

Report to Planning Committee 10 August 2023

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Amy Davies, Planner, Ex 5851

Report Summary			
Application Number	23/00829/HOUSE		
Proposal	Erection of timber pergola		
Location	South Barn 4 Redmay Farm Church Lane South Scarle Newark On Trent NG23 7JP		
Applicant	Mr Barry Hughes	Agent	N/A
Registered	01 June 2023	Target Date	27 July 2023
		Extension of Time	18 August 2023
Web Link	23/00829/HOUSE Erection of timber pergola South Barn 4 Redmay Farm Church Lane South Scarle Newark On Trent NG23 7JP		
Recommendation	That planning permission is REFUSED for reason(s) outlined at the end of this report.		

In line with the Council’s Scheme of Delegation, as the Parish Council’s Support is contrary to the Officer recommendation to refuse, the local ward members, Councillor Linda Dales and Councillor Phil Farmer have been notified. Councillor Linda Dale’s has requested to call-in this application to Planning Committee for reasons which can be summarised as follows:

- The property is a modern house with a small domestic garden. It is not a barn conversion and has no features on the back where the pergola would be sited.
- There is no shade nor much room to place a pergola elsewhere in the garden.
- There are substantive differences between this scheme and one at South Clifton – which was an actual barn conversion. The proposed pergola would have concealed a brick archway of the original barn, and the rear of that property was more visible. The material was to be grey aluminium which would have had a ‘jarring effect’.
- The Parish Meeting’s view was that the Conservation Officer’s assessment of ‘minor harm’ was not of sufficient weight by itself to warrant refusal.

1.0 The Site

The application relates to a large, detached dwelling known as 'South Barn' which forms part of a relatively new cul-de-sac development comprising of 6-dwellings located on the north side of Church Lane within the village of South Scarle and its designated Conservation Area. The application dwelling was designed to emulate a converted threshing barn and is sited on the right-hand-side of a formal courtyard.

Neighbouring dwellings referred to in the original application as 'The Cottages' lie immediately to the south, while 'The Barns' are located to the northwest. The principal garden area is located to the rear/east of the dwelling, with boundaries demarcated by a mix of close-boarded and post and rail fences. There is also a small timber shed to the rear that does not appear to have consent (see 'Relevant Planning History' below). The Old Vicarage lies to the east and is a building of local interest set in substantial grounds.

The site has the following constraints:

- Conservation Area

2.0 Relevant Planning History

17/01846/FUL - Demolition of the Existing Industrial Buildings and Erection of 6 dwellings with Associated Access. Application Permitted 19.12.2017

Condition 12

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (and any order revoking, re-enacting or modifying that Order), other than development expressly authorised by this permission, there shall be no development under Schedule 2, Part 1 of the Order in respect of:

Class A: The enlargement, improvement or other alteration of a dwellinghouse, including extensions to the property and the insertion or replacement of doors and windows.

Class B: Additions etc to the roof of a dwellinghouse.

Class C: Any other alteration to the roof of a dwellinghouse.

Class D: The erection or construction of a porch outside any external door of a dwellinghouse.

Class E: Development of building etc incidental to the enjoyment of a dwellinghouse.

Class F: The provision or replacement of hard standing within the curtilage of a dwellinghouse.

Class G: The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse.

Class H: The installation, alteration or replacement of a microwave antenna on a dwellinghouse or within the curtilage of a dwellinghouse.

Or Schedule 2, Part 2:

Class A: The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.

Class B: Means of access.

Class C: The painting of the exterior of any building.

Unless consent has firstly be granted in the form of a separate planning permission.

Reason: To ensure that any proposed further alterations or extensions preserve the character and appearance of the Conservation Area in accordance with Policy CP 14 of the Core Strategy and Policies DM5 and DM9 of the Allocations and Development Plan Development Plan Document (DPD).

3.0 The Proposal

The application seeks planning permission to erect a timber pergola to the east facing rear elevation of the host dwelling. The proposed pergola would be affixed to and project approximately 4-metres from the rear wall of the dwelling. It would comprise of two bays and measure approximately 5-metres wide. It would include 13no. Crossmembers with Chamfered edges across the top and measure approximately 2.6-metres in height.

For the avoidance of doubt, the assessment outlined below is based on the following plans and supporting information (revised plans received 28 July 2023):

Site Plan 1:500 'South Barn Pergola' REV 1 *received 28 July 2023*

Proposed Pergola (Drawing no. 2023 245 01 1012021 Sheets 1-5 REV1) *received 28 July 2023*

Photograph of existing rear elevation *received 15 May 2023*

Heritage Statement *received 15 May 2023*

4.0 Departure/Public Advertisement Procedure

Occupiers of 4 properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.

Site visit undertaken 16 June 2023.

5.0 Planning Policy Framework

The Development Plan

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

Spatial Policy 9 – Sustainable Design

Core Policy 14 - Historic Environment

Allocations & Development Management DPD (adopted 2013)

DM5- Design

DM6 – Householder Development

Other Material Planning Considerations

- National Planning Policy Framework 2021
- Planning Practice Guidance
- Householder Development SPD 2014
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Appeal Decision Ref: APP/B3030/D/22/3311437 Clifton Barn, Vicarage Road, South Clifton (and the associated refused planning application ref: 22/01693/HOUSE).

6.0 Consultations

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

(a) Statutory Consultations

None

(b) Parish Council

South Scarle Parish Council – Support

(c) Representations/Non-Statutory Consultation

Conservation – The proposal would cause minor harm to the character and appearance of the conservation area.

No third party/neighbour representations received.

7.0 Comments of the Business Manager – Planning Development

The key issues are:

1. Principle of development
2. Impact on character and designated heritage assets
3. 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.

As the application concerns the designated heritage asset of a conservation area, section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') is particularly relevant. Section 72(1) requires the Local Planning Authority (LPA) to pay special attention to the desirability

of preserving or enhancing the character and appearance of conservation areas. The s.72 duty does not allow a local planning authority to treat the desirability of preserving the character and appearance of conservation areas as a mere material consideration to which it can simply attach such weight as it sees fit. When an authority finds that a proposed development would harm the character or appearance of a conservation area, it must give that harm considerable importance and weight.

Principle of development

Policy DM6 'Householder Development' of the Allocations & Development Management DPD is permissive of domestic extensions provided the proposal respects the design, materials and detailing of the host dwelling, and respects the character of the surrounding area, and there would be no adverse impact on the amenities of neighbouring residents in terms of loss of privacy, light and overbearing impact. These matters are considered in detail in the assessment outlined below.

Impact on character and designated heritage assets

Core Policy 14 'Historic Environment' of the Newark and Sherwood Core Strategy DPD (adopted March 2019) requires the continued conservation and enhancement of the character, appearance and setting of the District's heritage assets and historic environment, in line with their identified significance; and the preservation and enhancement of the special character of Conservation Areas including that character identified through Conservation Area Character Appraisals which form the basis for their management. In accordance with Core Policy 14, development proposals should take account of the distinctive character and setting of individual conservation areas including open space and natural features and reflect this in their layout, design, form, scale, mass, use of materials and detailing (Policy DM9 'Protecting of the Historic Environment' of the Allocations & Development Management DPD).

The application site is located within South Scarle Conservation Area and, as such, special regard should be given to preserving or enhancing the character or appearance of that area in accordance with the duty contained within Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The application is supported by a Heritage Impact Assessment.

The Council's Conservation Officer has considered the proposal and commented as follows:

"The application is for a pergola to the rear of the building. As a building that has been designed to appear as a converted agricultural building. Pergolas are a very domestic garden structure. As a domestic feature, it is considered that the pergola would undermine the design approach of the development.

The site is visible from the wider public amenity. However, the development does have other domestic elements such as close boarded fences, which will screen the structure.

It is considered that the proposal will cause minor harm to the character and appearance of the conservation area."

I note the Conservation Officer considers the proposal would cause minor harm to the character and appearance of the Conservation Area by virtue of being a domestic garden structure not in keeping with the design approach of the original development. On my site visit I observed the garden was open and devoid of shade. Consequently, the applicant currently has a parasol

positioned on the rear patio broadly where the pergola is proposed to be sited. The top of the parasol is just visible from Church Lane but mostly screened by a neighbour's close-boarded fence. The submitted Heritage Statement suggests the pergola will have negligible/no impact on the heritage setting and would add character to the property. However, it is considered that the proposal will cause harm by virtue of its position, visibility (from Church Lane), and timber construction, which would be visually at odds with the agricultural design approach of the host dwelling. Although the existing parasol already domesticates the area, it is a relatively discreet and easily moveable object, whereas the proposed pergola which would be a permanent and harmful addition to the rear of the property. The existing parasol and proposed pergola are therefore not directly comparable. Consequently, there is no clear or convincing justification for the harm the proposed development would cause.

Paragraph 202 of the NPPF requires 'less than substantial' harm to be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. There would be no public benefits associated with the proposal that would clearly outweigh the harm identified. Consequently, the proposal does not comply with the duty to preserve and is contrary to the abovementioned planning policy framework.

In reaching this conclusion, I have considered and given weight to the refusal of planning application 22/01693/HOUSE and the subsequent Appeal Decision Ref: APP/B3030/D/22/3311437 for Clifton Barn, Vicarage Road, South Clifton. This application sought permission to erect a matt grey aluminium framed pergola ('Pergola 1') immediately adjacent to the rear elevation of the dwelling, which was designed as a faux threshing barn. The dimensions of this pergola were approximately 3.6m(L) x 5.3m(W) x 2.8m(H), so it was taller and wider than the proposed, as well as to be constructed of a different material (not timber). The application was refused for the following reason:

In the opinion of the Local Planning Authority, whilst noting that most of the structures proposed have previously been approved, with the addition of Pergola it is considered that the development would significantly undermine the original agricultural design concept of the dwelling. Pergola 1 as proposed would result in a form of development that would appear alien in this setting, resulting in harm to the character and appearance of the Conservation Area. In design terms, this form of development would also undermine the rural farmstead characteristics that formed the original approval and cumulatively the addition of a further garden structure would also give rise to visual clutter within the site, detracting from and undermining the design approach of the dwelling, resulting in less than substantial harm to the character and appearance of South Clifton Conservation Area, contrary to S.72 of the Act. There are no wider public benefits that would arise as a result of this scheme that would outweigh this harm. The development is therefore contrary to the objective of preservation as set out under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in addition to failing to comply with CP9 (Sustainable Design) and CP14 (Historic Environment) of the Core Strategy (2019) and DM5 (Design), DM6 (Householder Development) and DM9 (Protecting and Enhancing the Historic Environment) of the Allocations and Development Management DPD (2013) the NPPF (2021), which is a material consideration.

The applicant appealed against this decision and had their appeal dismissed by the Planning Inspectorate for the following reason:

"I consider that the proposed development would fail to preserve or enhance the character or appearance of the SCCA [South Clifton Conservation Area] and would result in less than substantial harm to the heritage asset. Therefore, the proposals would be contrary to Policies CP9 and CP14 of

the Amended Core Strategy, and also DM5, DM6, and DM9 of the Local Development Framework Allocations and Development Management Development Plan Document which require development to be of good design, and that regard must be had to local context, including the distinctive character of Conservation Areas.”

Councillor Dales has asserted that the submitted proposal is substantively different to the one at Clifton Barn, however, it is considered the two are directly comparable as both properties were designed to emulate converted agricultural buildings with simple/unfussy elevations to reflect the characteristics of their respective sites and surrounding areas. Indeed, the rear elevations of the two properties are similar and characterised by a mix of small casement windows to the first floors and larger patio/bi-folding doors to the ground floors. Consequently, the principal reason for rejecting both proposals is the same. Overall, the addition of pergolas regardless of design or materials, fails to respect or reflect the design characteristics of each site, contrary to the abovementioned planning policy framework.

Impact on residential amenity

The NPPF seeks to ensure a high standard of amenity for all existing and future occupants of land and buildings. Policies DM5 and DM6 of the DPD state that planning permission will be granted provided proposal do not adversely affect the amenities of the adjoining premises in terms of overbearing impacts, loss of light and privacy.

Given the form and position of the proposed development (i.e., away from boundaries shared with neighbouring properties), it is not considered that there would be any adverse impacts on neighbouring amenity. The proposal therefore complies with Policies DM5 and DM6 of the DPD in this regard.

Councillor Dale’s comments regarding lack of shade have been noted, however, it is considered the existing parasol, or a similar, would provide adequate shade for the applicants to continue to enjoy their garden.

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 proposed development would cause minor/less than substantial harm to the character and appearance of South Scarle Conservation Area contrary to the objective of preservation required under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the requirements of Core Policy 14 of the Core Strategy DPD and Policy DM9 ‘Protecting of the Historic Environment’ of the Allocations & Development Management DPD and relevant guidance contained within the National Planning Policy Framework and National Planning Practice Guidance. The NPPF requires less than substantial harm to be weighed against the public benefits of the proposal. There are no public benefits that would arise as a result of this scheme that would outweigh the harm identified. It is therefore recommended the application be refused.

10.0 Refusal

01

In the opinion of the Local Planning Authority, the proposed timber pergola would significantly undermine the original agricultural design concept of the dwelling and result in a form of development that would appear alien and overly domestic in this setting, resulting in harm to the character and appearance of South Scarle Conservation Area. In design terms, this form of development would also undermine the rural farmstead characteristics that formed basis of the original approval. The proposed development would therefore result in less than substantial harm to the character and appearance of South Scarle Conservation Area, contrary to S.72 of the Act. There are no public benefits or other material planning considerations that would arise as a result of this scheme that would outweigh the harm identified. The development is therefore contrary to the objective of preservation as set out under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in addition to failing to comply with Core Policy 9 (Sustainable Design) and Core Policy 14 (Historic Environment) of the Core Strategy DPD (2019) and Policies DM5 (Design), DM6 (Householder Development) and DM9 (Protecting and Enhancing the Historic Environment) of the Allocations and Development Management DPD (2013) as well as the Council's Householder Development SPD (2014) and the NPPF (2021), which is a material consideration.

Informatives

01

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. Working positively and proactively with the applicants would not have afforded the opportunity to overcome these problems, giving a false sense of hope and potentially incurring the applicants further unnecessary time and/or expense.

02

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

03

Refused drawings:

Site Plan 1:500 'South Barn Pergola' REV 1 *received 28 July 2023*

Proposed Pergola (Drawing no. 2023 245 01 1012021 Sheets 1-5 REV1) *received 28 July 2023*

Photograph of existing rear elevation *received 15 May 2023*

Heritage Statement *received 15 May 2023*

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.