



Report to Planning Committee 08 June 2023

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Lynsey Preston, Planner, ext. 5329

Report Summary			
Application Number	23/00188/FULM		
Proposal	Change of use of land from agricultural to equestrian use, erection of new stables/livestock building		
Location	Flaggs Farm, Caunton Road, Norwell, Newark on Trent, NG23 6LB		
Applicant	Mr Pete Cook	Agent	GraceMachin Planning & Property - Mr George Machin
Web Link	23/00188/FULM Change of use of land from agricultural to equestrian use, erection of new stables/livestock building Flaggs Farm Caunton Road Norwell Newark On Trent NG23 6LB (newark-sherwooddc.gov.uk)		
Registered	06.02.2023	Target Date Extension of Time	08.05.2023
Recommendation	Refusal for the reasons set out in Section 10 of this report		

This application is presented to Planning Committee due to the Officer recommendation differing from that of the Parish Council. Councillor Saddington has requested the application be determined by the Planning Committee due to concerns over the need for further buildings and providing sufficient stabling for horses.

1.0 The Site

The application site comprises of former agricultural land but has been divided into paddocks for the grazing of horses. It is located outside of any defined settlement boundaries as defined by the Allocations and Development Management Development Plan Document and is therefore within the open countryside. The site is located to the north of Flaggs Farm and to the west of Caunton Road within the parish of Norwell.

Land to the south of the site includes residential development which comprises of converted

barns. To the west of these are agricultural buildings and buildings used by a construction company.

The site is accessed by an existing vehicular access from Caunton Road, sited to the north of the existing converted barns. A soil bund (approximately 2.5-3m in height) is located to the north and south of the access drive which is currently under investigation by the Council's Planning Enforcement colleagues.

The site is located within Flood Zone 1 as defined by the Environment Agency data maps and therefore at the lowest risk from fluvial flooding and the site is at risk from surface water flooding.

The application site is approximately 1.3 hectares in area and is relatively flat in topography. A hedgerow exists to the western and eastern boundaries and the field current used for the horses and remaining boundaries are defined by either post and rail timber fencing or wire fencing (assumed electrified).

2.0 Relevant Planning History

No history exists on this part of the site, however relevant to this application are the recent permissions which are shown below.

21/02649/FUL - Erect Agricultural Storage Building following Demolition of 3 No. Storage Buildings. Approved 17.03.2022

22/00613/S73 - Application for variation of condition 04 to change the wording regarding demolition of buildings and ecological inspection prior to demolition attached to planning permission 21/02649/FUL. Approved 19.05.2022

22/02239/FUL - Demolish existing building. Erection of new building for agricultural use. Approved 11.01.2023

3.0 The Proposal

The application relates to the change of use of the former agricultural land to equestrian use for use as paddocks and the erection of a new building for use as stables and livestock.

The building would be finished in concrete block and vertical timber board cladding or coloured profile metal sheet cladding and cement roofing sheets.

Approximate dimensions of the proposed building:

19.4m (width) x 12.1m (depth) x 4.2m (height to ridge) x 2.4m (height to eaves)

Documents/plans submitted with the application:

- Site location plan – as existing;
- Proposed block plan;
- DRWG no. FLAGGS/2023/LE1 Landscape elevation;

- DRWG no. FLAGGS/2023/S1 Plan & elevations – as proposed;
- Flood risk assessment.

4.0 Departure/Public Advertisement Procedure

Occupiers of 8 properties have been individually notified by letter and a site notice has been displayed at the site and an advert placed in the local press.

Site visit undertaken on 24.03.2023.

5.0 Planning Policy Framework

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

Spatial Policy 3 – Rural Areas
 Spatial Policy 7 – Sustainable Transport
 Core Policy 9 - Sustainable Design
 Core Policy 10 – Climate Change
 Core Policy 12 – Biodiversity and Green Infrastructure
 Core Policy 13 – Landscape Character

NSDC Allocations and Development Management DPD (July 2013) (ADMDDP)

DM5 – Design
 DM7 – Biodiversity and Green Infrastructure
 DM8 – Development in the Open Countryside
 DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

National Planning Policy Framework (NPPF) 2021
 Planning Practice Guidance (PPG)
 Landscape Character Assessment SPD 2013

6.0 Consultations

NB: Comments below are provided in summary - for comments in full please see the online planning file.

(a) Statutory Consultations

For guidance on Statutory Consultees see Table 2: Consultation and pre-decision matters - GOV.UK ([Consultation and pre-decision matters - GOV.UK \(www.gov.uk\)](https://www.gov.uk)).

Nottinghamshire County Council Highways - The details submitted indicate a stables/livestock building suitable for a range of animals and an adjacent dedicated area of land for equestrian use, which will be occupied by the horses of a local person. As this is not the owner of the land, this would be considered a commercial use. The application also specifies that the proposals will generate the need for two part-time employees. Access to

the development is as existing.

There appears to be some ambiguity as to the use of the proposed building and it is unclear if going forward it may be used for the keeping of horses or/and other livestock and how this will be serviced and potentially how many visitors the stables/livestock building, and paddocks could generate e.g. further persons keeping their horses here.

The submitted drawings do not clearly show parking and turning, and whilst there appears ample space, it is not specified where vehicles would park, how many spaces will be available and where vehicles would turn. If larger servicing vehicles will be visiting the building, turning for expected vehicles needs to be demonstrated.

(b) Town/Parish Council

Norwell Parish Council – Support proposal.

(c) Representations/Non-Statutory Consultation

NSDC Environmental Health – No objections

No representations have been received from residents or any other third parties.

7.0 Comments of the Business Manager – Planning Development / Appraisal

The key issues are:

- Principle of the development within the open countryside
- Impact on Design and Landscape Character
- Impact on Highway Safety
- Impact on flood risk
- Impact on residential amenity

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

Principle of Development

The NPPF (2021) states that the purpose of the planning system is to contribute to the achievement of sustainable development. This can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs (para 7). Achieving sustainable development means the planning system has 3 overarching objectives:

- An economic objective – build a strong, responsive and competitive economy;
- A social objective – to support strong, vibrant and healthy communities;
- An environmental objective – to protect and enhance our natural, built and historic environment. (para 8, NPPF 2021)

The Development Plan is the statutory starting point for local decision making which comprise of the Amended Core Strategy (2019) (ACS) and the Allocations and Development Management Development Plan Document (DPD) (2013) as well as Supplementary Planning Documents and any Neighbourhood Plans. Planning applications that accord with the policies in the Development Plan for Newark and Sherwood (including, where relevant, policies in Neighbourhood Development Plans) will be approved without delay, unless material considerations indicate otherwise.

Norwell is classed as an ‘other village’ in the settlement hierarchy and therefore Spatial Policy 3 of the ACS applies. This states that *‘Development not in villages or settlements, in the open countryside, will be strictly controlled and restricted to uses which require a rural setting.’* As the proposal falls outside of the built-up area of any settlement, Policy DM8 (Development in the Open Countryside) of the ADMDPD would also apply.

Policy DM8 restricts the development within the open countryside to a list of limited exceptions which include rural diversification, equestrian, small scale employment and agricultural uses. The proposal is for a mixed agricultural and equestrian use located on existing agricultural land.

‘Agriculture’ is defined within Section 336 of the Town and Country Planning Act 1990 as follows:

*“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, **the breeding and keeping of livestock** (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), **the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” shall be construed accordingly;*** (emphasis added)

The land in question, as far as is known, has not been used for any purposes other than agriculture and the use of the building is proposed to be a shared use for livestock (agricultural use) and equestrian use (horse). This latter element will be rented out to third parties as a commercial enterprise not associated with the existing farm. The equestrian use will use the paddocks and the building will, in part, provide stabling and storage with the floorplan having been amended to illustrate this use. Therefore, in terms of the use of the building and land the proposal complies with policy DM8 of the ADMDPD.

Need

Policy DM8 of the ADMDPD states that with regard to equestrian buildings *‘proposals for new development should investigate **the re-use of existing buildings** and sites within and adjacent to settlements. In assessing such proposals, the Council will have regards to their **cumulative***

impact.' (emphasis added). With regard to new agricultural development, proposals would need to explain the need for the development.

From the Planning History section above, Members will note that the Council has recently granted consent for 2 large buildings, (on the land highlighted in blue on the plan below), which are replacements for existing buildings. At the point of writing this report, one has been constructed and the other is in the process of being constructed, another building is also available within the yard area which is already in existence.



Having approached the agent for clarification on why these buildings could not be utilised for this proposed development, they stated that the buildings are not suited for livestock/animals and are only for storage purposes. The farm had cattle on the site prior to 1998, then this ceased, and sheep were farmed, then arable. No livestock are currently on the site. The former buildings, now replaced as part of the 2021 and 2022 applications, had been utilised for livestock (cattle) and the replacements were granted for the purpose of housing larger modern machinery and other farm storage. As the farm is arable (no livestock), these replacement buildings were considered appropriate. The agent states these new buildings are not suited for livestock due to the noise created from the operational yard area, created by the large machinery.

The proposal also envisages the stabling of horses and therefore the building would be for a mixed agriculture and equestrian use. In relation to cattle, the applicant does not currently own any livestock on their holding of approximately 5 hectares (circa 14 acres). The applicant intends to purchase cattle but the agent has also mentioned sheep being farmed. Currently, the agent is unclear which would be farmed on the site. It is proposed that the animals will be put to pasture in the spring/summer with the numbers reduced throughout the season to keep control of the grass and its quality. However, although the applicant has stated they envisage owning livestock in some form and that the farm is undergoing a resurgence in modernisation; no actual livestock are on the site at present and therefore there does not

appear to be a need or a certainty that livestock would be accommodated within the building. Horses are on the site and would be stabled within the building and grazed within the paddocks, which is acceptable. However, with no livestock on the site, adequate evidence to justify the need for the building and its size has not been forthcoming and the further extension of development within this field has not been justified. No business plan has been submitted with the application which would demonstrate the projected activities and commitments that the farm will be making in the coming years, however this would not be a justification for need and would still equate to an aspiration. Members are signposted to a recent appeal decision, which also discusses the matter of need¹. The Inspector concluded that they were not convinced that the proposal would be necessary for the proper functioning of the agricultural land which it serves and that inadequate evidence had been produced to justify the operations on the site. Members should therefore be aware that the matter of the need for further buildings within the open countryside, in line with Spatial Policy 3 (Rural Areas) and Policy DM8 (Development in the Open Countryside), should be fully justified to the satisfaction of the Local Planning Authority and should suit the operations of the land they are intended to serve. As such the proposal, in terms of the need, is not adequately demonstrated.

Impact on Design and Landscape Character

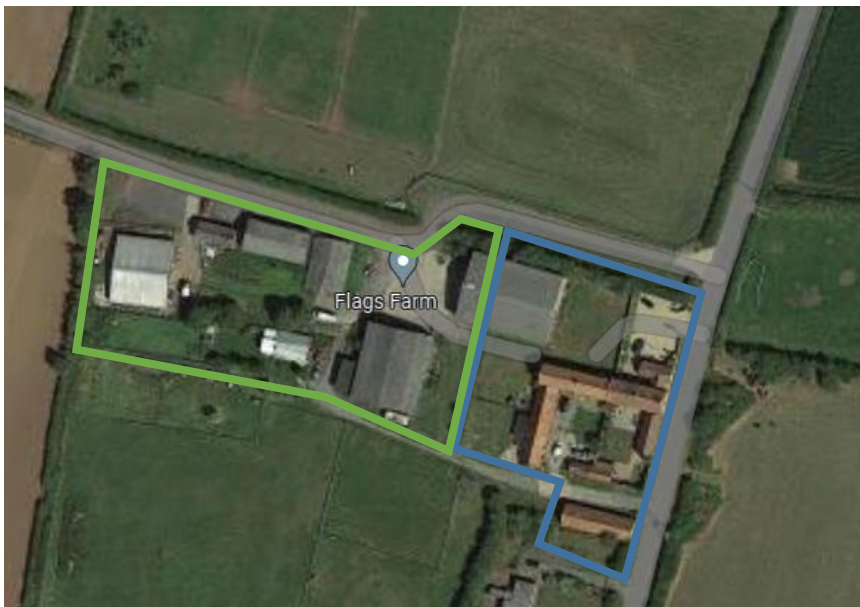
The NPPF (2021) states *decisions should ensure developments are sympathetic to local character and history, including the surrounding built environment and landscape setting*' (para 130). Core Policy 9 (Sustainable Design) of the ACS states *'new development should be of an appropriate form and scale to its context complementing the existing built and landscape environments'*.

Core Policy 13 (Landscape Character) of the ACS states new development should positively address the implications of relevant landscape Policy Zone, that is consistent with the landscape conservation and enhancement aims for the area ensuring that landscapes, including valued landscapes, have been protected and enhanced.

The site is located within the Caunton Village Farmlands with Ancient Woodland (MN PZ 28) landscape character area as defined within the Council's Landscape Character Assessment SPD. This states the landscape condition is good and that the landform is apparent with intermittent areas of woodland giving generally moderate visibility value. Views are intermittent due to numerous blocks of woodland and hedgerows. Therefore, the policy action is one of 'conserve and reinforce'.

The existing site and the development of such (as approved) is currently contained within the land to the south of that proposed as part of this application. However this has already been extended over time. To the east of the site (as outlined in blue on the plan below), are the original brick barns which formed the original crew yard for the farm. The buildings to the west of this (as outlined in green on the plan below) are later additions (assumed post WW2) which have been erected as the farm has evolved.

¹ 22/00120/FULM Land Adjacent Willowdene 9 Beckingham Road Coddington Newark On Trent NG24 2QS
<https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=R62CBWL80FZ00>



Source Google maps

The encroachment of new development to the north of the existing site and within the open countryside, is considered to result in harm to the surrounding landscape setting by virtue of undeveloped nature of the site and the proposed massing and scale of the development. The resulting inappropriate encroachment into the open countryside with development would add to the visual clutter within the contained landscape. To add further substantial detached buildings above those which are reasonably necessary for the farm to function, is considered unjustified, unnecessary and harmful to the landscape character of the area which is one of conserve and reinforce.

As such the proposal is considered to be unacceptable upon the landscape character, and leads to a failure in compliance with Core Policy 9 and 13 of the ACS and policy DM5 and in turn DM8 of the ADMDPD and the NPPF which is a material planning consideration.

Impact upon Highway Safety

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 of the Allocations and Development Management DPD. The NPPF states that 'Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or on residual cumulative impact on the road network would be severe' (para 111). Spatial Policy 7 encourages proposals which avoid highway improvements which harm the environment and character of the area and are appropriate for the highway network.

Comments have been received from Nottinghamshire County Council which are summarised in Section 6.0 Consultation above. Members will note that this requests information from the applicant in order to establish activities to take place on site. The agent for the application has responded stating the equestrian use is private and that no riding or commercial livery will take place. No additional traffic would be created through deliveries or visitors other than those who tend to the horses/animals. The hay/straw within the proposed building would be taken from the existing holding and any new livestock would be grazing the land within the holding only.

This information has been put to Highways colleagues who state that although they do not propose a commercial livery, it is in all intents a commercial enterprise for the fact that it is not agricultural or operated as part of the current farm business.

The concern is that the land use would allow for the commercialisation of the equestrian use by way of associated horseculture uses, such as riding lessons, with little or no restrictions in place. This would result in an increase in the number of vehicle movements to and from the site. Although it is understood that the applicant does not intend to carry out such activities at present, granting permission would mean there would be unrestricted use for equestrian uses. If the use was a personal one, then a condition could be imposed limiting such activities which would be able to control parking provision, hours of operation etc. However as this is to be a separate use, rented out by the farm, a condition would not meet the tests as set out in the NPPF, of being enforceable.

No details of parking provision have been submitted to show parking spaces for those tending to the horses and the turning space for larger vehicles i.e. horse boxes has also not been shown to illustrate this is achievable within the red line site plan. Therefore, the applicant has failed to demonstrate that the proposal would result in an acceptable impact upon highway safety to the satisfaction of the local planning authority for the activities to be carried out.

Impact on Flood Risk

Paragraph 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 (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.'* This is also reflected in Core Policy 10 (Climate Change) of the ACS.

The NPPF (2021) states the inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Development should be made safe for its lifetime without increasing flood risk elsewhere (para 159). A sequential risk based approach should be used to steer new development to areas with the lowest risk from flooding from any source (referred to as Sequential Test). Following this the exception test should be applied and satisfied, where necessary.

The site is located within Flood Zone 1 (lowest risk from fluvial flooding) according to the Environment Agency data maps. The development is not one of those listed as exempt from the application of the Sequential Test as set out in the NPPF as it is not householder development, small non-residential extensions or constitute a change of use. The Planning Practice Guidance (PPG) states that the Sequential Test should be applied to major applications (such as this) but will not be required where the site is in an area at low risk from all sources of flooding, unless other information submitted indicates there may be a risk of flooding in the future, such as from ground water flooding and surface water flooding, as applies here.

The application is accompanied by a Flood Risk Assessment (FRA) which provides limited information on flooding at the site, but states measures will be incorporated to prevent

residual flood risk. The FRA does not include sources of flooding either from surface water run-off or ground source flooding and although the proposal is located within flood zone 1 and deemed to be a Less Vulnerable within Annex 3 (Flood risk vulnerability classification) of the NPPF (2021), to satisfy the PPG a full assessment of the sources of flooding require consideration. This has not been undertaken and therefore the FRA is considered inadequate.

The use of the site as Less Vulnerable is compatible with flood zone 1 when viewed against Table 2: Flood risk vulnerability and flood zone 'incompatibility of the PPG², however a full assessment of the effect of the building cannot be considered due to the inadequate FRA.

As such the proposal has failed to demonstrate the compliance with Core Policy 10 (Climate Change) of the ACS and the NPPF and PPG which are material planning considerations.

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. Development proposals should have regard to their impact on the amenity or operation of surrounding land uses and where necessary mitigate for any detrimental impact. The NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

The housing of animals within this building has the potential to cause noise, odour and waste disposal issues which could be harmful to the living amenities of neighbouring occupiers. This would be largely dependent upon how long the animals would be housed in the building and how the waste would be disposed of.

The nearest neighbours are approximately 130m from the site of the proposed barn. The application is silent on how the waste would be disposed of or indeed stored. Information from the agent has stated that the 'muck' would be exchanged with other farms for straw/hay, however this is outside of planning control and no details of onsite storage is provided within the application. Environmental Health colleagues have raised no objections to the proposal however further management of waste on agricultural fields or between farms, would be covered by separate legislation through the Department for Food and Rural Affairs and the Environment Agency.

Suitable storage of waste would need to be achieved on site which is away from existing residents and any watercourse. Had the proposal been considered acceptable this could have been further explored with the applicant. However, given the distance from neighbouring properties, 130m, and depending on where this waste is stored, the LPA is confident that odour would not be considered to result in harm.

The building is reasonably enclosed so when the animals are housed, it is not considered it would result in an amplification of noise which would be harmful to neighbouring occupiers.

The proposal is not considered to result in harm to neighbour amenity from increased use of the site or noise or odour affects.

² <https://www.gov.uk/guidance/flood-risk-and-coastal-change#table2>

Having carefully assessed the impact of the proposed development upon all neighbouring amenity, it is concluded that the proposed would be acceptable and would comply with Core Policy 9 of the ACS and Policy DM5 of the ADMDPD and the NPPF.

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

Development in the open countryside is strictly controlled and must be proved to be necessary in order to be supported by policy DM8 of the Allocations and Development Management DPD. The applicant has been granted two large barns within the crew yard in addition to the one they already had, which although the agent has stated these are just for storage of machinery, the LPA is not satisfied that they could not be utilised for livestock. In addition, it is considered that the farming of livestock is an aspiration by the applicant (as no animals are currently farmed on the site) and therefore there is not considered to be the need for the additional building for this purpose. The use of the site for equestrian use is appropriate within the open countryside, and this is to be managed outside of the existing farm, as a commercial enterprise.

The siting of the building at this scale away from the existing buildings and within a verdant field, results in inappropriate encroachment into the open countryside which would result in harm to the quality of the landscape setting and thus the character of the area.

The applicant has failed to demonstrate that the proposal would not result in harm to flood risk due to the inadequate flood risk assessment which does not address the sources of flooding in accordance with the NPPF and PPG. Although the applicant has submitted information relating to the impact of the development upon highway safety, due to the ability of the equestrian use to be greater than envisaged as part of this application. It is not possible to control this by condition, this would lead to a potentially unacceptable impact upon highway safety. The applicant has also failed to demonstrate how the parking, turning and delivery details (if required), would be managed within the site.

Although there would be modest benefits to the local rural economy from the development, it is considered that the proposal results in an unnecessary form of development within the open countryside, without any demonstrable need. Thus, the proposal is considered to fail to accord with Spatial Policy 3 and 7, Core Policy 9 and 10 of the Amended Core Strategy, Policies DM5 and DM8 of the Allocations and Development Management DPD, as well as the Landscape Character SPD, the NPPF and the PPG which are material planning considerations.

10.0 Refusal

01

Development in the open countryside is strictly controlled by Spatial Policy 3 (Rural Areas) of the Amended Core Strategy (2019) and Policy DM8 (Development in the Open Countryside) of the Allocations and Development Management DPD (2013) and the need for such development has not been fully explored to the satisfaction of the Local Planning Authority due to the presence of new, existing, larger buildings. In addition, the proposal is for the housing of livestock which are not farmed on the site and is an aspiration of the applicant as opposed to a justifiable need. Therefore, the proposal is considered to be contrary to Spatial Policy 3 of the Amended Core Strategy and Policy DM8 of the Allocations and Development Management DPD.

02

The NPPF (2021) states 'decisions should ensure developments are sympathetic to local character and history, including the surrounding built environment and landscape setting' (para 130). Core Policy 9 (Sustainable Design) of the Amended Core Strategy states 'new development should be of an appropriate form and scale to its context complementing the existing built and landscape environments'. The siting and scale of the building away from the existing development and within a verdant open field, would result in unnecessary encroachment into the open countryside which results in harm to the sensitivity of the landscape character as stated within the Landscape Character SPD. Therefore the proposal fails to accord with Core Policy 9 and 13 of the Amended Core Strategy and Policy DM5 of the Allocations and Development Management DPD and the Landscape Character SPD and the NPPF which is a material planning consideration.

03

In the opinion of the Local Planning Authority, the applicant has failed to demonstrate the impact upon highway safety and flood risk, to the satisfaction of the Local Planning Authority. The submitted flood risk assessment is unacceptable and does not accord with the Planning Practice Guidance paragraph 027 (ref: 7-027-20220825) which requires all major applications to assess the proposal against all sources of flooding and it is not a development which is exempt from the application of the sequential test. Insufficient information has been provided in relation to vehicular movements, turning circles and parking arrangements. It is therefore not possible to fully assess the highway implications of this development.

As such the proposal fails to accord with Spatial Policy 7 and Core Policy 10 of the Amended Core Strategy and policy DM5 of the ADMDPD as well as the NPPF and PPG which are material planning considerations.

Informatives

01

The plans and documents considered

Site location plan – as existing;
Proposed block plan;
DRWG no. FLAGGS/2023/LE1 Landscape elevation;
DRWG no. FLAGGS/2023/S1 Plan & elevations – as proposed;
Flood risk assessment.

02

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

03

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/

BACKGROUND PAPERS

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Application case file.

Committee Plan - 23/00188/FULM

