



Report to Planning Committee 10 August 2023

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Report Summary			
<b>Application Number</b>	23/00927/FUL		
<b>Proposal</b>	Part retrospective application for erection of two new dwellings		
<b>Location</b>	Westwood Park, Main Street, Thorney, NG23 7DA		
<b>Applicant</b>	Mr & Mrs A Sidebottom	<b>Agent</b>	Reece Musson - UKSD Developments
<b>Web Link</b>	<a href="https://www.newark-sherwooddc.gov.uk/23/00927/FUL">23/00927/FUL   Repair and extension to the existing barn to create 2 dwellings (Part retrospective)   Westwood Farm Main Street Thorney NG23 7DA (newark-sherwooddc.gov.uk)</a>		
<b>Registered</b>	07.06.2023	<b>Target Date Extension To</b>	02.08.2023 Requested 18.08.2023
<b>Recommendation</b>	That Planning Permission is <u>REFUSED</u> for the reasons detailed at Section 10.0		

This application is being referred to the Planning Committee for determination by the local ward member, Councillor P Farmer for the following reasons:

1. Approval of the development would result in no greater visual harm than the previously approved conversion and restoring the site back to its former (and enhanced) appearance would improve the current appearance of the site which would otherwise be a blight on the countryside. This would accord with Core Policy 9 and Policy DM5.
2. Approval of the development would result in no greater flood risk than the previously accepted and approved conversion scheme with two dwellings being created. Subject to the same flood mitigation measures the accepted position of the Council has been that the development would be safe for its lifetime and not increase flood risk elsewhere in accordance with Core Policy 9 and Policy DM5 of the Development Plan.
3. The re-build scheme would be constructed to improved building regulations which would mean that the buildings perform better in sustainability terms and would re-use the

**reclaimed materials on site showing the Applicant's efforts to maintaining the aesthetic of the former consented conversion scheme.**

## **1.0 The Site**

The application site is located on the west side of Main Street in Thorney; the site previously contained four outbuildings and an existing farmhouse (two outbuildings have since been demolished with only one partial element of the more historic building remaining).

- Barn A was a traditional brick and slate built agricultural building with historic features and architectural merit – only the easternmost wall of this building and directly adjoining masonry returns remain;
- Barn B was a steel framed building with concrete block facades and a concrete corrugated roof building – this has been completely demolished and footprint foundations are visible on site;
- Barn C (outside the application site to the NW) is a breezeblock and corrugated sheeting barn used for agricultural storage; and
- Barn D (outside the application site to the NE) was an agricultural building that is now being converted to a dwelling under 22/00687/CPRIOR.

At the time of visiting a mobile home was also present to the east of Barn D.

The site is situated in the settlement of Thorney and is accessed via a long private drive that serves the wider site from Main Street. The main farmhouse is located to the south of the former barn buildings and beyond this is a new black clad building that has recently been constructed. Fields bound the site to the west.

The land where Barns A and B stood lie within FZ2 as defined by the Environment Agencies Flood Mapping with the access track within FZ1 and land to the west in FZ3.

## **2.0 Relevant Planning History**

**Relating to Barn D: 22/00687/CPRIOR** – Prior approval application for proposed change of use from agricultural barn to one dwelling house and associated building works (Class C3) Schedule 2 Part 3 Class Q – Prior approval required and granted 20.05.2022 and implemented.

**21/01878/FUL** - Part retrospective application for erection of two new dwellings and the change of use of 2 No. barns to ancillary storage (approved ref: 20/00855/FUL) – Refused 13.10.2021 due to the principle of the development (two new dwellings) being contrary to policy DM8, the consequential impact on the character of the area and concerns in relation to flood risk.

**21/01599/FUL** - Application to erect small scale agricultural storage building (Part Retrospective) – Refused 15.10.2021 and allowed on appeal.

**20/00855/FUL** - Conversion of existing barns to form two new dwellings and the change of use of 2 No. barns to ancillary storage (resubmission of 19/00946/FUL) – Permitted 14.07.2021 subject to conditions (including pre-commencement conditions). Not lawfully implemented, expired.

**20/00573/CPRIOR** - Notification for Prior Approval for a Proposed Change of Use of Agricultural Building to dwellinghouse and for building operations reasonably necessary for the conversion – Withdrawn 13.05.2020 due to comments received from the Highways Authority in relation to the an unacceptable intensification of the use of the existing site access (with both agricultural and residential vehicles) which has impaired visibility to the north at the junction with Main Street. Required to change the use of barns C & D to prevent this level of intensification.

**19/00946/FUL** - Conversion and extension of barns to form 2 No. dwellings and the change of use of 2 No. barns to ancillary storage – Withdrawn 02.10.2019 to undertake additional ecology surveys.

### **3.0 The Proposal**

*NB: The description of development has been amended with agreement from the Agent to better reflect the nature of the proposed development throughout the lifetime of this application.*

The application seeks permission (part-retrospective) for the erection of two new dwellings. The application is part retrospective in that two outbuildings/barns have been demolished/part-demolished and footings have been dug for the new dwellings.

The application advances the same design for Barns/new dwellings A and B as approved under 20/00855/FUL, albeit the scheme would no longer constitute a conversion scheme as the outbuildings have been demolished with only remnants of Barn A remaining at present.

Permission is therefore sought for the erection of two new dwellings in the form of two barns as follows:

- Barn A – the proposal would rebuild the former outbuilding in the format approved under 20/00855/FUL. The dwelling would have an open plan kitchen/living/dining area at GF with a utility, WC, living room, study, snug and a garage and at first floor would have four bedrooms, all with ensuite bathrooms. Materials would be brick (reclaimed from the site) and slate tiles with composite windows and doors.
- Barn B – the proposal would rebuild the former structure in the format approved under 20/00855/FUL. This dwelling would have an open plan lounge/dining area at GF with a kitchen, utility, WC, living room, study, boot room and a two bedrooms with ensuites and at first floor would have two bedrooms with ensuite bathrooms and dressing rooms. Materials would be timber and brickwork (reclaimed from the site) cladding, slate tiles and composite windows and doors.

Curtilages for both dwellings would be provided to the south and west of the new buildings and 4 no. parking spaces would be provided to the north. Access to the new dwellings would be taken off the Main Street via the existing private access track.

Information Assessed in this Application:

- Application Form
- Site Location Plan – Ref. UKSD-SA-08-0001 A00
- Existing Site Block Plan – Ref. UKSD-SA-08-0002 A00

- Proposed Site Block Plan – Ref. UKSD-SA-08-0003 A03
- Proposed Plans and Sections – Ref. UKSD-SA-08-0006 A.01
- Proposed Elevations 0007 A.01
- Supporting Statement
- Flood Risk Assessment, dated June 2021

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

Occupiers of 5 neighbours have been individually notified by letter and a site notice has been displayed close to the site.

Site Visit date: 17.07.2023

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

##### **The Development Plan**

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

Spatial Policy 1 - Settlement Hierarchy  
 Spatial Policy 3 – Rural Areas  
 Spatial Policy 7 - Sustainable Transport  
 Core Policy 7 – Tourism Development  
 Core Policy 9 -Sustainable Design  
 Core Policy 10 – Climate Change  
 Core Policy 12 – Biodiversity and Green Infrastructure  
 Core Policy 13 – Landscape Character  
 Core Policy 14 – Historic Environment

*Allocations & Development Management DPD*

DM5 – Design  
 DM7 – Biodiversity and Green Infrastructure  
 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 (online resource)
- NSDC Residential Cycle and Car Parking Standards and Design Guide SPD (2021)
- Conversion of Traditional Rural Buildings Supplementary Planning Dated (Nov 2014)
- The Town and Country Planning (General Permitted Development) (England) Order 2015

#### **6.0 Consultations**

*NB: Comments below have been summarised. Full Consultee comments can be found on the online planning file.*

### **(a) Statutory Consultations**

None.

### **(b) Town/Parish Council**

**Thorney Parish Council – Object – Concerns raised:**

- Concerns that the overall development on site would create a small satellite village.
- Works have been undertaken without planning permission and have been halted due to enforcement instigation.
- The access track is very narrow and there are concerns about highways safety due to visibility at the site access.
- Concerns about damage to the roads.
- No evidence of the sequential test being undertaken and that there should be no further development in an inaccessible location.
- Concerns that the previous structural survey does not align with the statements in the planning statement in relation to the poor structural stability of the barns.
- The scheme is not a conversion, but a completely new build.

### **(c) Representations/Non-Statutory Consultation**

**NSDC Conservation – Summary of comments made on application 21/01878/FUL:**

- Only the conversion of the historic barn [Barn A] merited the input of Conservation and now this has been substantially taken down with the proposal to take down and rebuild this element in its entirety.
- The mortar [of Barn A] being low in cement indicates a soft lime mortar which was no doubt historic and was probably not a cost saving at time of construction as the Applicant suggest but a traditional method of construction which helps older fabric to breath. Cement free mortar is not 'weak' mortar as is suggested, and most crucially mortar is not the structural element of a wall.
- The statement advances that the barn may well have been too contaminated for human habitation without complete rebuilding, so essentially the Applicant is saying that this building was, in fact, never suitable for conversion, which one would assume means the scheme as approved could never have been implemented.
- Historic elements of the barns are all but removed and the remaining element would be rebuilt. Rebuilding the barn, even with the re-used fabric and to the same design, does not restore significance. The basis of historic building conservation is such that conservation, rather than reconstruction or restoration, is at its heart. Once a historic building is lost there is no way to fully reinstate its significance. A facsimile could reintroduce an element of its aesthetic significance, but even here there are likely to be subtle differences due to the modernity of the build, which will inevitably have a crisper, even and less weathered look, and the inevitable request for higher u-values and modern building standards, being now a new-build, may well bring about other changes. However, the significance of historic buildings is not just in their aesthetics. Age alone is a large contributor of significance, and this is lost through its demolition. Authenticity is also a significant factor, and while the new build could be a faithful copy of the original building it will be just that, a copy, and not the

real or genuine building.

- In terms of whether there is any heritage benefit that could be attached to the rebuilding of the barn, this is not considered to be the case. The previous photographs of the site make a more accurate record of the lost historic building than a modern version of a copy would. Neither is this a small missing element in an otherwise positive site where an element of restoration would be beneficial to the overall significance of the site. The farmhouse is at its core a historic building, being visible on the OS 1875/85 map and looking to have Georgian brickwork, but it has been hugely altered in terms of extensions, fenestration and porch addition and the farmyard has also been significantly altered by new build barns. The rebuilding of a fake historic barn would not then benefit the remaining buildings on site nor complete a site-wide restoration, for example. It could put back in place an element of what visually once existed, but this may only serve to confuse the history and development of the site. As such it is not considered that there would be any tangible heritage benefit of the proposed scheme which is would now be a new build in the countryside.

**NCC Highways** – Object – Concerns that traffic generated by the proposed development would likely result in an increase in danger to other users of the highway owing to increased use of the existing access which affords restricted visibility for drivers emerging from the access.

**Natural England** – No comments to make.

**NCC Ecology** – No comments received.

**Nottinghamshire Wildlife Trust** – No comments received.

**The Environment Agency** – No comments to make.

**Trent Valley Internal Drainage Board** – General advice given.

**NSDC Environmental Health Contaminated Land** – No objection subject to the full phased contaminated land condition being imposed.

**No comments have been received from any third party/local resident.**

## **7.0 Appraisal**

The key issues are:

1. Background Information
2. Principle of Development
3. Impact upon Character of the Area
4. Impact on Amenity
5. Impact on Highways Safety
6. Impact on Flooding
7. Impact on Ecology

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.

### Background Information

This application follows a recent and almost identical application reference 21/01878/FUL. This application sought part retrospective permission for the erection of two new dwellings and the change of use of 2 barns to ancillary storage and was refused 13.10.2021 due to the principle of the development (two new dwellings) being contrary to policy DM8, the consequential impact on the character of the area and concerns in relation to flood risk.

This recently refused application followed a recent permission under 20/00855/FUL which consented (amongst other things) the conversion of Barns A and B to two new dwellings. In the assessment of this application, it was concluded that Barn A had historic features and architectural merit that warranted its preservation through conversion. The building was considered to be attractive and structurally sound (as evidenced by the submitted structural report) and had historic significance, such that the principle of residential conversion of this part of the range was considered to be acceptable. Following negotiations, the scheme was considered to have been designed sensitively and in accordance with the Council's Supplementary Planning Document (SPD) in relation to applications to convert traditional rural buildings and required no re-building or alteration save for a small extension of a former element of the building.

Barn B was not a building of any architectural or historic merit and thus its conversion to residential use under policy DM8 was not supported in principle. However, the conversion of this barn was assessed under Class Q of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and was found to be acceptable in accordance with this legislation for conversion to residential use under permitted development. Weight was given to this as a fallback position in the assessment of 20/00855/FUL and it was concluded that the conversion of Barn B, strictly within the parameters of Class Q, was acceptable.

However, as in the 21/01878/FUL, this application seeks consent for the construction of two new dwellings (identical in appearance to that approved under 20/00855/FUL) following the demolition of Barn B and the partial demolition of Barn A. The photos below show the current status of the site and the site at the time of the 2021 application:



### Site Photos July 2023



### Site Photos from 21/01878/FUL

The supporting statement submitted with this application (which is the same as that submitted under 21/01878/FUL) advances that Barn B was in a poor condition due to weather events in the months following the grant of permission. The statement explains that the owners had *“major concerns relating to safety; in particular with the roof to Barn B”* and the *“the decision was made to carefully remove the roof from Barn B to mitigate the risk of falling debris and potential severe injury or death”*. The statement alleges that without removing the roof of this building it would have *“been impossible to safely enter the barn to complete pre-construction surveys as required by the building contractor team”* and that *“when lifting the unstable roof trusses from the building [...] it was causing major defects to the structure below. It was apparent that the mortar was defective and was not fit for purpose”*. The statement advances that there were major cracks both internally and externally and following the removal of the roof *“80-90% of the external walls became severely unstable and fell to the floor”*. No contact was made with the LPA by the applicant/owner (or their planning agent) at the time to discuss the alleged structural deficiencies of Barn B or the alleged subsequent collapse. The matter was instead brought to the Council’s attention by a third party and investigated by the Council’s Enforcement Team. There is limited reference in the submitted statement to Barn A and why a significant portion of this building has been demolished.

Officers also note that all works on site were commenced prior to discharging the pre-commencement conditions attached to permission ref 20/00855/FUL (numbers 12 – Ground Contamination Investigation and remediation, 15 - a timetable for implementation of ecological mitigation recommendations and 17 - full details of a Habitat Enhancement/Creation Scheme) and that no contact was made under the provisions of condition 8 which allowed for the agreement of a schedule and methodology of repairs to Barn A if they were found to be necessary. The supporting statement submitted with this application alleges that consultants would not have been able to visit the site and enter the buildings to undertake the works necessary to satisfy the pre-commencement conditions due to the dangerous condition of the buildings.

The owner commenced works to re-build Barn B (in the form of digging footings) which were halted following the enforcement investigation (but appear to have increased since 2021, see photos above) however the statement explains the applicant’s intention was to rebuild the barns to implement the permission and that they believed they could do so within the parameters of their consent as there were no conditions attached to the permission that stated the buildings could not be rebuilt. The statement also argues that within the parameters of Class Q it is possible to replace roofs and exterior walls. Officers disagree with both of these statements. The permission was clearly granted as a *‘conversion’* scheme, as stated within the description of the development and

re-affirmed by the approved plans and supporting documents which detailed the conversion approach. Class Q is also limited to schemes for 'conversion' and does not permit the replacement or installation of structural elements (notwithstanding that the scheme was approved through full planning permission not Class Q in any case).

Despite the supporting statement alleging to serious structural defects with the buildings Officers note that the original structural report (submitted under 20/00855/FUL), upon which the conversion permission was granted, concluded that Barns A and B were in a stable condition and did not find anything other than very minor wear and tear with the structures. The report also concluded that both buildings were capable of conversion with no significant repairs - external and internal walling showed no evidence of instability and the roof structure required no further alteration or strengthening, just minor repairs. No foundation strengthening or underpinning was recommended (following foundation trail hole investigation) and the final conclusion was that the buildings were in sound and fully stable condition. The Council's Conservation Officer (CO) has also provided some advice in response to the supporting statement in relation to the mortar (and its structural function), advising that cement free mortar is not 'weak' mortar as is suggested, and most crucially, mortar is not the structural element of a wall. The 2020 permission was only granted on the basis that the buildings were capable of being converted without structural alteration. Had the buildings been found to be structurally unstable and incapable of conversion without significant rebuilding then the principle of the development would have been contrary to policy.

### Principle of Development

The site lies outside of Thorney Village down a long private track off the Main Street, surrounding land extends into the open countryside. Spatial Policy 3 states that development out of villages, in the open countryside, will be strictly controlled and restricted to uses that require a rural setting such as agriculture. It also states that the Allocations & Development Management Document will set out policies to deal with such applications.'

Policy DM8 which covers development in the open countryside discusses the '**Conversion** of existing buildings' (emphasis added) at criterion 5 – it states *"In the interests of sustainability, consideration should be given to the conversion of existing buildings before proposing replacement development."* The primary consideration for conversion of rural buildings to residential use is that it should be demonstrated that the architectural or historical merit of the building warrants its preservation and it can be *"converted without significant re-building, alteration or extension"* (emphasis added). This aligns with the stance of the adopted SPD in relation to the conversion of traditional rural buildings. Policy DM8 also deals with applications for new dwellings, stating that *"Planning permission will only be granted for new dwellings where they are of exceptional quality or innovative nature of design, reflect the highest standards of architecture, significantly enhance their immediate setting and be sensitive to the defining characteristics of the local area"* (criterion 3).

Barn A was considered suitable for conversion as it was identified to be a non-designated heritage asset and Barn B would have been permitted for conversion under provisions of the GPDO (which was considered as a fallback position). However, Barn B has been completely demolished and only remnants of Barn A are currently present. The application is therefore for the erection of two new dwellings on this application site. The current scheme cannot reasonably be considered as a conversion scheme under criterion 5 as there are no buildings that remain on site to 'convert'.

Furthermore, no new evidence has been provided with this application to demonstrate that what remains of Barn A is structurally capable of being retained as part of any new build dwelling (or indeed whether it would be practical in construction terms to include this into any new build).

The Applicant's Agent asserts that as the proposed development for these two new dwellings would look identical to the previously approved conversion scheme that the principle of the development should be considered acceptable. However, Officers would highlight that both the Development Plan and the NPPF set the focus of providing new dwellings in sustainable locations, development in the Open Countryside is intentionally restricted to only certain appropriate types of development in accordance with this hierarchical approach, in the interests of sustainability and in order to protect the countryside. The supporting text to DM8 explains that, **in the interests of sustainability** consideration will be given to the conversion of existing buildings. It advises that other than where they are very close to settlements, the conversion to dwellings is likely to be a very unsustainable use and consequently the Council will only support the principle of this where the architectural or historical merit of the building(s) outweighs their unsustainable location. It must be demonstrated through the submission of a structural survey that the building is capable of being converted without substantial alteration or re-building and if approval is granted, the amount of re-building permitted (if applicable) will be restricted by the structural survey and a methodology of repair/schedule of works. If the need for further re-building is identified during the construction process, this may trigger the requirement for a new planning application. In this case the structural survey submitted identified no need for any rebuilding (save for a small extension of a historic element of Barn A) – physical works were limited to the installation of new windows, doors and external cladding materials and a condition for a methodology of repair works was included (condition 08). Whilst noting the comments of the local Ward Member in their call-in request regarding how the use of the existing materials from the site could restore the heritage value of Barn A once re-built, however, respectfully Officers consider this approach could set a dangerous precedent.

Putting the aesthetic appearance of the proposed new-build scheme versus the approved conversion scheme aside, Officers are of the opinion that this application can in no way be considered as a scheme for 'conversion' as what remains of Barn A would require the re-building of a significant portion of the building/new structural elements and Barn B has been demolished. The application must therefore be assessed as the construction of two new dwellings in the open countryside. Policy DM8 sets out that new dwellings that do not relate to rural workers dwellings or the conversion of appropriate buildings, will only be supported where they are of exceptional quality or innovative nature of design, reflect the highest standards of architecture, significantly enhance their immediate setting and are sensitive to the defining characteristics of the local area, similarly to para. 80e of the NPPF. In this case the dwellings would not be of exceptional quality and would not be innovative in design. The new dwellings would not reflect the highest standards of architecture, nor would they significantly enhance their immediate setting. On this basis the application would be contrary to DM8 and is therefore unacceptable in principle.

#### Impact upon Character of the Area

Given there are no physical changes proposed to Barns C & D this part of the appraisal will only consider the proposed new dwellings which would be in place of Barns A & B.

Policy DM5 of the Allocations and Development Management DPD confirms the requirement for new development to reflect the rich local distinctiveness of the District's landscape and character through scale, form, mass, layout, design, materials and detailing. Policies CP14 and DM9 of the Council's LDF DPDs also, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance.

Core Policy 13 of the Core Strategy also addresses issues of landscape character. It states that development proposals should positively address the implications of the Landscape Policy Zones in which the proposals lie and demonstrate that such development would contribute towards meeting the Landscape Conservation and Enhancement Aims for the area. The District Council has undertaken a Landscape Character Assessment to assist decision makers in understanding the potential impact of the proposed development on the character of the landscape. The LCA provides an objective methodology for assessing the varied landscape within the District and contains information about the character, condition and sensitivity of the landscape. The LCA has recognised a series of Policy Zones across the 5 Landscape Character types represented across the District.

Barn A was constructed of brick and slate and was a relatively attractive, traditional outbuilding range. The barn was considered to have historic and architectural merit and considered worthy of re-use, demonstrating the historic agricultural use of the site and contributing to the character and appearance of the area and the districts traditional agricultural vernacular. In line with policy DM8 it was considered beneficial to secure a suitable re-use of the building and concluded that there would be an enhancement to the site through an upgrading of the building and safeguarding its future. Barn A was considered to be a non-designated heritage asset, however as it has been partially demolished the significance of this asset has been lost. The unauthorised demolition of the building therefore fails to preserve the historic significance of a NDHA. The unsympathetic barn range (Barn B) has also been demolished and therefore there is no longer a heritage benefit of improving the appearance of this range to enhance the character and appearance of Barn A.

Whilst Barn A was considered to be a NDHA, the adjacent Farmhouse (or indeed the farm site overall) was not considered to have any positive merit that would warrant replacing any lost elements for a heritage benefit. There would also be no merit in replacing Barns A and B to restore any lost farmstead form. This is reinforced by the comments of the Conservation Officer (see the consultation section for summary and the online planning file for comments in full) which comprehensively address the principle of rebuilding lost historic buildings and the impact on their former significance and the impact of the loss of the buildings on this current site. Essentially the conclusion they draw is that once a building has been demolished, even if all of the existing materials are re-used, the heritage value and significance of the former building is lost.

Whilst the submitted plans demonstrate that in terms of appearance, the external appearance of the new dwellings would be the same as approved under the conversion scheme (albeit the development would be entirely a new build), this scheme was only ever acceptable in principle as a scheme for conversion, to re-use existing buildings in the interest of sustainability. The domestication of the land surrounding the barns was only considered acceptable in this 2020 application given the scheme would re-use existing redundant buildings for housing in accordance with DM8 and the provisions of NSDCs Conversion SPD. Now this is no longer a conversion scheme the attributable benefits to the conversion have been lost. Whilst the impact of the scheme is intended to be the same as previously approved, in reality it would be two completely new build

structures which would no longer secure the retention of an attractive barn. All authenticity of Barn A has been lost and Barn B was only ever considered to be appropriate within the parameters of the GPDO, which is no longer the case given no building remains to be converted. Despite assertions within the supporting statement, the Applicant has lost the benefit of any fallback position in this case given the series of events that have taken place resulting in the demolition of the buildings.

Considering the impact on the character of the area of the proposed scheme compared with the approved scheme in simple terms the impact could be argued to be the same visually. In reality the scheme would be entirely new-build rather than conversion with the historic value of Barn A having been completely lost. In terms of the proposal's impact upon the character of the wider area, the new build dwellings would continue to be well separated from the public realm as the site is accessed down a long private track however as the scheme is no longer for conversion the requirement for new build dwellings in the open countryside is for them to be of exceptional quality and innovative in design. The new dwellings in this case would not reflect the highest standards of architecture, nor would they significantly enhance their immediate setting – instead they would be a facsimile attempt to replicate the buildings which existed before them.

In terms of the landscape character impact, the site is located within the East Nottinghamshire Sandlands Policy Zone ES PZ 02: Wigsley Village Farmlands with Plantations as defined within the Landscape Character Assessment SPD. This states the condition of the landscape is moderate and the sensitivity is very low with an outcome to create. The policy zone justification states with regards to built features, proposals should conserve what remains of the rural landscape by concentrating new development around existing settlements. In this case the development would not be located close to an existing settlement and whilst the proposal attempts to reflect the previous vernacular of the site it would essentially be for two new dwellings in a somewhat isolated location in the open countryside, contrary to the appropriate forms of development permitted by DM8 and thus harmful to the character of the open countryside.

Officers note the comments of the local Ward Member who argues that the re-building of these barns would improve the current appearance of the site for other site users, however if the land was restored to paddock or agricultural land this would not have any harmful visual or character impacts on residential receptors and indeed would be more characteristic of the surrounding land, reflecting the least harmful option. Therefore, it is not considered that the argument of this scheme improving the current appearance of the site could be considered to be determinative in this case.

The development is therefore considered to be contrary to policies Core Policy 9 of the Core Strategy in addition to Policies DM5 and DM8 of the DPD and the provisions of the NPPF as the proposal would result in new pastiche dwellings which would not be innovative or outstanding and would consequently result in harm to the character of the open countryside.

#### Impact on 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 high standard of amenity for all existing and future occupants of land and buildings. When considering applications for new

dwelling 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. An assessment of amenity impact also relates to both the existing neighbouring occupiers and the occupiers of the proposed dwelling in terms of the amenity provision.

The closest residential property would be the barn to the north-east of Barn A that is being converted to a dwelling under 22/00687/CPRIOR which is approx. 19m away. This barn has two windows that face the application site, one serving a games room at ground floor and one serving Bedroom 05 at first floor. These windows would look over the north elevation of Barn A which is proposed to have windows at ground floor serving the kitchen, utility and living room and rooflights serving two bedrooms and two en-suites. Whilst this would be a close relationship, given the rooms in the barn currently under conversion would not serve main habitable rooms it is not considered that the separation distance proposed would be unacceptable in this instance, particularly given it is also proposed to be separated by the proposed parking area for Barn A.

The new dwellings would be located c.15m from the main farmhouse, albeit closest windows would be c. 28 m away from the side of the farmhouse. Given the orientation of the respective properties and intervening curtilages/boundaries there would be no unacceptable overlooking impacts on this property or future occupiers of these new dwellings as a result of the development in accordance with the NPPF and policy DM5 of the DPD. Similarly, Officers do not consider there would be any overbearing or overshadowing impacts as a result of the proposal.

It is noted that this application now proposes to retain the barn to the north-west for agricultural storage purposes. In terms of the compatibility of uses it is noted that this barn is being used for the storage of machinery to maintain the Applicant's small holding and does not attract any significant volume of traffic. The building is used for small scale general maintenance machinery and whilst it could realistically attract larger agricultural machinery with its lawful use, it is unlikely to do so given its association with the wider farm to the south has been severed and a new agricultural building was granted on appeal (ref. 21/01599/FUL) to serve the wider farm. Future occupiers of these dwellings would also be aware of the agricultural/residential interrelationship prior to purchase/occupation. In addition, the curtilages proposed for new build barns A & B are considered to be appropriate and commensurate for the size of the properties that they would serve.

Officers note the comments of the local Ward Member who argues that refusing the proposed re-building of these barns would have a harmful visual appearance and adversely impact the amenity of adjacent occupiers. However, if the land was restored to paddock or agricultural land this would not have any harmful visual or amenity impact on residential receptors and indeed would be more characteristic of the surrounding land, reflecting the least harmful option. Therefore, it is not considered that the proposal or indeed failing to approve this proposal would result in an adverse neighbouring amenity impact.

Nevertheless, the proposal as a whole would respect the amenity of existing and future occupiers which is in accordance with Policy DM5 and the NPPF.

#### Impact on Highway Safety

Spatial Policy 7 of the Core Strategy amongst other things requires proposals to minimise the need for travel through measures such as travel plans or the provision or enhancement of local services and facilities; provide safe, convenient and attractive accesses for all; be appropriate for the highway network in terms of volumes and nature of traffic generated and avoid highway improvements which harm the environment and character of the area. DM5 mirrors this. The Council's Residential Parking Standards and Design Guide SPD also sets out expectations for parking which in this area is 3 spaces for a 4-bed dwelling.

The site is served by an access from Main Street with ample turning area and parking provision within the site.

During the course of the 2020 Application the Highways Authority provided a number of comments in relation to the suitability of the existing access onto Main Street to take additional traffic given the substandard visibility from the junction and this resulted in the inclusion of Barns C & D into the application as ancillary residential storage areas for Barns A & B (this was controlled by Condition 18). This was because, at the time Barns A and B were non traffic generators whilst Barns C and D were being used for agricultural purposes, with no restrictions. As such it was concluded that the proposed conversion of Barns A and B to large family dwellings would clearly increase the use of the access road which has impaired visibility to the north at the junction with Main Street and which is unable to be improved as it requires land beyond the control of the Applicant, or that of the Highway Authority. Therefore, by controlling the use of Barns C and D, it was considered acceptable to permit the conversion of Barns A and B to residential.

However, this permission was never lawfully implemented and indeed Barns A and B are no longer capable of conversion. Since the 2020 permission prior approval has been granted for Barn D to be converted to residential use which is now underway. As expressly explained in the associated highways observations at the time of 22/00687/CPRIOR, the reason for supporting to this conversion, was that the site at the time did not have any other lawful permission given Barns A and B had been demolished. Therefore, in terms of the baseline situation, the Highways Authority comments explain that this is a change from what was considered acceptable in 2020 because Barns A and B are in effect no more, Barn C has unrestricted agricultural use, and Barn D is currently being converted into a large family dwelling.

As set out above, the Applicant asserts that Barn C is being used for the storage of machinery to maintain the Applicant's small holding and they have advised that this does not attract any significant volume of traffic. The building is used for small scale general maintenance machinery however given it has agricultural use it could realistically attract unrestricted larger agricultural machinery with its lawful use, depending on its ownership and landholding association (and it is unclear how much land is within the Applicant's ownership).

The current proposal therefore seeks to create two large family dwellings. In comparison to the current lawful use, the Highway Authority comments state that this would represent an intensification in use of the access road, which is something for several years the Highway Authority, and indeed the Local Planning Authority have been unwilling to support owing to the impaired visibility splay to the north, at its junction with Main Road. As identified previously, unfortunately the splay cannot be improved, as the land required is beyond the applicant's control or of the Highway Authority. The Highway Authority have advised that had Barns A and B remained

on site and capable of conversion at the time of assessing the conversion of Barn D to residential use, they would have raised concerns about the intensification of the use of the junction on Main Street and the consequential highways safety impact.

Overall, the Highway Authority comments state that they are unable to support this application given the traffic generated by the proposed development would likely result in an increase in danger to other users of the highway owing to increased use of the existing access which affords restricted visibility for drivers emerging from the access. It is therefore considered that the application would be unacceptable in this respect and would be contrary to Spatial Policy 7 of the Core Strategy and DM5 of the Allocations and Development Management DPD.

### Impact on Flooding

The proposed new dwellings would lie within land identified as Flood Zone 2 by the Environment Agency Flood Maps with land to the west in FZ3 – the site is therefore considered to be at medium risk of flooding.

Core Policy 10 requires development to be adequately drained and Policy DM5 relates to flood risk and water management. The NPPF adopts a sequential approach to flood risk advising that development should first be directed towards less vulnerable sites within Flood Zone 1. Where these sites are not available new developments will be required to demonstrate that they pass the exception test by demonstrating that the development provides wider sustainability benefits to the community that outweigh flood risk and that, through a site specific Flood Risk Assessment (FRA), the proposed development can be considered safe for its lifetime and not increase flood risk elsewhere. Both elements of the exception test must be passed for development to be permitted.

The NPPG states that the sequential test does not need to be applied for minor development or changes of use (exception for a change of use to a caravan, camping or chalet site, or to a mobile home or park home site). Conversions of buildings are not specifically considered although the NPPG states that the creation of a separate dwelling within a curtilage of an existing dwelling (for instance the subdivision of a house into flats) cannot be considered 'minor development'. Given the NPPF excludes changes of use from the need to undertake a sequential test the 2020 application was not subjected to the sequential test. However, the application at hand is for two new dwellings in Flood Zone 2 and as such the development must pass the sequential test.

A Flood Risk Assessment has been submitted with this application which assesses the potential risk to occupiers. The FRA is centered on the fact that the development would result in a scheme that would be the same as the previously approved conversion with finished floor levels above the 1 in 100 year floodplain level including 20% climate change allowance and the incorporation of flood resilience and resistance matters. The FRA does not consider whether the development satisfies the sequential or exception tests. It is the responsibility of the developer/landowner to gather the evidence for their application to allow the Local Planning Authority to carry out the Sequential Test. The PPG is clear that the Exception Test (and the compatibility of the proposed use in the flood zone, i.e. Table 2) is not a tool to justify development in flood risk areas when the Sequential Test has already shown that there are reasonably available, lower risk sites, appropriate for the proposed development. As such, only once the site has been deemed to have passed the Sequential Test should an assessment be undertaken as to whether the development would pass the Exception

Test, and/or whether it would be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere.

The PPG sets out that for individual planning applications subject to the Sequential Test, the area to apply the test will be defined by local circumstances relating to the catchment area for the type of development proposed. For some developments this may be clear, for example, the catchment area for a school. In other cases, it may be identified from other Plan policies. For example, where there are large areas in Flood Zones 2 and 3 (medium to high probability of flooding) and development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives. When assessing applications in the flood zone the LPA applies the Sequential Test on a district wide basis as a starting point – on this basis, there are other sites within the district that are at a lower risk of flooding than the application site (i.e. located within Flood Zone 1) that would be sequentially preferable for the development. In this case, Officers see no reason for the search area for the Sequential Test to be restricted to a lesser area, particularly given no argument has been advanced to demonstrate that this development is required to sustain an existing community.

On this basis Officers consider the area to apply to the Sequential Test in this case would be the administrative boundary of Newark and Sherwood District. Planning Practice Guidance is clear that applicants must contact the local planning authority to discuss what the search area should be for alternative sites for their development.

Whilst the applicant has not considered the sequential test in their FRA the Council's view is that there are other windfall and allocated sites within the District which could deliver market housing as a lesser risk of flooding. The application would therefore fail the Sequential Test. In this case Officers do not consider there to be any special circumstances that negate the need for a sequential test on a District wide basis and, given that there are other sites that are at lower risk of flooding than the application site (i.e. within Flood Zone 1) within the District and through the provision of a 5-year housing land supply, in addition to sites with planning permission there are considered to be sequentially preferable sites at a lesser flood risk located elsewhere within the District. Consequently, the proposal is considered to fail the sequential test and is contrary to Core Policy 9 and Core Policy 10 of the Amended Core Strategy DPD and Policy DM5 of the Allocations & Development Management DPD as well as relevant guidance contained within the National Planning Policy Framework and the accompanying Planning Practice Guidance.

### Impact on Ecology

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

Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Officers note that conditions were attached to the conversion permission relating to ecological precautionary and mitigation measures and a habitat enhancement and creation scheme, however as Barns A and B have been demolished their ecological potential has been lost. The series of events that have unfolded on site are regrettable, however Officers would still consider it reasonable to attach the same Habitat

Enhancement/Creation Scheme condition, if permission were to be granted, to ensure the biodiversity and ecological value of the site could be enhanced as originally intended. Subject to condition the application would therefore accord with CP12 in this regard.

### Other Matters

CIL - As the buildings on site have been demolished outside of any permission and the application is for two new dwellings the entire new build dwellings would be CIL liable. New residential floor space is chargeable at £70 per sqm given the site is located within the Housing High Zone 3 within the district - the CIL charge on the development would therefore be: £49,927.98.

The supporting statement explains how refusal of planning permission would infringe the applicants Human Rights through interference with the right to respect for family life and home and with the right not to be deprived of property. Officers must disagree with this assertion and note some inconsistencies within this statement which allude to the applicant and their family becoming homeless if consent is not granted. Page 7 for example states that this consent would *“merely place them back in the position where they can complete and occupy the dwelling and sell their existing large family home”* but page 8 states *“consideration should also be given that my clients and their young family are essentially homeless whilst this matter is held in obedience”*. The applicant’s current living situation is not completely clear from the supporting statement (albeit note from site discussions that they appear to be converting Barn D to a dwelling for their own use); however, Officers do not consider refusing planning permission in this case would deprive the applicant of their possession or infringe their Human Rights.

In the same statement the Applicant agent refers to a number of appeal decisions which they allege indicate that that the application should be granted, despite technically being contrary to policy DM8 as the new dwellings would be exact replicas of those approved in the 2020 application. To these Officers would note that every application must be assessed on its own merits and that the nature of the examples cited make it difficult to draw direct comparisons. Most are applications that were in the Green Belt where there is a different policy approach to development including re-developing previously developed sites. As such Officers do not consider these to be relevant to the application at hand.

The local ward member has stated in their call-in request that the re-building of these barns rather than converting them would deliver improved sustainability benefits as the resultant new dwellings would be more thermally efficient and required to meet a higher standard of building regulations. However, Officers note that as a conversion or a new-build scheme the dwellings would have had to have met the requirements of Building Regulations in terms of energy efficiency/thermal performance etc. As such this is not considered to be a factor that carries any significant positive weight in the assessment.

### **8.0 Implications**

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

## 9.0 Conclusion

The Applicant's Agent asserts that the previous permission should be considered a material consideration in assessing the principle of the development, in Officer's view it is, insofar as consent was once granted for a conversion scheme to, amongst other things, secure the reuse of a NDHA (Barn A) which overall would provide two residential units. However, the benefits that would have arisen from that scheme have been lost given the building is no longer capable of conversion. Barn B was also only ever considered acceptable against the strict parameters of Class Q of the GPDO, given its conversion would previously considered to otherwise have been contrary to DM8, however as the barn no longer exists it can no longer be converted.

For significant weight to be afforded to any fall-back position, there needs not only to be a reasonable prospect of it being carried out in the event that planning permission was refused, but it also needs to be more harmful than the scheme for which permission is sought. Although planning permission has previously been granted for two houses, this was in the form of a conversion of previously existing buildings in the interest of sustainability, securing the future use of a positive historic building (and enhancing its significance) and given the provisions of the GPDO. As these buildings have been demolished there is no reasonable prospect of the 2020 permission being implemented (indeed it is no longer possible to implement this consent) and therefore there is no fall-back position to consider this application against.

Whilst the submitted plans demonstrate that in terms of appearance, the external appearance of the new dwellings would be similar as approved under the conversion scheme (albeit the development would be entirely a new build), this scheme was only ever acceptable in principle as a scheme for conversion, to re-use existing buildings in the interest of sustainability. Now this is no longer a conversion scheme, the attributable benefits to the conversion have been lost. Whilst the impact of the scheme is intended to be the same as previously approved, in reality it would be two completely new build structures which would no longer secure the retention of an attractive barn.

The new dwellings would fail to meet the any of exception points within policy DM8 or the NPPF which requires new dwellings in the open countryside to be of exceptional quality, truly outstanding or innovative, reflecting the highest standards in architecture, helping to raise standards of design more generally in rural areas and significantly enhance its immediate setting. The development would also fail to be sensitive to the defining characteristics of the local area and is therefore unacceptable in principle. The NPPF and Policy DM8 are clear that development in the open countryside is limited for specific reasoning and this proposal is therefore unacceptable in principle. In addition, the proposal would also result in an unacceptable impact upon the character and appearance of the area and would conflict with the aims of the Landscape Character Assessment which would be contrary to policies SP3, CP9 and CP13 of the Core Strategy in addition to Policies DM5, DM8 and DM12 of the DPD and the provisions of the NPPF.

Furthermore, the proposal would also result in the creation of two new dwellings in an area at risk of flooding and the application has failed to demonstrate that there are no reasonably available sites in lower flood risk zones within the District. The proposal therefore fails the sequential test and is contrary to Core Policy 9 and Core Policy 10 of the Amended Core Strategy DPD and Policies DM5 of the Allocations & Development Management DPD as well as relevant guidance contained

within the National Planning Policy Framework and the accompanying Planning Practice Guidance.

In addition, the Highway Authority have concluded the traffic generated by the proposed development would likely result in an increase in danger to other users of the highway, and consequentially a highways safety risk, owing to increased use of the existing access onto Main Street which affords restricted visibility for drivers emerging from the access. It is therefore considered that the application would be unacceptable in this respect and would be contrary to Spatial Policy 7 of the Core Strategy and DM5 of the Allocations and Development Management DPD.

No unacceptable adverse impacts have been identified in respect of living conditions and ecology (subject to mitigating conditions) but these are neutral in the balance. Having regard to the harm identified above Officers recommend that this application should be refused given there are no material benefits to outweigh the harm identified.

## **10.0 Reasons for Refusal**

01

In the opinion of the Local Planning Authority the site is located within the open countryside. Spatial Policy 3 (Rural Areas) of the Newark and Sherwood Amended Core Strategy 2019 and Policy DM8 (Development in the Open Countryside) of the adopted Allocations and Development Management DPD 2013 seek to strictly control development in the countryside and limits this to a number of exceptions, none of which have been adequately met by the application at hand. The proposal would therefore result in unnecessary encroachment into the countryside, representing an unsustainable form of development. The proposal would also result in an unacceptable impact on the character and appearance of the Open Countryside, conflicting with the aims of the Council's Landscape Character Assessment. The development represents an unsustainable and unacceptable form of development and is considered to be contrary to Spatial Policy 3 (Rural Areas) and Core Policies 9 (Sustainable Design) and 13 (Landscape Character) of the Amended Core Strategy (2019) and Policies DM5 (Design), DM8 (Development in the Open Countryside) and DM12 (Presumption in Favour of Sustainable Development) of the Allocations and Development Management DPD (2013) as well as the NPPF (2021), as a material planning consideration.

02

The site is located within Flood Zone 2 as defined by the Environment Agencies Flood Mapping. The proposal represents the erection of two new dwellings and is required to pass the Sequential Test as set out in the NPPF, the PPG and Policy DM5. In the opinion of the Local Planning Authority, given that there are other sites that are at lower risk of flooding than the application site (i.e. within Flood Zone 1) within the District and through the provision of a 5-year housing land supply, in addition to sites with planning permission and other windfall site, there are considered to be sequentially preferable sites at a lesser flood risk located elsewhere within the District. As such, the proposal is contrary to Core Policy 10 of the Amended Core Strategy DPD (2019) and fails the Sequential Test as set out in Policy DM5 of the Allocations & Development Management (DPD) and the NPPF and the Planning Practice Guidance, which are material considerations.

03

In the opinion of the Local Planning Authority the traffic generated by the proposed development would likely result in an increase in danger to other users of the highway, and consequentially a highways safety risk, owing to increased use of the existing access onto Main Street which affords restricted visibility for drivers emerging from the access and is unable to be improved. It is therefore considered that the application would be unacceptable in this respect and would be contrary to Spatial Policy 7 of the Core Strategy and DM5 of the Allocations and Development Management DPD.

### Informatives

01

Refused Drawing Numbers:

- Site Location Plan – Ref. UKSD-SA-08-0001 A00
- Proposed Site Block Plan – Ref. UKSD-SA-08-0003 A03
- Proposed Plans and Sections – Ref. UKSD-SA-08-0006 A.01
- Proposed Elevations 0007 A.01

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 is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. 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.

### 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.