sufficient time for a potential appellant to engage with the LPA in order to try and prepare a scheme that might be supported following the submission of a further application and thus prevent the necessity of an appeal.

Question 26. Do you agree that guidance should encourage clearer descriptors of development for planning permissions and section 73B to become the route to make general variations to planning permissions (rather than section 73)?

Yes / No / Don't know

Recognition should also be given to the descriptions given by applicants are often either vague e.g. "extensions" or in the alternate considerable detail such as listing all the rooms that would be created by a development proposal along with where they are sited etc. or including terms that do not constitute development (and thus cannot be considered). In both circumstances, the LPA will endeavour to engage with the applicant to revise the description so that it is clear, easily understood by others (especially neighbours) and relevant to the application at hand. However, such agreements are often difficult to secure and, with time pressures of determining applications, the description often has to be used for notification and consultation.

It is suggested that in such instances that the timescale for determining such applications should not start until the applicant has replied to the positive or negative in relation to a description change.

Question 27. Do you have any further comments on the scope of the guidance?

No

Question 28. Do you agree with the proposed approach for the procedural arrangements for a section 73B application?

Yes / No / Don't know. If not, please explain why you disagree

Question 29. Do you agree that the application fee for a section 73B application should be the same as the fee for a section 73 application?

Yes / No / Don't know. If not, please explain why you disagree and set out an alternative approach

Subject to the fees being amended as highlighted within the consultation to reflect the amount of work that some section 73 applications require.

Question 30. Do you agree with the proposal for a 3 band application fee structure for section 73 and 73B applications?

Yes / **No** / Don't know

The resources required for dealing with non-major applications (as well as major applications as noted within the consultation) are often in excess of the fee that is received. The resource, however, is dependent upon the condition being varied. It is suggested that the fee for these applications is set at a percentage of the application fee e.g. 25%.

Question 31. What should be the fee for section 73 and 73B applications for major development (providing evidence where possible)?

The resource required for all application types can vary depending upon what is proposed to be amended and whether there is a requirement to have variations to legal agreements, return the application to planning committee and so forth. There is often a need to provide information to neighbours in relation to the implications and matters for consideration of a section 73 application taking more officer resource.

It is therefore difficult to provide evidence of the resource cost.

Question 32. Do you agree with this approach for section 73B permissions in relation to Community Infrastructure Levy?

Yes / No / Don't know

Question 33. Can you provide evidence about the use of the 'drop in' permissions and the extent the Hillside judgment has affected development?

No response

Question 34. To what extent could the use of section 73B provide an alternative to the use of drop in permissions?

No response

Question 35. If section 73B cannot address all circumstances, do you have views about the use of a general development order to deal with overlapping permissions related to large scale development granted through outline planning permission?

No response

Question 36. Do you have any views on the implications of the proposals in this consultation for you, or the group or business you represent, and on anyone with a relevant protected

characteristic? If so, please explain who, which groups, including those with protected characteristics, or which businesses may be impacted and how. Is there anything that could be done to mitigate any impact identified?

No

PLANNING COMMITTEE – 4 APRIL 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 28 February 2024 and 20 March 2024)

Appeal and application refs	Address	Proposal	Procedure	Appeal against
APP/B3030/W/23/3333334 23/00464/OUT	Baytree House 188 Norwood Gardens Southwell NG25 0DS	Detached dwelling with new access and amenity space.	Written Representation	refusal of a planning application
APP/B3030/W/23/3333641 23/01470/FUL	19 Moor Road Collingham Newark On Trent NG23 7SZ	Construction of one new single storey dwelling and detached garage (resubmission)	Written Representation	refusal of a planning application
APP/B3030/D/23/3334320 23/00773/HOUSE	Fernhill Hoveringham Road Caythorpe NG14 7EE	Erection of outdoor gym building (retrospective)	Hearing	refusal of a planning application
APP/B3030/D/23/3334325 23/00771/HOUSE	Fernhill Hoveringham Road Caythorpe NG14 7EE	Installation of security cameras (retrospective)	Hearing	refusal of a planning application
APP/B3030/D/24/3338227 23/01607/HOUSE	7 Newark Road Southwell NG25 0ES	Proposed extensions and alterations	Fast Track Appeal	refusal of a planning application

APP/B3030/D/24/3338513 23/02059/HOUSE	Woodlands Station Road Fiskerton NG25 0UG	Proposed first floor side and front extension over existing garage (retrospective)	Fast Track Appeal	refusal of a planning application
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Future Hearings and Inquiries

The following applications are due to be heard by hearing or inquiry over forthcoming months:

Appeal reference	Application/Enf number	Proposal	Procedure	Date	Case Officer
APP/B3030/W/23/3334043	22/01840/FULM	Construction of Battery Energy Storage System and associated infrastructure	Inquiry	Commencing 09 April 2024	Julia Lockwood
APP/B3030/D/23/3334316	23/00776/HOUSE	Outdoor swimming pool, spa, raised platform area and retaining walls, balustrading and 2 pagodas (retrospective)	Hearing	02 July 2024	Steve Cadman
APP/B3030/D/23/3334318	23/00775/HOUSE	Erection of a summer house, installation of soft matting, service shed and timber shed (retrospective)	Hearing	02 July 2024	Steve Cadman

APP/B3030/D/23/3334319	23/00774/HOUSE	Reconfiguration and landscaping of patio area including construction of retaining walls, pagoda, pergolas and sun pod (retrospective)	Hearing	02 July 2024	Steve Cadman
APP/B3030/D/23/3334320	23/00773/HOUSE	Erection of outdoor gym building (retrospective)	Hearing	02 July 2024	Steve Cadman
APP/B3030/D/23/3334324	23/00772/HOUSE	Erection of a car port (part retrospective)	Hearing	02 July 2024	Steve Cadman
APP/B3030/D/23/3334325	23/00771/HOUSE	Installation of security cameras (retrospective)	Hearing	02 July 2024	Steve Cadman
APP/B3030/C/23/3334313 APP/B3030/C/23/3334314	22/00393/ENFB	Without planning permission, the following operational developments: a) the erection of an outbuilding	Hearing	02 July 2024	Michael Read

<p>APP/B3030/C/23/3334309 APP/B3030/C/23/3334310</p>	<p>22/00393/ENFB</p>	<p>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.</p>	<p>Hearing</p>	<p>02 July 2024</p>	<p>Michael Read</p>
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<p>APP/B3030/C/23/3334307 APP/B3030/C/23/3334308</p>	<p>22/00393/ENFB</p>	<p>Without planning permission, the following operational developments: a) the erection of an outbuilding</p>	<p>Hearing</p>	<p>02 July 2024</p>	<p>Michael Read</p>
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APP/B3030/C/23/3334304 APP/B3030/C/23/3334305	22/00393/ENFB	Without planning permission, "operational development" consisting of the erection of security cameras mounted on metal posts	Hearing	02 July 2024	Michael Read
APP/B3030/C/23/3334291	22/00393/ENFB	Without planning permission, "development" consisting of the material change of use of land from agricultural use to residential use	Hearing	02 July 2024	Michael Read

If you would like more information regarding any of the above, please do not hesitate in contacting the case officer.

PLANNING COMMITTEE – 4 APRIL 2024

Appendix B: Appeals Determined (between 28 February 2024 and 20 March 2024)

App No.	Address	Proposal	Application decision by	Decision in line with recommendation	Appeal decision	Appeal decision date
23/00890/OUT	Willow Hall Farm Mansfield Road Edingley NG22 8BQ	Outline application for residential development to erect 1 dwelling with all matter reserved	Planning Committee	Not Applicable	Appeal Dismissed	1st March 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=RV69ZQLBIR500						
23/00789/FUL	Land Off Old Great North Road Sutton On Trent	Erection of 1 No. five bedroom house with a detached garage and associated parking including tree and hedgerow removal	Delegated Officer	Not Applicable	Appeal Dismissed	1st March 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=RUDSXXLBII800						
23/01304/ADV	Lincolnshire Co-operative Bilsthorpe Stanton Avenue Bilsthorpe Newark On Trent NG22 8GL	Retain existing 1No. illuminated Totem sign	Delegated Officer	Not Applicable	Appeal Allowed	20th March 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=RYCL6JLBJPG00						

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