

PLANNING COMMITTEE – 10 MAY 2022

Application No:	21/02435/OUT		
Proposal:	Erection of up to 3 no. detached dwellings and the re-alignment of Rolleston Public Footpath No. 5.		
Location:	Land to the rear of Ulliyats Cottage, Fiskerton Road, Rolleston.		
Applicant:	Mrs Sara Williams		
Agent:	Aspbury Planning Ltd		
Registered:	17.11.2021	Target Date:	12.01.2022
	Extension of time agreed until: 30.06.2022		
Website Link:	https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage		

This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation and it has been called in by the Ward Member, Councillor Blaney. The reason for call in is summarized as: due to being over-intensive development (fewer number would have a more positive relationship on the NDHA); impact on Rolleston footpath 5 with the change in character in view of the removal of the hedge and provision of a hard-surfaced footway; and given the applicant is NCC, with the level of local representation, Planning Committee's consideration will ensure transparency.

Background

This report is provided as an update following the Planning Committee consideration of 12 April 2022 whereby Members resolved to defer the application due to clarity on the proposed footpath alignment to the site and its encroachment in to the highway. Members will also be aware that at April's Committee a late representation from the Applicant's Agent was provided detailing the application site was a small-holding and not residential curtilage as detailed in the report. The advice from Officers in relation to this clarification was that this clarification / information did not change the consideration of the application. The report has been updated, where applicable to reflect this information. The application has also received an update from the Council's Tree and Landscape Officer. The sections which have been updated in relation to Nottinghamshire County Council Highways response and the Council's Tree and Landscape Officer are stated at the headings.

The Site (updated)

The application site relates to land which was formally part of a Nottinghamshire County Council small holding to the rear of Ulliyats Cottage. Although it is not in operation now as a small holding and is verdant in character being laid to grass and contains no farm animals. Ulliyats Cottage is a 2-storey detached dwelling at 90 degrees to the road with outbuildings running parallel to the dwelling.

The site is currently accessed through Ulliyats Cottage from Fiskerton Road.

An unsurfaced public right of way is located to the south east of the site and runs alongside Holly Court. A large early mature beech hedge approximately 2.5m high is located parallel to Holly Court.

A provisional Tree Preservation Order (Area) has been served on the site number TPO N399.

Relevant Planning History

None

The Proposal

The application seeks outline planning consent for the construction of up to 3 dwellings on the existing garden to the rear of Ulliyats Cottage. The proposal is for all matters reserved (appearance, landscaping, layout and scale) apart from the access. The proposal includes the realignment of Rolleston Public Footpath No.5 along Holly Court.

The application has been considered on the basis of the following plans and documents:

DRWG no. 27793-ARC-XX-00-DR-A-0001 Rev P05 Application site plan;
DRWG no. 27793-ARC-XX-XX-DR-A-AB008 Rev P02 Illustrative masterplan;
DRWG no. (03)001 Rev A Illustrative landscape plan;
Arboricultural Survey July 2021;
Preliminary Ecological Appraisal (PEA) November 2021;
Spatial Planning Design and Access Statement (ref APA/ARCPA/21/1761);

Departure/Public Advertisement Procedure

Occupiers of 28 properties have been individually notified by letter and a notice has been displayed at the site and in the 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 14 – Historic Environment

Allocations & Development Management DPD

DM5 – Design
DM7 – Biodiversity and Green Infrastructure
DM9 – Protecting and Enhancing the Historic Environment
DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

National Planning Policy Framework 2021
Planning Practice Guidance
National Design Guide – Planning practice guidance for beautiful, enduring and successful places
September 2019
Residential Cycle and Car Parking Standards & Design Guide SPD June 2021

Consultations

Rolleston Parish Council – Object. The proposals were deemed to represent an over intensive development of the site which would also have a detrimental impact on the setting and viability of the adjoining property, Ulllyats Cottage, which has significant local historic and cultural importance. Wider concerns were also raised in respect of an inadequacy of safe car parking, loss of footpath amenity and the provision of adequate servicing.

Nottinghamshire County Council Highways – It is not envisaged that this proposal will severely compromise highway safety. We therefore do not wish to raise an objection subject to conditions being attached to any grant of consent.

Tree Officer – 22.03.2022 Amended site plan and illustrative landscape plan are acceptable subject to conditions, following original objection 19.11.2021.

Conservation – Kate Greenaway has clearly got links to Rolleston and is an important historic literary figure. Information has been provided by local interest groups, although details of the academic sources have not been given.

As set out in the NPPF, ‘the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required giving regard to the scale of any harm or loss and the significance of the heritage asset’.

Without academic sources outlining the significance of Ulllyats Cottage and its association with Kate Greenaway it is difficult to give considerable weight on the significance of the heritage asset as a non-designated heritage asset. In addition, the cottage is much altered.

The application is for up to 3 dwellings within the garden of Ulllyats Cottage. As an outline application the precise number, layout and design do not form part of the application. The indicative layout submitted shows three dwellings that have very little relationship with the dwelling. However, if the development was for 1, maybe 2, dwellings giving more space around the cottage. A design that has a more positive relationship with the cottage, such as a design approach that gives the impression they are ancillary to the cottage could alleviate any impact on the setting of the cottage.

Nottinghamshire Building Preservation Trust (NBPT) – Object.

1. The connection with Kate Greenaway, a national figure, a well-known artist and illustrator of children’s books. Both the design and access statement, and, surprisingly, the Heritage

Advice, choose to ignore this connection. The application site is not only connected with, but also clearly recorded in illustrations by the artist. Development on the site would destroy important views, which are little altered since first illustrated by the artist.

2. The site is part of the curtilage of Ulliyats Cottage and the development of the land would clearly also have a detrimental effect on the amenity of the cottage. The significance of the cottage and the connection with Kate Greenaway is acknowledged by a blue plaque fixed to the cottage wall.

The loss of this open space and the effect on the existing public footpath, hedgerow and wildlife is unacceptable.

The Trust see this apparent change of ownership with the County Council wishing to dispose of the land (and apparently the adjoining cottage) to another, perhaps more sympathetic, owner as an opportunity to celebrate and strengthen the connection between Rolleston and Kate Greenaway. In a time when tourist opportunities are to be recognized, this is one to be encouraged, celebrated and not destroyed forever for short-term gain by an owner to the detriment of the local community.

Nottinghamshire County Council Right of Way- If the applicant plans for the new route to be part of the 'adopted highway' they will need to discuss this with 'Highways'. If the new path is not to be adopted highway, or this is not known, then the applicant will need to apply to legally divert the Public Footpath to the new route.

Where the design of any proposed development requires the legally recorded route of a Public Right of Way (PRoW) to be diverted because it cannot be accommodated on the legal line this can be addressed under the relevant provisions within the Town and Country Planning Act 1990 for the diverting/stopping up of public rights of way affected by development. An application under this act should be made to the Local Planning Authority and is a separate application to the planning permission.

The applicant will also need to confirm who will be responsible for the ongoing maintenance of the route and new hedgerow- will maintenance of the new footway be incorporated into the general site maintenance contract?

The safety of the public using the path should be observed at all times. A Temporary Closure of the Footpath may be granted to facilitate public safety during the construction phase subject to certain conditions.

Ramblers - There is no reason for us to change our stance to the earlier application (20/00567).

It is not acceptable for Rolleston Footpath 5 (a pleasant green route from Holly Court to open country) to be replaced by a hard-surfaced footway which will be crossed by driveway entrances to the properties.

We emphasise once more that Rolleston Footpath 5 is also a feeder to the Trent Valley Way, an important tourist attraction.

Comments from neighbouring properties/groups have been received which can be summarised below:

- Area has been known to flood and increased risk to neighbouring houses;
- Existing character is low density, with dwellings of varying sizes, set within generous plots;
- Existing layout allows for growth of mature trees;
- Over-development of the site / density is too high;
- Ulliyats Cottage is of historical significance and if the garden destroyed it would result in loss of significance;
- Doesn't allow for additional tree planting;

- Removal of the hedge which supports wildlife;
- Increase in on street parking on to Holly Court;
- No housing need;
- Ensure sufficient parking for the number of bedrooms;
- Does not address water run-off;
- Public transport is not frequent;
- Poor visibility when emerging from Holly Court to Fiskerton Road;
- Potential loss of privacy due to the scale;
- Proposal is unsympathetic;
- Bungalows would be appropriate;
- No provision for visitor parking;
- Conflict with users of the footpath;
- The cottage would be unsaleable with less garden;
- Proposal will destroy the cultural legacy of the village.

Comments relating to Kate Greenaway

- Undermine the cottage where Kate Greenaway grew up;
- Alter the appearance and ambience of her (Kate) childhood home;
- The cottage has been the inspiration for her many illustrations and books;
- The link should be promoted through tourism;
- The land is referenced in her journals and forms part of the heritage of the village.

Comments of the Business Manager

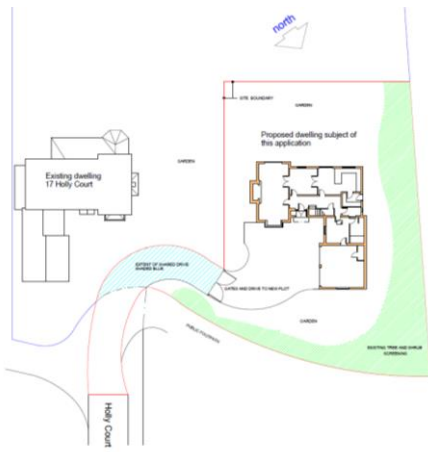
The Council can demonstrate in excess of a 5 year housing land supply and the development plan is up to date for decision making purposes. The starting point in decision making terms is with the development plan as set out in statute and reaffirmed by Policy DM12.

Principle of development (updated)

The National Planning Policy Framework promotes the principle of a presumption in favour of sustainable development and recognises that it is a duty under the Planning Acts for planning applications to be determined in accordance with the Development Plan. Where proposals accord with the Development Plan they will be approved without delay unless material considerations indicate otherwise.

The NPPF also refers to the presumption in favour of sustainable development being at the heart of the NPPF and is confirmed at the development plan level under Policy DM12 of the Allocations and Development Management DPD.

The site is located within the extremities of the village settlement of Rolleston. The site forms part of a former NCC small holding where pigs were kept and later became a market garden. Consent has been granted for a dwelling to the south (and outside of the application site) of the site (20/00045/FUL) which extends in to its adjoining land to 17 Holly Court (see below)



Site plan for 20/00045/FUL showing the new dwelling to 17 Holly Court which lies to the south of the proposed application site

Spatial Policy 1 of the Amended Core Strategy (ACS) defines the settlement hierarchy for new development across the District. Rolleston is not defined within that hierarchy and is therefore a 'Rural Area' under Spatial Policy 3 (SP3). This policy states that new development will be considered against the following criteria. Location, Scale, Need, Impact and Character.

The supporting narrative with SP3 states that the locational criteria supports the development of sites in sustainable accessible villages. It would not normally include undeveloped land, fields, paddocks or open space which form the edge of built form. Due to the presence of the existing extant consent associated with no.17 Holly Court, whilst the site is verdant in character, the proposal would not extend beyond the extremities of the built up area of the village. Therefore it is officer opinion that developing this site would not result in additional encroachment in to the open countryside, and it can therefore be considered as being within village.

SP3 of the ACS states that in assessing the scale element that the '*development should be appropriate to the location and small scale in nature*'. 3 dwellings as can be seen on the illustrative masterplan, can comfortably be accommodated on the site and would be small scale in nature. Rolleston, although it does not feature within the settlement hierarchy, is a settlement of a reasonable scale and has seen much development in recent years and 3 dwellings would contribute to that mix and would be capable of contributing towards meeting the district housing need.

The NSDC Housing Need Survey 2020 states that within the Southwell area (to which Rolleston is located), the greatest housing need is for 3 bedroom dwellings (33.3%) with 4 bed roomed houses next (24%), followed by 3 or more bedroomed bungalows (15.2%) and then 2 bedroom bungalows (14.8%). Rolleston's own housing need survey (2016) also concluded that the greatest need within Rolleston itself is for:

- 1 x 3 Bed house – open market,
- 1 x 5 Bed house – open market,
- 1 x 2 Bed bungalow – open market,
- 1 x 3 Bed bungalow – open market

Therefore the greatest need within the settlement is for 3 bedroomed dwellings. However as the scheme is in outline only with all matters reserved, the number of bedrooms is a matter to which the detailed application would advance but it is considered that up to 3 dwellings could be accommodated on the site.

The principle to develop the site with dwellings is acceptable subject to further on site assessment which is outlined below. The matter of character is further explained in the 'design' section below.

Highways and parking impact (updated)

Policy DM5 is explicit in stating that provision should be made for safe and inclusive access to new development whilst Spatial Policy 7 encourages proposals which place an emphasis on non-car modes as a means of access to services and facilities.

Holly Court is approximately 5.4m wide at the access, with some localized narrowing to 4.5m. The access road is existing with no reported accidents. There is a narrow tarmac service strip along the western side of the carriageway and a wide grass verge along the eastern side. NCC Highways have suggested that the eastern side grass verge could be utilized for the footway as it already forms part of the highway. The verge however has been incorporated by the residents as part of their gardens and has been planted over and even fenced off. The applicant however has decided not to utilise this area but to realign the public footpath instead. However as the land still remains 'highway' land those residents are at risk of that land being incorporated back in to highway land or action being taken against them requiring removal of unlawful structures. This is a matter to which the Council could review separately as to whether it is expedient to pursue.

The new 2m wide footway to be created runs along the western edge of Holly Court to realign the existing public right of way. This involves the removal of the existing beech hedgerow and the planting of a new more native rich instant hedgerow to the back edge of the new footway which is illustrated on the landscape plan (DRWG no. (03)001 Rev A). This would allow pedestrians and vehicles to enter the proposed house frontages and would safeguard a safe pedestrian access for the existing and future residents and users of the footway.

Members commented on the footpath route around the retained tree as shown on the landscape plan, as it is shown to encroach into the public highway. Having clarified this impact with Highway colleagues they state that they would accept this detailing providing the point at which it narrows is in line with current highway guidance. They have taken in to account the low traffic of the Holly Court and a fairly low impact of the proposed build out on to the highway. Therefore the detail they would accept would be a narrowing of the footway to no narrower than 1.2m and a maintenance of the carriageway to a minimum of 3.2m. From the illustrative masterplan submitted, the proposal would be able to meet such requirements.

Dropped kerb crossings are proposed over the footway to the new properties which have been designed in consultation with Highway colleagues and includes sufficient visibility splays whilst accommodating the new hedgerow.

Residents have raised issues of highway safety from Holly Court onto Fiskerton Road. Highways have reviewed the intensification of this access point and have concluded that the visibility to the right from Holly Court is a concern as the visibility splay with a 2.4m setback from the edge of the carriageway is limited due to the Holly Court junction design, overgrown planting from third party land, and a narrow footway along Fiskerton Road. However, when a 2m setback is applied, the visibility is greatly improved and acceptable. Manual for Streets advises that the 2m setback can be considered for some very-lightly trafficked and slow speed situations where the drivers and cyclist travelling along the main road would be able to see the overhanging vehicle at the minor arm and be able to manoeuvre around it without undue difficulty. It is considered that Fiskerton Road complies with this requirement due to the geometrical alignment of the road which allows

the north-westbound traffic to see and react to any vehicles waiting at Holly Court to join Fiskerton Road and react to any overhang accordingly. This road has low speeds of traffic due to the design of the road, i.e. 6.25m wide carriageway, existing frontages, narrow footways, streetlights, bends and low AADT (annual average daily traffic) of 1150 in 2019. There have also been no accidents recorded at the Holly Court and Fiskerton Road junction for over 20 years and any highway improvements to the junction would be seen unreasonable and disproportionate to the proposed scale of development.

It is not envisaged that this proposal will severely compromise highway safety and thus Highways have not objected subject to the imposition of suitable conditions.

The Council has adopted its Residential Cycle and Car Parking Standards & Design Guide SPD (2021), which provides a minimum standard expected for parking provision within sites. It also provides details of garage and parking space dimensions. As the proposal is in outline, and the number of bedrooms provided has not yet been defined it is difficult at this stage to ascertain the degree of parking provision required. However for 3 bedrooms or more, it is expected that 3 parking spaces are provided for each dwelling on site which could be achieved. Residents have raised concern about the lack of visitor parking within the site leading to parking on Holly Court. Holly Court is unrestricted in terms of parking provision and visitors would be able to park unrestricted on it regardless of this development coming forward. Notwithstanding this, due to the development being in outline and the indicative plans showing parking can be provided for each dwelling, this would not be a reason for refusal.

Right of Way

Rolleston footpath No.5 is located parallel to Holly Court, although separated from the highway by the existing beech hedge and is a feeder to the Trent Valley Way. The footpath is signed from Fiskerton Road and currently runs to the south east of Ulliyats Cottage and separated by an existing wire fence. The footpath currently comprises of a trodden muddy path approximately 1m in width. The proposal would keep the footpath on a similar alignment although the position would be altered to run alongside Holly Court approximately 700mm south east and it would largely be a 2m wide hard surfaced footpath to adoptable standard.

The proposal would enable safe passage of users of Holly Court, as at present occupiers walk on the carriageway, and it would enable a wider footway which is accessible to all.

The proposal has raised some local objection including from the Ramblers Association, whom state to replace a greenway by a hard-surfaced footway which is crossed by driveways is unacceptable. NCC Rights of Way colleagues have provided details on practicalities for stopping up and diverting the ROW.

Although comments relating to the ROW have been given due consideration, the relocation would not result in harm to the usability of the ROW and its realignment is not so dissimilar to its current position. NCC highways have suggested conditions to enable the legal extinguishing of the footway under a S.257 of the Town and Country Planning Act 1990, which is acceptable.

Design considerations (updated)

Core Policy 9 requires a high standard of sustainable design that protects and enhances the natural environment and contributes to the distinctiveness of the locality and requires

development that is appropriate in form and scale to the context. Policy DM5 mirrors this.

The site is not located within a conservation area and the area does not include any listed buildings. The main consideration is the siting within land which contains the property known as Ulllyats Cottage.

This cottage has been the subject of much interest from residents on the implications of the development upon the longevity of the cottage and its social history associated with Rolleston. Firstly it is pertinent to consider the condition of the cottage. The NPPF is clear on how to assess applications when Non-Designated Heritage Assets (NDHA) are in the vicinity. Paragraph 203 of the NPPF (2021) states 'the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing an application that directly or indirectly affects non-designated heritage assets, a balanced judgement will be required giving regard to the scale of any harm or loss and the significance of the heritage asset'.

The cottage is late C18 or early C19, not listed and Officers do not consider it meets the qualifying criteria within the Council's adopted NDHA guidance, to define it as such due to its condition and degree of alterations. The original doors and windows have been replaced to uPVC, there are concrete tiles on the roof and very little remains of any stylistic detail. The brick outbuildings have been much altered too and are of no special interest. In this respect it is not considered to contain considerable significance that can be attributed weight in decision making.

The building does have a local connection with Kate Greenway, a Victorian illustrator whom from the mid C19 spent significant periods of time there. However this was not her home and she is commonly associated with London where she was born and subsequently died. Whilst this is an important connection to the village and indeed local residents have set up The Kate Greenaway Trail and a blue plaque has been awarded to Ulllyatts Cottage in her recognition, these are not overriding factors in ensuring the importance of the cottage or the surrounding land. Residents have submitted comments on the connection to Kate Greenaway, however these are not substantiated through academic sources but rely on websites for their weight. Given the alterations to the cottage and the weight already attributed to the connection with Kate Greenaway, it is not sufficient to include this building and the surrounding land as important enough to warrant it as a NDHA.

That said, the Conservation officer has stated that the three dwellings have very little relationship with the dwelling and a reduced number of 1 or 2 dwellings, to afford more space around the cottage would result in a more positive relationship with the cottage. A design whereby they are recessive in scale to the cottage and thus improve the setting would be considered in the detailed stage. Whilst these comments have been taken on board and having informed the agent of these they do not wish to reduce the number of units but instead have reduced the site area to increase the distance from the cottage from 7m to 12m (approximately) as shown below.



Original site plan



Amended site plan

Given the layout is only illustrative, it is considered that a layout could be designed which respects the scale and form of the existing cottage such as siting development to the south west of the site and limiting the height.

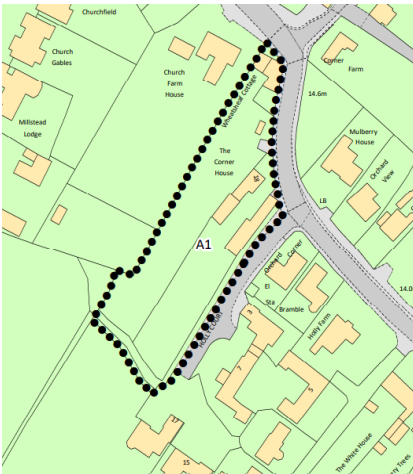
Therefore it is considered that the proposal in principle is acceptable and a design could be achieved which respects the original cottage. This however should be considered in conjunction with the subsequent section (Trees/hedgerows) which references the trees within the site, which would affect the layout of the development which is reasonably achievable on the site.

Trees/hedgerows (updated)

Policy DM5 of the ADMDPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced. Wherever possible, this should be through integration and connectivity of the Green Infrastructure to deliver multifunctional benefits.

Paragraph 131 of the NPPF (2021) states *'Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined⁵⁰, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.'*

Members should note that since it was presented to Members at April 2022 Committee, the Council's Tree and Landscape Officer has reassessed the site and reviewed the application documents following Members' debate. He has visited the site and found that the trees are worthy of retention and a provisional Tree Preservation Order has been served on the land owners preventing them from being removed. The area covered by the provisional Order is shown below.



Extract from TPO order N399

The amenity assessment of the trees was carried in line with current best practice. The scoring system follows four areas:

1. Condition of the trees – out of four possible category (good, fair, poor, dead/dying) these trees scored as fair
 - a. Trees which have defects that are likely to adversely affect their prospects; their health is satisfactory, though intervention is likely to be required. It is not expected that such trees will reach their full age and size potential or, if they have already done so, their condition is likely to decline shortly, or may already have done so. However, they can be retained for the time being without disproportionate expenditure of resources or foreseeable risk of collapse
2. Retention span/life expectancy the trees have in excess of 40 years life expectancy.
3. Public visibility – the trees are clearly visible from the adjacent public footpath.
4. Other factors – The location does include an old orchard which is currently considered by Natural England as a 'priority habitat'.

The proposal includes the loss of the existing beech hedgerow which bounds the carriageway of Holly Court. As well as a holly hedge, there are category B, C and U trees of varying siting within the site.

The Council has 6 months from the date the notice has been served in which to confirm the Order as drafted or to modify it. The provisional Order is now material to the application's consideration.

The Landscape and Tree Officer, upon reviewing the information, states that the development of up to 3 dwellings would make it unviable to retain any of the trees. A tree constraints plan showing the location of the trees now, and in the future, taking into account their growth potential, for all category A and B trees should be submitted to inform how the site can be developed, if at all. In addition although some mitigation has been put forward in the landscaping plan, this does not address the visual/biodiversity impact on the surrounding location, which should be in accordance with the Small Sites Metric (JP040) produced by Natural England. This should demonstrate:

- i. it will improve biodiversity (section 41 species),
- ii. be in keeping with the character assessment of the area
- iii. be of benefit to site usage / improving sustainability
- iv. reach an age to give a meaningful impact (40 years) without having a negative impact
- v. Demonstrate method for 40 year retention.
- vi. Include biodiversity enhancements – bat boxes (target to species), foraging strips, wildlife

migration corridors etc.

Given that trees grow, it is not considered sufficient to show on a drawing 'trees retained' without demonstrating how they can be retained through to full maturity. Looking at the proposed indicative layout it is clear that over time all trees on or adjacent to this development would require removal due to the conflict with the proposed built development.

On the basis of this new assessment and the location of the trees of significance, coupled with the indicative layout as put forward, the proposal would be too intensive to ensure the longevity of the trees covered by the provisional Order, and especially those which are categorised as A/B quality. Therefore it is concluded that the proposal would if granted, result in the loss of the trees in both the short and longer-term. The applicant has again been approached to reduce the number of units, but again they have declined to relent on this and therefore the proposal for the maximum number of units must be considered. There is of course a possibility that the provisional TPO will not be confirmed either in its entirety or in a modified form (which is allowed under the Regulations). Should this be the case, the trees would either have no protection or only some within the current Area Order would be protected. However given their category assessment and amenity value this is considered unlikely. The provisional TPO is in existence and it is necessary to consider this, alongside all matters at the time of decision.

Therefore the proposal is considered to be unacceptable for the reason of the proposal being too intensive due to the tree constraints which are present on the site and it resulting in a conflict with the proposed built development whereby the Council would be under pressure to grant their removal due to the proximity.

Ecology (updated)

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

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

A Preliminary Ecological Appraisal (PEA) has been submitted with the application which concludes that none of the trees on site were noted to provide features with roost potential for bats and no nesting birds were found. The surrounding hedgerows and scattered trees/woodland provided potential foraging habitat and commuting routes for bats and breeding areas for birds. In addition the site provides a limited potential habitat for reptiles or amphibians and no evidence of badgers have been found.

Due to the use of the site for bats/birds suitable compensation should be provided for. The Tree and Landscape Officer has raised concern that there is clear potential for protected species to be impacted on by the development and that these measures are not adequately mitigated for. Some generic mitigation measures are proposed, which are outlined in Section 6 of the PEA, such as clearance outside of birds besting season (March – September), enhancement of the existing boundary to the north-west, replacement of the beech hedgerow with an instant native hedge, retention of the copper beech tree, bat friendly lighting, bat and bird boxes and hedgehog gaps within fencing etc. It is considered by Officers that these mitigation measures do not adequately quantify the loss of habitat when considered through to the maturity. Whilst it is acknowledged that this conclusion differs from that made to Members previously, upon reflection of Members' comments and resident's concerns, the Council's Tree Officer has carried out a further more detailed assessment of the site with a view to applying the TPO criteria. As part of that assessment special historic features (which form part of the assessment) have come to light, such as the bramley apple seedlings, which contribute to the historical biodiversity of the Southwell area. As such the information submitted does not provide a justifiable reasoning for the loss of habitat. The loss of habitat would effectively be replaced with bricks and mortar as opposed to providing an adequate mitigation of a habitat, which directly contradicts paragraph 180 of the NPPF (2021).

The proposal would therefore fail to meet the aims of the DPD and the NPPF (2021) and would result in harm to the ecology and biodiversity of the site which has not been adequately mitigated for.

Neighbour amenity

Policy DM5 of the ADMDPD states development proposals should have regard to their impact on the amenity or operation of surrounding land uses and where necessary mitigate. The layout of development within site and separation distances from neighbouring development should be sufficient to ensure that neither existing nor future occupiers suffer from an unacceptable reduction in amenity including overbearing impacts, loss of light or privacy.

The dwellings are expected to be two storey although the detail would come from the Reserved Matters application. The position within the site compared to other surrounding dwellings, is not likely to result in harm to amenity from overbearing, loss of privacy or light impacts. Comments received during the consultation have alluded to a favourable use of bungalows or 1.5 storey dwellings which again would be appropriate here and would be more in keeping than two storey. Should Members resolve to support the proposal a condition to ensure the height of the dwellings which come through the reserved matters application are no greater than 1.5 storey could be imposed. All of the concerns raised by residents have been given due consideration however it is not Officer's opinion that the proposal would result in harm to neighbour amenity and that dwellings could be sited and designed to not cause undue harm.

Flooding/surface water impact

The site is located within Flood Zone 1 as defined by the Environment Agency data maps, it is therefore at lowest risk from flooding. Nonetheless careful consideration will need to be given to the impact of surface water from the development and the use of appropriate materials and other ground materials to improve the permeability of the site to ensure the risk is not increased to the locale.

Planning balance and conclusion (updated)

The site is a windfall site located within the built up area of Rolleston which although it has limited facilities, it is closely connected to other more sustainable areas and is serviced by public transport. Therefore the principle of development is acceptable. A restriction of the height of the buildings to 1.5 storey would ensure the buildings are not dominating to the nearby bungalows and are unlikely to result in harm to local character. The proposal would make a positive contribution to housing stock and need within the area.

The proposal would result in an alteration to the existing Rolleston no.5 footpath which is aligned adjacent to Holly Court carriageway and its condition will be upgraded to improve usability and there will be no reduction in provision as a result.

The proposal includes the loss of trees and hedgerows within the site. The Council's Tree and Landscape Officer has reassessed the information and concluded that the existing trees do have amenity value and their loss is unjustified. A provisional TPO has been imposed on the site, which is material to the planning considerations and due to the location of the trees, this has reduced the developable area within the site without causing conflict. Therefore it is considered that the principle of 3 dwellings as put forward, would be too intensive to ensure the longevity of the trees covered by the Order, and especially those which are categorised as A/B quality. Whilst the TPO on the site is provisional, there is a small risk it will not be confirmed in its current form or modified. However given the trees' category assessment and amenity value this is considered unlikely. The provisional TPO is in existence and it is necessary to consider all matters at the time of decision.

The site has been identified as providing potential for occupation by protected species. The Preliminary Ecology Appraisal has provided generic mitigation measures, however it is considered by Officers that these mitigation measures do not adequately quantify the loss of habitat when considered through to maturity. The loss of habitat would effectively be replaced by built development as opposed to providing an adequate mitigation of a habitat, which directly contradicts paragraph 180 of the NPPF (2021).

A well designed scheme, taking in to account the height and the position of neighbouring properties would avoid any negative impacts upon residential amenity.

Matters of highway safety have been carefully considered and it is concluded that the proposal would result in no adverse harm.

As such, due to matters relating to the impact of trees and ecology and thus biodiversity, the proposal is considered to fail to accord with the Core Policy 12 of the Amended Core Strategy, Policy DM5 and DM7 of the Allocations and Development Management DPD and the NPPF (2021).

RECOMMENDATION (updated)

That planning permission be refused for the reasons stated below.

Reasons

01

In the opinion of the Local Planning Authority, the existing trees on the site provide for amenity value and as such a provisional Tree Preservation Order (ref. TPO N399) has been served. It is therefore considered that the trees within the site are worthy of retention and contribute to the overall biodiversity of the area. The development of up to 3 dwellings would be too intensive for the site, given this constraint, and thus would result in a conflict with the existing green infrastructure and effect their longevity.

As such the proposal is considered to fail to accord with policy DM5 of the Allocations and Development Management DPD and the NPPF (2021) which is a material planning consideration.

02

The site has potential for protected species to be impacted on by the development and whilst a Preliminary Ecological Assessment has been submitted, generic mitigation measures are proposed which fail to quantify the loss of habitat when considered through to maturity. The loss of habitat would effectively be replaced with built development as opposed to providing an adequate mitigation of a habitat, which directly contradicts paragraph 180 of the National Planning Policy Framework (NPPF) (2021).

The proposal would therefore fail to meet the aims of Core Policy 12 of the Amended Core Strategy and Policy DM5 and DM7 of the Allocations and Development Management DPD and the NPPF (2021) and would result in harm to the ecology and biodiversity of the site which has not been adequately mitigated for.

Note to Applicant

01

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. Whilst the applicant has engaged with the District Planning Authority at pre-application stage our advice has been consistent from the outset. Working positively and proactively with the applicants would not have afforded the opportunity to overcome these problems, giving a false sense of hope and potentially incurring the applicants further unnecessary time and/or expense.

02

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

03

The plans considered are:

DRWG no. 27793-ARC-XX-00-DR-A-0001 Rev P05 Application site plan;

BACKGROUND PAPERS

Application case file.

For further information, please contact Lynsey Preston on extension 5329.

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

Lisa Hughes
Business Manager – Planning Development

Committee Plan - 21/02435/OUT

