



Report to Planning Committee 08 December 2022

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Lynsey Preston, Planner, ext. 5329

| Report Summary            |   |                   |                 |
|---------------------------|---|-------------------|-----------------|
| <b>Application Number</b> | 22/01331/FUL  |                   |                 |
| <b>Proposal</b>           | Erection of Four Bedroom Bungalow   |                   |                 |
| <b>Location</b>           | Land Adjacent to Fosse Road, Farndon, NG24 3UB  |                   |                 |
| <b>Applicant</b>          | P Palmer Construction -<br>Mr P Palmer  | Agent             | Mr Clive Davies |
| <b>Web Link</b>           | <a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage</a> |                   |                 |
| <b>Registered</b>         | 12.07.2022  | Target Date       | 06.09.2022      |
|                           |   | Extension of time | 09.12.2022      |
| <b>Recommendation</b>     | Refuse, for the reason set out in Section 10.0  |                   |                 |

This application is presented to Planning Committee due to the Officer recommendation differing from that of the Parish Council and at the request of the Ward Member. Councillor Keith Walker queries the flooding status of the site as he has never knowingly seen it flood.

The application was removed from the agenda at October Planning Committee at the discretion of the Business Manager. This report includes an update to the original report seen by Members in the previous agenda. The text in **bold** type is the updated sections previously published with the latest update in **bold**.

### 1.0 The Site

The application site relates a parcel of land approximately 0.24 hectares in area within the built up area of Farndon. The site is surrounded to the north, south and west by existing residential development and by Fosse Road (former A46) to the south-east.

The site is located within Flood Zone 1 and 2 as defined by the Environment Agency data maps.

The site has been cleared of vegetation.

## **2.0 Relevant Planning History**

14/00859/OUT Outline planning permission for 1 dwelling (appearance, landscaping and scale as reserved matters) Refused 16.06.2014

01

*The site is located in Flood Zone 2 and is therefore at risk of flooding. It has not been demonstrated that there are no other reasonably available sequentially preferable sites, which are at a lower risk of flooding, where the development proposed could be located. The Council has a proven 5 year land supply of available land at lower risk of flooding across the district that are sequentially preferable to this site. The Sequential test submitted with the application fails to make adequate assessment of land across the district. As such, the application fails the Sequential Test contrary to the National Planning Policy Framework, Planning Practice Guidance and Core Policy 10 of the Core Strategy.*

02

*The site is located within Farndon which contains a limited range of services but it is not classed as a sustainable location for new growth within the Adopted Core Strategy. The application fails to demonstrate an identified proven local need for new housing in this area. It is therefore considered that development of this site would result in an unsustainable form of development that would have an adverse impact upon a rural area and undermine strategic objectives contrary to Policy Spatial Policy 3 of the Core Strategy, the National Planning Policy Framework and Planning Practice Guidance.*

03

*In the opinion of the local planning authority the applicant has failed to demonstrate the associated risk caused by the development to any potential protected species using the site due to the loss of trees and natural habitat. As such the proposal fails to accord with the National Planning Policy Framework, Planning Practice Guidance and policy DM5 of the Adopted Allocations and Development Management DPD.*

## **3.0 The Proposal**

The proposal is for the erection of one single storey detached four bedroomed dwelling to the north-west of the site with vehicular access from Fosse Road to the south-east of the site.

The approximate dimensions of the building are:

25m (length) x 14m (width) x 5.5m (ridge) x 2.5m (eaves)

Documents/plans submitted with the application:

DRWG no. 2C/11/2020 Rev C Proposed bungalow and plans elevations;  
Location plan;  
DRWG no. 1C/11/2020 Rev C Site plan;  
DRWG no. 3/11/2020 Topographical survey;  
Flood Risk Assessment July 2022

#### **4.0 Departure/Public Advertisement Procedure**

Occupiers of six properties have been individually notified by letter and a notice has been displayed at the site and in the press.

Site visit 10 August 2022

#### **5.0 Planning Policy Framework**

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

Spatial Policy 1 – Settlement Hierarchy  
Spatial Policy 2 – Spatial Distribution of Growth  
Spatial Policy 3 – Rural Areas  
Spatial Policy 7 – Sustainable Transport  
Core Policy 3 – Housing Mix, Type and Density  
Core Policy 9 – Sustainable Design  
Core Policy 10 – Climate Change  
Core Policy 12 – Biodiversity and Green Infrastructure

##### **Allocations & Development Management DPD Adopted July 2013 (ADMDDP)**

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

#### **Other Material Planning Considerations**

National Planning Policy Framework (2021) (NPPF)  
Planning Practice Guidance (PPG)  
NSDC Housing Need Survey 2020  
Residential Cycle and Parking Standards and Design Guide SPD 2021

#### **6.0 Consultations**

**Farndon Parish Council** - It was unanimously agreed that the application be supported. However Members were aware of the impact the removal of mature landscaping had had on the adjacent residential properties. The Planning Authority to be asked to include a condition that mature trees and extensive landscaping be included along the boundaries to replace that lost when the site was cleared.

**Nottinghamshire County Council Highways** – This is a proposal for a single bungalow accessed from Fosse Road which is a 40mph road at this location. Visibility is acceptable as the verge is wide. Parking requirement for this four-bedroom bungalow is three spaces.

Due to the length of the access driveway, a refuse collection point near the junction with Fosse Road should be provided so that refuse lorries do not need to enter the access, nor carry distances be exceeded.

The width of the drive should be a minimum of 3.6m to accommodate an emergency. The width of the access should be a minimum of 2.75m plus 0.5m either side if bound by a hedge or fence. Works to construct the access will be within highway therefore the applicant should be aware of the note below. We would not wish to raise objection and would request conditions.

**Trent Valley Internal Drainage Board** - The site is within the Trent Valley Internal Drainage Board district.

The Board maintained Corner House Farm Drain Feeder, an open and culverted watercourse, exists to the South of the site and to which BYELAWS and the LAND DRAINAGE ACT 1991 applies.

Surface water run-off rates to receiving watercourses must not be increased as a result of the development.

The suitability of soakaways, as a means of surface water disposal, should be ascertained prior to planning permission being granted. Soakaways should be designed to an appropriate standard and to the satisfaction of the Approving Authority in conjunction with the Local Planning Authority. If the suitability is not proven the Applicant should be requested to re-submit amended proposals showing how the Site is to be drained. Should this be necessary this Board would wish to be re-consulted.

The design, operation and future maintenance of site drainage systems must be agreed with the Lead Local Flood Authority and Local Planning Authority.

**Environment Agency** – We have reviewed the submitted documents and on this occasion the Environment Agency will not be making any formal comment on the submission for the following reason:

- The development falls within flood zone 2 and therefore the LPA should apply national flood risk standing advice (FRSA) in this instance.

<https://www.gov.uk/guidance/flood-risk-assessment-local-planning-authorities>

There are no other environmental constraints associated with the application site which fall within the remit of the Environment Agency. If, however, the proposal subsequently changes such that you feel that it may pose a significant environmental risk then please do not hesitate to contact us and we will be pleased to review our response.

5 neighbouring comments have been received raising the following matters:

- Highway safety;
- Loss of privacy;
- Loss of light;
- Retention of the boundary fence and retained at a sufficient height to maintain privacy and security;
- Increase in noise;

- Loss of the existing trees should be replanted;
- Drive is too long, and the dwelling should be more in the middle of the plot;
- Impact on wildlife.

## **7.0 Comments of the Business Manager – Planning Development**

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

### Principle of Development

The starting point for considering development is against the development plan which is up to date for decision making purposes.

Spatial Policy 1 and 2 provide the settlement hierarchy for the District and Farndon does not feature within it. The settlement is therefore an ‘other village’ and so the development should be considered against Spatial Policy 3 of the Amended Core Strategy (ACS). This policy states that beyond Principal Villages, proposals for new development will be considered against the criteria of location, scale, need, impact and character. SP3 states that development should be located in villages, this means locations within the existing built extent of the village, which includes dwellings and their gardens, commercial premises, farm yards and community facilities. It would not normally include undeveloped land, fields, paddocks or open space which form the edge of built form. Although the land is considered to be undeveloped it is surrounded by existing residential development and is considered to be located within the settlement of Farndon.

The location, scale, impact and character of the proposal is considered acceptable in general. The NSDC Housing Need Survey 2020 states that within the Rural South Area, the housing need for 4 bedroom bungalows is not the highest need for the area. The greatest need is for 4 or more bedroom dwellings (35.8%) with 3 bedroomed houses next (20.2%), followed by 1-2 bedroomed dwellings (15.5%) and then 2 bedroom bungalows (14.4%). Farndon’s own housing need survey (2016) also concluded that the greatest need within Farndon itself is for 2, 3 and 5 bedroomed dwellings, and 3 and 4 bedroomed bungalows. There is clearly a need in Farndon for bungalows and the proposal is considered to help meet this need.

The principle to develop the site with residential is largely acceptable subject to further onsite assessment which is outlined below.

## Impact on flood risk

Access to the site is located within flood zone 2 and therefore at medium risk from main river flooding. The house itself would be within zone 1 but is inaccessible from zone 1 so I take the view that the proposal needs to be assessed as a whole given the two elements are inextricably linked. Para 159 of the NPPF (2021) states inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

The Planning Practice Guidance under Table 2 Flood Risk Vulnerability Classification, states the use (dwellinghouse) is classed as a more vulnerable use. Policies DM5, CP10 and Paragraph 162 of the NPPF (2021) states the aim of the Sequential Test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. **The Planning Practice Guidance states 'Avoiding flood risk through the sequential test is the most effective way of addressing flood risk because it places the least reliance on measures like flood defences, flood warnings and property level resilience features. Even where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, the sequential test still needs to be satisfied. Application of the sequential approach in the ...decision-making process will help to ensure that development is steered to the lowest risk areas, where it is compatible with sustainable development objectives to do so.'** (Paragraph: 023 Reference ID: 7-023-20220825).

Applying the Sequential Test however is normally applied District wide and for that the Council has a proven 5-year housing land supply whereby it would not be reliant on the use of such land for the supply of housing. However, the Planning Practice Guidance states **'the area to apply the test will be defined by local circumstances relating to the catchment area for the type of development proposed.'** (Paragraph: 027 Reference ID: 7-027-20220825). Although this isn't defined by the PPG it provides examples such as the catchment area for a school or where the development is needed to sustain the existing community. The proposal is for a 4 bedroomed dwelling where it could reasonably accommodate children. Having consulted with Nottinghamshire County Council they state that the local primary school, St Peter's Cross Keys C of E Academy, has a surplus of places over the next five years. However, this one dwelling alone is not considered necessary to sustain the local community and tip the balance of acceptability in the planning balance. Farndon is a well-established community with many local facilities and by applying the Sequential Test to the settlement alone to benefit the school, would not result in such overriding benefit to the community. The proposal would bring about a 4 bedroomed bungalow, which although is not of greatest need within the location would contribute to a clear need for bungalows within Farndon, but again this is not an overriding need to allow the development.

## December update

**The Council has received additional information on the Flood Risk Assessment with regards to the update to the PPG. In this the author quotes paragraph 49 which in summary relates to increasing the risk of flood risk elsewhere due to the loss of floodplain storage, the**

deflection or construction of flood flow routes or through inadequate management of surface water.

Where flood storage from any source of flooding is to be lost as a result of development, on-site level-for-level compensatory storage, accounting for the predicted impacts of climate change over the lifetime of the development, should be provided. The update to the FRA states that 39m<sup>3</sup> of floodplain storage will be lost within Flood Zone 2 to account for the proposed driveway. The update states that due to the surrounding floodplain of 14,000m<sup>2</sup> there would only be a 3mm increase in flood level. No details of onsite or offsite compensation have been put forward within the update. The NPPF (2021) at paragraph 159 and 164 insists that development should be made safe for its lifetime without increasing flood risk elsewhere. The PPG (para 49) states where it is not possible to fully mitigate the impacts, the FRA will need to fully detail the extent and nature of the increase in risk and to assess its significance. Whilst the NPPF states any increase should not occur, the PPG (which has been updated more recently in August 2022) states an increase can occur, but mitigation has to happen and the risk assessed. In my opinion the increase at 3mm (as stated by the author) is still an increase in flood zone 2 and within an area comprising of more vulnerable development (residential) of both two storey and single storey dwellings, where the impact would be put upon them. This is contrary to the NPPF and the PPG and is therefore not acceptable.

Upon applying the Sequential Test, and given the Council has a proven 5-year housing land supply, there is land available at lower risk of flooding whereby the use can be accommodated and although there are some local benefits with the provision of one dwelling, this would not tip the balance of acceptability in the planning balance. Thus, the Sequential Test is not considered to be passed.

Therefore, the proposal fails to accord with national and local policies on flood risk and fails the Sequential Test.

#### Impact upon Highway Safety and parking provision

Paragraph 110 of the NPPF states that schemes can be supported where they provide safe and suitable access for all, which is echoed within Policy DM5. Spatial Policy 7 encourages proposals which place an emphasis on non-car modes as a means of access to services and facilities.

The Council's Residential Parking SPD states that a minimum of 3 parking spaces should be provided for as well as secure cycle parking and space for equipment. A single attached garage is located to the south of the proposed dwelling and 3 parking spaces are provided for within the site approximately 37m from the garage. Although the proposal can provide the required parking provision within the site, the distance between the parking and the property is not desirable at approximately 37m although the parking area would still have natural surveillance.

Nottinghamshire County Council Highways have not raised an objection to the proposal subject to conditions and the access width being to the minimum standards and refuse collection points are made near the junction with Fosse Road. This collection point would be

approximately 100m from the front of the property which would mean someone wheeling a bin a considerable distance which again is undesirable.

The current plans show a driveway and access to be 3.2m (approximately) in width and as the land to the north and south is highway owned, they would need to ensure it is constructed to the satisfaction of the Highway Authority.

Therefore, although the access and parking arrangements are undesirable, the provision of parking is acceptable and the access would not result in harm to highway safety. It would be the case of 'buyer aware' if the proposal was deemed to be acceptable, regardless of the comments on flooding in the preceding section of this report.

Due to the amount of space within the site, although it is not explicit, it is expected that cycle provision could be accommodated within the garage whilst still maintaining allowances for 3 parking spaces for vehicles.

#### Impact upon Residential Amenity

Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in amenity including overbearing impacts and loss of privacy upon neighbouring development. The NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

The building is between 10 – 12m from the rear elevations of properties on Staveley Court and approximately 7.5m from the rear of 16 Holmefield to the proposed garage. Due to the distance and the single storey design of the proposal, it would not result in harm to neighbour amenity from overbearing, loss of privacy or light impacts. There is an existing boundary fence surrounding the site which would mitigate the impact of the building. Thus, the proposal would comply with policy DM5 of the ADMDPD.

#### Impact upon Trees and Ecology

Core Policy 12 (Biodiversity and Green Infrastructure) of the ACS seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM5 states that natural features of importance, which are either within or adjacent to development sites should, wherever possible, be both protected and enhanced.

Reports from neighbours have stated that the site has been cleared in recent times, of trees and vegetation, however wildlife are still present on the site due to surrounding trees outside the site. One tree remains on the site which has little amenity value and is in poor visual condition.

No arboricultural survey has been submitted with the application nor have any trees been plotted on the submitted drawings, although the Council is unable to consider the harm to these trees, from inspection it is not considered worthy of retention either due to the visual condition and poor public amenity value.

Equally no ecology/biodiversity survey has been submitted to assess the impact of the



development on these landscape features and the Council has not requested one as the proposal is clearly within a flood zone and thus contrary to policy.

Some members of the public have raised concerns over the impact of the proposal upon the local ecology. However due to the lack of features now within the site it is unlikely that the site would harbour any significant ecological activity and the existing trees and landscaping around the boundary would be unaffected by the proposal.

Thus, the proposal accords with the NPPF, Core Policy 12 of the ACS as well as Policy DM5 of the ADMDPD.

### **Impact on design and housing density**

**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.**

**Paragraph 130 of the NPPF (2021) states decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.**

**Overall, I consider that the design and the use of the materials on the proposed dwelling would have a neutral impact and the design of the dwelling itself is not dominating within the locale, thus resulting in being acceptable.**

**The scale of the plot is approximately 0.24hectares in area. Core Policy 3 of the Council's Amended Core Strategy states densities on unallocated sites should be of 30 dwellings per hectare. At this density the site should provide 4 dwellings. The proposal is below this recommended density and would result in an underutilisation of the land. However, given that half the site is in flood zone 2 and the proximity of the surrounding residential development, this density may not be acceptable to ensure the safety of future occupants and acceptable amenity for existing residents. However, 1 dwelling is proposed within flood zone 1 (apart from the access through zone 2), which for the reasons outlined in the above report, is not considered acceptable.**

### **8.0 Implications**

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

### **9.0 Planning Balance and Conclusion**

Due to the siting of the access through land identified as being within Flood Zone 2 by the Environment Agency data maps, the proposal is considered to fail the sequential test as the Council has other land available within the District at lower risk of flooding and has a proven

5 year housing supply whereby it is not reliant on using land at risk of flooding for speculative development. There are no overriding material considerations to outweigh this.

The applicant also failed to include details of how it would impact upon local ecology and to the existing tree on the site. However, given the lack of visual significance of the remaining tree on the site and the ecological value of the site, it is not considered that this is a justifiable reason in which to warrant a refusal of the application.

Whilst the proposal has been assessed to have an acceptable impact upon neighbour amenity, design, highway safety and parking provision, these are neutral factors and do not affect the planning balance. The provision of one dwelling that would positively contribute to housing stock and housing need and contribution to the local school, does not outweigh the harm identified and would represent unsuitable development in my view. **In addition, the proposal is for one dwelling within an already well established community, and one dwelling is not considered to provide such a necessary and meaningful contribution that it would sustain the local services. The proposal would also increase the flood risk elsewhere due to the loss of floodplain storage without sufficient mitigation being provided for on or off site in compensation.** Therefore, the proposal is considered to be contrary to paragraphs identified within the NPPF (2021) and PPG, Core Policy 10 of the ACS and Policy DM5 of the ADMDPD.

## **10.0 Reason for Refusal**

01

The application site contains land which is located within Flood Zone 2 as defined by the Environment Agency data maps. Core Policy 10 and Policy DM5 of the adopted Development Plan as well as Chapter 14 of the National Planning Policy Framework (NPPF 2021) sets out the due process for assessing new development within areas at risk from flooding. The Local Planning Authority must first apply the Sequential Test and then only upon satisfaction of this should the Exceptions Test be applied. In the opinion of the Local Planning Authority the proposal would fail the Sequential Test as there are other more preferable sites at lower risk from flooding within the District on which such a use should be located. There are no reasons to restrict the area in which the Sequential Test is applied. **In addition, the proposal would result in an increase in the loss of floodplain storage without sufficient onsite level-for-level compensatory storage or offsite compensation and thus would result in an increase in flood risk elsewhere to other more vulnerable developments, contrary to the NPPF (2021).**

As such the proposal is contrary to Core Policy 10 of the Newark and Sherwood Amended Core Strategy (2019) and Policy DM5 of the Allocations and Development Management Development Plan Document (2013), as well as Chapter 14 of the NPPF (2021), Planning Practice Guidance, which are material planning considerations.

## **Informatives**

01

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. 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/](http://www.newark-sherwooddc.gov.uk/cil/)

03

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

DRWG no. 2C/11/2020 Rev C Proposed bungalow and plans elevations;

Location plan;

DRWG no. 1C/11/2020 Rev C Site plan;

DRWG no. 3/11/2020 Topographical survey;

Flood Risk Assessment July 2022

BACKGROUND PAPERS

Application case file.

Committee Plan - 22/01331/FUL

