

PLANNING COMMITTEE – 1 JUNE 2021

Application No:	21/00553/FULM (MAJOR)	
Proposal:	Change of use of former agricultural land to private residential garden; garden area extension with boundary treatments and associated and ancillary garden buildings (re-submission of 20/01829/FULM)	
Location:	Bankwood House, Oxton Road, Thurgarton, NG25 0RP	
Applicant:	Mr and Mrs C Savage	
Agent:	Martin Hubbard and Associates Ltd	
Registered:	09.03.2021	Target Date: 08.06.2021

This application is being presented to the Planning Committee in line with the Council’s Scheme of Delegation as Thurgarton Parish Council support the proposal contrary to the professional officer recommendation.

The Site

The application relates to a dwelling located within the open countryside between the villages of Thurgarton and Oxton, accessed by a private road. The dwelling has a large, open residential curtilage. To the north east of the site are 3no. dwellings and to the north west is Bankwood Farm which was recently granted permission for a residential development of 5no. new dwellings and the conversion of an existing barn which is close to the application site boundary (19/00746/FULM).

The rest of the site is surrounded by open countryside.

Relevant Planning History

20/01829/FULM Change of use of former agricultural land to private residential garden; garden area extension with boundary treatments and associated and ancillary garden buildings – Refused 09.02.2021 for the following reason:

The principle of development for the change of use of agricultural land to residential curtilage and the construction of buildings and a boundary wall, is clearly contrary to Policy DM8 of the Allocations and Development Management DPD and Spatial Policy 3 of the Amended Core Strategy. Furthermore, it is considered the visual impact of the proposed development would harm the open nature and rural character of the countryside contrary to Core Policy 9 of the Amended Core Strategy (2019), Policy DM5 of the Allocations and Development Management DPD (2013), and the NPPF (2019) which is a material consideration.

20/02528/NMA Application for a non-material amendment to planning permission 19/00746/FULM to amend the red line boundary (omitting a small part of land) – Approved

19/00746/FULM Residential redevelopment of former farm complex comprising 5no. self-build plots and the residential conversion of a traditional stone barn Resubmission of 18/00071/FUL – Granted Permission

17/00084/FUL Erection of ground mounted Photo Voltaic panels for Bankwood House, including alterations to ground levels – Granted Permission

17/00044/NMA Application for a non-material amendment to planning permission 15/01594/FUL amendments to new house (Variation of Conditions 3, 4 and 8 of Planning Permission 15/01014/FUL - Demolition of house and garage and erection of replacement house and garage. Provision of new vehicular access point and improve existing track. Erection of new gates and boundary features. Alterations to existing gardens and planting.) – Granted Permission

16/00912/NMA Application for non-material amendment to planning permission 15/01014/FUL alterations to windows, glazing bars and alterations to the roof slate, increase width of part of the arcade. – Granted Permission

15/01591/NMA Application for a non-material amendment to planning permission 15/01014/FUL for Demolition of house and garage and erection of replacement house and garage. Provision of new vehicular access point and improve existing track. Erection of new gates and boundary features. Alterations to existing gardens and planting. – Granted Permission

15/01594/FUL Variation of Conditions 3, 4 and 8 of Planning Permission 15/01014/FUL - Demolition of house and garage and erection of replacement house and garage. Provision of new vehicular access point and improve existing track. Erection of new gates and boundary features. Alterations to existing gardens and planting. – Granted Permission

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The Proposal

The application seeks permission for the change of use of land previously owned by the adjoining landowner, from agricultural use to residential curtilage for use as garden. The land is approximately 512 sq. metres in area and is located to the east of Bankwood House, to the north of the existing residential curtilage. The land was formally part of Bankwood Farm to the north.

In addition to the change of use, the proposal includes the construction of the following:

- 2.0metre high brickwork boundary wall approximately 51m in length
- 0.93metre high kitchen garden wall
- Potting shed incorporated within the boundary wall with plain clay tile roof and facing brick walls 3m in depth, 4.6m in width, 2.3m to the eaves with a lean to roof, 2.9m (0.4m reduction in ridge height from previous application)
- Greenhouse 6.5m in width, 4.5m in depth, 1.85m to the eaves and 3m in height (0.6m reduction from previous application)

- Raised beds for vegetables, fruit and flowers
- Paving slab pathways and mineral chipping surfaces
- Lawn extension

The resubmission incorporates alterations to the roofs of the potting shed and greenhouse, reducing the overall scale and heights, and a reduction in the mass to the boundary wall to address the visual impact as noted as part of the reason for refusal on the previous application.

Submitted Plans

1194A REV 3 TOPOGRAPHICAL SURVEY
 MH 571 GARDEN 10 REV F BUILDING PLANS AND ELEVATIONS
 MH 571 GARDEN 11 REV E GARDEN PLAN
 571 A SITE LOCATION PLAN
 GREENHOUSE A PLANS AND ELEVATIONS received 8 March 2021

Departure/Public Advertisement Procedure

Occupiers of three properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.

Planning Policy Framework

The Development Plan

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

Spatial Policy 1 - Settlement Hierarchy
 Spatial Policy 2 - Spatial Distribution of Growth
 Spatial Policy 3 – Rural Areas
 Spatial Policy 7 - Sustainable Transport
 Core Policy 9 -Sustainable Design
 Core Policy 12 - Biodiversity and Green Infrastructure
 Core Policy 13 – Landscape Character
 Core Policy 14 – Historic Environment

Allocations & Development Management DPD

DM5 – Design
 DM7 – Biodiversity and Green Infrastructure
 DM8 – Development in the Open Countryside
 DM9 – Protecting and Enhancing the Historic Environment

Other Material Planning Considerations

- National Planning Policy Framework 2019
- Planning Practice Guidance

Consultations

The Parish Council supports the application.

NCC Rights of Way commented:

Thanks for consulting with the Rights of Way Team. We've checked the Definitive Map of recorded Public Rights of Way and can confirm that Thurgarton Public Footpath No.4 runs along the south-eastern boundary of the site edge in red on the layout plan. The proposal will not impact on the Public Footpath. However, we would request that you make the applicant aware that those using both the Public Footpath through the site and Thurgarton Public Bridleway No.1 which follows the private access roadway from Oxton Road should be kept safe and unimpeded at all times. The footpath should remain open, unobstructed at all times. Vehicles should not be parked on the Right of Way or materials unloaded or stored so as to obstruct it.

The Ramblers Society commented:

With the important proviso that there should be no encroachment onto the public right of way (Thurgarton Footpath 4) which skirts this development, we have no objection.

Cadent Ltd commented:

Looking at the above planning application we (Cadent) would not object as the Intermediate and high pressure gas pipelines in the area would not be affected by the application.

No further third party representations have been received to date.

Comments of the Business ManagerPrinciple of Development

Policy DM12 of the Allocations and Development Management DPD reflects the NPPF in promoting a presumption in favour of sustainable development. The Development Plan is the statutory starting point for decision making. The NPPF states that 'Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.'

The site lies within a rural area and the open countryside and therefore falls to be assessed against Spatial Policy 3 AND Policy DM8 of the Allocations and Development Management DPD. Policy DM8 strictly controls the types of development allowed within the open countryside. Paragraph 7.36 of the DPD justifies the policy stating that that meeting the Core Strategy's target for growth will put pressure on the countryside and the landscapes. Appropriate development can preserve the countryside whilst contributing to the prosperity of the District. Inappropriate development, however, can have an irrevocably harmful effect. Policy DM8 sets out the requirements for developments that are necessary in the countryside and contribute to sustainable growth.

There is no provision within the policy for the change of use from agricultural land to residential. Furthermore, the change of use in land resulting in an increased garden size for Bankwood House is not necessary development and would not contribute to the sustainable growth of the District. Therefore on this basis, the proposal is unacceptable in principle.

The area of land proposed for the change of use is included within the red line of previous planning permission 19/00746/FULM. The land would have been part of the residential garden of the proposed barn conversion and is shown on the plans as a grassed area, with trees lining the boundary. Given that the permission relates to the same land, I consider this extant permission to be a material consideration.

The application (19/00746/FULM) was recommended for refusal by the planning officer due to the open countryside location and failing to comply with DM8, however the decision was overturned by Members at committee. It was considered that the residential scheme would benefit the public through the provision of new housing. Furthermore, the applicant had a potential fallback position of converting some of the agricultural buildings to dwellings under Schedule 2, Part 3, Class Q of the Town and Country Planning General Permitted Development Order (England) 2015 (as amended) (subject to the Prior Approval process). Despite the open countryside location, the provision of new housing would contribute towards the District's housing targets.

The context of the current application is very different. There would be no public benefit as a result of the increase in residential curtilage as it would solely benefit the occupants of the host dwelling. Secondly, I do not consider there to be a realistic fallback position as permitted development rights were removed from Bankwood House by condition when the replacement dwelling was approved. Therefore, there is no material reason to approve the change of use contrary to the Development Plan.

It should also be noted that since the decision of the previous application, a non-material amendment has been approved on the adjacent site to reduce the red outline of the site to omit the section of land which has changed ownership (the subject of this application) from the approved residential development.

The intended use of the land is to erect garden buildings and a brick boundary wall. Policy DM8 does not support the construction of new residential buildings within the open countryside and as such would be a further reason the proposal is unacceptable in principle. The proposed use of the land as residential within the context of the approved residential development would not be significantly different to its current form, which is open agricultural land, the proposed buildings and boundary treatment would cause harm the character of the open countryside. Taking into consideration the contexts of the separate planning applications, I do not consider the extant permission, 19/00746/FULM, to amount to a material consideration that would indicate permission should be granted contrary to the Development Plan. In addition, it should be noted the extant permission has not yet been implemented. As such, the land continues to be regarded lawfully as agricultural.

The resubmission has not addressed the principle reason for refusal. I therefore do not consider that the application should be approved as it would contravene Policy DM8 of the Allocations and Development Management DPD (2013).

Impact on Visual Amenity, the Conservation Area, and the Character of the Area

Core Policy 9 seeks to achieve a high standard of sustainable design which is appropriate in its form and scale to its context, complementing the existing built and landscape environment.

Policy DM5 requires the local distinctiveness of the District's landscape and character of built form to be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development.

Part 12 of the NPPF (Achieving Well Designed Spaces) paragraph 127 states inter-alia that development should be visually attractive as a result of good architecture, should be sympathetic to local character and history, and should maintain or establish a strong sense of place.

Part 15 of the NPPF (Conserving and enhancing the natural environment) requires planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.

The proposed brick wall would be 2m in height and approximately 51m in length. The scale and brick construction would be an incongruous and obtrusive form of boundary development within the character of the open countryside. Suitable boundary treatments within the open countryside would be rural in character such as post and rail fencing and hedgerow, as these would retain the openness rather than divide it. The proposed wall would have a very domestic and urbanised appearance and would dominate the view towards the north, and block the view of the open fields which slope downwards to the south from Bankwood Farm. It is noted that the land benefits from permitted development rights as it is outside of the residential curtilage of Bankwood House which had permitted development removed by condition when constructed as a replacement dwelling in the countryside. Therefore, boundary treatments which did not encroach into the existing curtilage (which does not benefit from permitted development) subject to the limitations as set out in Schedule 2, Part 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 could be implemented without the need for a formal planning application. For legal confirmation of the lawfulness of a boundary wall, a certificate of lawfulness application would need to be submitted. Of course it should be noted that without the lawful use of the land as a garden there would be no need for the wall and therefore I consider it the right approach to consider these as a whole package.

The greenhouse would be sited at an angle, approximately 30m from the main house, and the potting shed would be located to the east end of the boundary wall. Surrounding the greenhouse would be a walled 'kitchen garden' comprising a range of raised planting beds and paths. The greenhouse is quite large in scale with a brick base although has been reduced in height by 0.6m. In comparison to the existing dwelling I consider the greenhouse to be appropriate in scale, however the location is outside of the residential curtilage. As discussed within the principle section, there is no provision within Policy DM8 for the construction of new residential buildings within the open countryside. The buildings would appear overly domestic and would not be in keeping with the rural character of the area. Therefore, the reduction in heights of the greenhouse and the potting shed has not overcome the initial reason for refusal.

The proposal as a whole would significantly alter the current appearance and character of the land. It is considered that the impact would be harmful to the rural character of the countryside contrary to Core Policy 9 of the Amended Core Strategy, Policy DM5 of the Allocations and Development Management DPD and the NPPF, which is a material consideration.

Impact on Residential Amenity

In relation to amenity, 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... Proposals resulting in the loss of amenity space will require justification'.

The buildings would be sited a minimum of 74m from any neighbouring dwellings. As such, there would be no impact on neighbouring amenity in terms of overbearing impact, loss of light or loss of privacy.

The change of use of the land would increase the amount of amenity space available to the occupants for residential use. I therefore have no concern that the proposal would have a negative impact on amenity for the occupants of the host dwelling.

Highways

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.

There are no proposed changes to the existing access or parking arrangements.

Given the above, I do not feel that the proposal would have a detrimental impact on Highways safety and feel that it accords with the above policies.

Ecology Impacts and Loss of Trees

Policy DM7 of the AMDDPD aims to protect, promote and enhance green infrastructure in line with Core Policy 12 of the Amended Core Strategy which seeks to conserve and enhance the biodiversity and geological diversity of the District.

There are no trees which would require removal for the proposal. I consider the application to comply with the above policies.

Other Matters and Material Considerations

The host dwelling was granted permission as a replacement dwelling. Policy DM8 requires replacement dwellings to be of a similar scale and siting to the original dwelling. The approved dwelling has a larger footprint than the original by approximately 70%. Therefore, a significant increase in built form has already been allowed and should be considered the limit for the site to avoid a detrimental impact on the character of the open countryside. A condition was imposed on the permission which removed permitted development rights because of the increase in footprint and the large residential curtilage associated with the dwelling, to restrict encroachment into the open countryside through the addition of outbuildings/extensions and to retain control over any future development on site.

Permission was granted for solar panels, located just outside of the residential curtilage under application reference 17/00084/FUL. Policy DM8 is silent on development for renewable energy, however, the District Council's commitment to climate change is clearly set out by Core Policy 10 of the Amended Core Strategy and Policy DM4 of the Allocations & Development Management DPD. These policies recognise that the support for renewable and low carbon development is key to meeting the challenge of climate change and indicate that the District Council will encourage the provision of renewable and low carbon energy generation within new development providing its benefits are not outweighed by any detrimental impacts. The development was small in scale, but the benefits in terms of renewable energy were considered to outweigh any potential harm to character. The visual impact was considered 'less than intensive' given the topography of the site as the solar panels would sit at a lower ground level than the dwelling and would not obstruct the views of the open countryside. Although this permission represents development outside of the residential curtilage, I consider the context to be different to the current proposal as it had a wider

benefit through the production of renewable energy, as well as a lesser visual impact than the proposed buildings, wall and garden area.

Planning Balance and Conclusion

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The proposed change of use of the land does not accord with the Council's adopted Development Plan which is the starting point in decision making in accordance with Policy DM12. There is no provision with Policy DM8 for the extension of residential curtilage or the construction of residential buildings within the open countryside therefore the development is unacceptable in principle. The revisions made (reductions in height of the buildings) would be an improvement on the previous scheme, but ultimately do not overcome the principle issue or impact to the character of the open countryside.

It is considered that the cumulative impact of the proposed change of use, garden buildings and boundary treatment, would harm the character of the open countryside contrary to Core Policy 9 of the Amended Core Strategy, Policy DM5 of the Allocations and Development Management DPD, and the NPPF. As assessed within this report, I do not consider there to be any other material considerations which indicate that the proposal should be approved contrary to the Development Plan.

For the reasons set out above it is recommended that the application is refused.

RECOMMENDATION

That planning permission is refused for the following reason:

1. The principle of development for the change of use of agricultural land to residential curtilage and the construction of buildings and a boundary wall, is clearly contrary to Policy DM8 of the Allocations and Development Management DPD and Spatial Policy 3 of the Amended Core Strategy. Furthermore, it is considered the visual impact of the proposed development would harm the open nature and rural character of the countryside contrary to Core Policy 9 of the Amended Core Strategy (2019), Policy DM5 of the Allocations and Development Management DPD (2013), and the NPPF (2019) which is a material consideration.

Notes to Applicant

1. List of Refused Plans:
1194A REV 3 TOPOGRAPHICAL SURVEY
MH 571 GARDEN 10 REV F BUILDING PLANS AND ELEVATIONS
MH 571 GARDEN 11 REV E GARDEN PLAN
571 A SITE LOCATION PLAN
GREENHOUSE A PLANS AND ELEVATIONS received 8 March 2021
2. You are advised that as of 1st December 2011, the Newark and Sherwood Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date. Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of

development proposed). Full details are available on the Council's website www.newark-sherwooddc.gov.uk/cil/

3. The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason for refusal. However the District Planning Authority has worked positively and proactively with the applicant to make some revisions to the proposal. Whilst not all problems arising can be overcome, the overall impact of the proposal has been reduced from the original proposal.

BACKGROUND PAPERS

Application case file.

For further information, please contact Laura Gardner on 01636 655907.

All submission documents relating to this planning application can be found on the following website www.newark-sherwooddc.gov.uk.

Lisa Hughes
Planning Manager – Planning and Growth

Committee Plan - 21/00553/FULM

