



Report to Planning Committee 7 December 2023

Business Manager Lead: Lisa Hughes – Planning Development

Lead Officer: Lynsey Preston, Planner, ext. 5329

Report Summary			
Application Number	22/02341/OUT		
Proposal	Outline application for erection of two detached dwellings and the re-alignment of Rolleston Public Footpath no.5 with all matters reserved except access.		
Location	Land Off Holly Court, Rolleston		
Applicant	Arc Partnership (obo Nottinghamshire County Council)	Agent	Aspbury Planning Limited
Web Link	https://publicaccess.newark-sherwooddc.gov.uk/online-applications/simpleSearchResults.do?action=firstPage		
Registered	06.12.2022	Target Date	31.01.2023
		Extension of time	TBA
Recommendation	Approval subject to conditions within Section 10.0 of this report and the signing of a S106 Agreement.		

This application is presented to Planning Committee in line with the Council’s Scheme of Delegation as the officer recommendation differs from that of the Parish Council. The Ward Member, Councillor Melton, has also called in the application to Planning Committee due to heritage concerns and the relationship with Ullyat’s Cottage and access to and via the site and the impact to associated footpath trails.

1.0 The Site

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

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

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

Existing trees protected by a Tree Preservation Order (N399) are located along the eastern boundary with Holly Court.

2.0 Relevant Planning History

21/02435/OUT Erection of up to 3 no. detached dwellings and the re-alignment of Rolleston Public Footpath No. 5 **Refused by Planning Committee – 11.05.2022**

Reasons for refusal

01

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

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

02

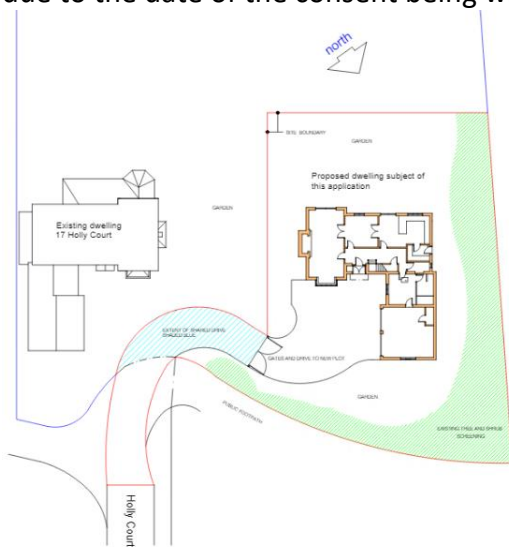
The site has potential for protected species to be impacted on by the development and whilst a Preliminary Ecological Assessment has been submitted, generic mitigation measures are proposed which fail to quantify the loss of habitat when considered through to maturity. The loss of habitat would effectively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

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

Illustrative layout that was submitted, although layout was a reserved matter.



22/02338/FUL Consent has been granted for a dwelling to the south (and outside of the application site) of the site which extends into its adjoining land to 17 Holly Court (see below). This was first consented in 2016 with subsequent later approvals (renewal of consents due to being lapsed), but no commencement has since taken place. The latest approval is still extant due to the date of the consent being within 3 years.



Site plan for 22/02338/FUL showing the new dwelling to 17 Holly Court which lies to the south of the proposed application site.

3.0 The Proposal

The application seeks outline planning consent for the construction of 2 dwellings on the existing garden to the rear of Ulyats Cottage. The proposal is for all matters reserved (appearance, landscaping, layout and scale) apart from the access, which includes the vehicular access to the plots. The proposal includes the realignment of Rolleston Public Footpath No.5 along Holly Court.

Information submitted with the application:

- DRWG no. 27793-ARC-XX-XX-DR-A-AB008 P05 Illustrative masterplan;
- DRWG no. (03)001 Rev J Illustrative landscape plan;
- DRWG no. HollyCourtTopo001 Rev B Topographical Survey;
- DRWG no. 27793-ARC-XX-00-DR-A-0001 Rev P05 Application Site Plan;
- Preliminary Ecological Appraisal & Biodiversity Net Gain Assessment Oct 2023;

Revised Arboricultural Survey & Impact Assessment 28 July 2021 (revised 12 October 2022)
Cascade chart for tree quality assessment;
Spatial Planning Design and Access Statement.

4.0 Departure/Public Advertisement Procedure

Occupiers of 32 properties have been individually notified by letter, a notice has been displayed at the site and a notice has been advertised in the press.

Site visit undertaken 05.01.2023

5.0 Planning Policy Framework

The Development Plan

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

Spatial Policy 1 - Settlement Hierarchy
Spatial Policy 2 - Spatial Distribution of Growth
Spatial Policy 3 – Rural Areas
Spatial Policy 7 - Sustainable Transport
Core Policy 9 - Sustainable Design
Core Policy 12 – Biodiversity and Green Infrastructure

Allocations & Development Management DPD (adopted July 2013)

DM5 – Design
DM7 – Biodiversity and Green Infrastructure
DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

National Planning Policy Framework 2023
Planning Practice Guidance, online resource
National Design Guide – Planning practice guidance for beautiful, enduring and successful places September 2019
Residential Cycle and Car Parking Standards & Design Guide SPD June 2021
NSDC Housing Need Survey 2020

6.0 Consultations

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

(a) Statutory Consultations

Nottinghamshire County Council Highways: The applicant has submitted amended plans in support of this application:

- a plan ref. 27793-ARC-XX-XX-DR-A-AB008 rev. P05 titled: Illustrative Masterplan;
- a plan ref. N0894 (03)001 rev. J, titled: Illustrative landscape plan;
- a plan ref. HollyCourtTopo001 rev. B, titled: Topographical Survey (unchanged)

The proposed changes shown on the submitted plans would not compromise highway safety, therefore, the Highway Authority do not wish to raise an objection subject to conditions being attached to any grant of consent.

Nottinghamshire County Council Rights of Way –the Definitive Map of recorded Public Rights of Way (PROW) shows Rolleston Footpath No. 5 crosses the land edged in red on the Location plan.

A condition is requested requiring works not to commence on footpath no.5 until the replacement footway has been provided to adoptable standard.

(b) Town/Parish Council

Rolleston Parish Council: Comments from 09/01/2023 OBJECT The parish council recognises that the revised application responds to concerns over the previous over-intensive proposals for development of the site. However the parish council is unable to support the application (whilst noting that the application is in outline with most matters reserved), primarily for the following reasons:

- 1) Boundary line for the application site still derives the adjoining Ulyett's Cottage of a viable protective garden;
- 2) Height of the larger proposed dwelling has adverse impact on neighbouring dwellings;
- 3) Loss of established footpath edge adversely impacts biodiversity.

Comments received 10/11/2023 from the Parish council reaffirmed objections to the scheme.

(c) Representations/Non-Statutory Consultation

NSDC Conservation: As set out in the previous scheme. Kate Greenaway has clearly had links to Rolleston and is an important historic literary figure. Information has been provided by local interest groups, although details of the academic sources have not been given.

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

Without academic sources outlining the significance of Ulyats Cottage and its association with Kate Greenaway it is difficult to give considerable weight on the significance of the heritage asset as a non-designated heritage asset. In addition, the cottage is much altered. This application has reduced the number of units from 'up to 3 dwellings' to 'two detached dwellings'.

As an outline application the precise number, layout and design do not form part of the application. The reduction in number of dwellings reduces the intensification of the proposed development, providing more space around the cottage.

The illustrative layout shows detached dwellings with detached garages and it likely these buildings will not respond to the host dwelling. A design that has a more positive relationship with the cottage, such as a design approach that gives the impression they are ancillary to the

cottage could alleviate any impact on the setting of the cottage.

NSDC Tree Officer – It is suggested.

1. Accepting that the retained protected trees will achieve mature size (canopy spread) the placement of car parking with this area is not acceptable.
2. Landscaping, in principle this is acceptable, acknowledging that the current species pallet is likely to be required to be altered to give a reasonable living standard to future residents and ensure retention of the proposed scheme.

Ramblers Association – No comments received.

8 letters of objection have been received from third/interested parties which are summarised below:

Amenity

- Spatial Policy 3 ‘new development should not have a detrimental impact on the amenity of local people’ and that ‘new development should be appropriate to the proposed location and small scale in nature’. We believe that should any development go ahead, the size and height of any houses should be determined as a condition of any future planning application, with the dwellings required to be of low height and with adequate space around them so as and not to be detrimental to the character of the surrounding area or the amenity of nearby properties, and therefore, this issue should not be a reserved matter.
- Backland development which destroys amenity of land of neighbours and obliterates all privacy.
- Overlooks all the private areas of the neighbour and internal spaces.
- Any dwelling approved should be limited in height to no more than 6.2m which matches the height of our dwelling and 1.5 stories.

Biodiversity/Ecology

- It is unclear whether the proposal adequately demonstrates that the site can be developed whilst protecting those trees identified as A and B category, now and into the future.
- Does the proposal adequately mitigate for the loss of the beech hedge?
- The proposal says that the hedge ‘will be replaced by a more species diverse instant hedgerow (to the same height), including native hedgerow trees planted at the back of the new footpath’. This possibly means the new layout may not allow for this.
- Significant loss of hedgerow and trees.
- Application failed to quantify the loss of habitat for protected species when considered through to maturity.
- The proposal states that the loss of habitat for nesting birds should be compensated for by the proposed tree planting and new hedgerow, but not how this will be mitigated for in the years before they reach sufficient maturity to provide reliable nesting sites.
- Unclear how the new front hedgerow and the proposed soft landscaped areas are to be maintained.
- The existing PROW provides a wildlife corridor for plants and animals to move between the village and open fields. The development kills this by grubbing up the hedge and making the PROW part of the road.

- No reference to how the orchard or wildflower meadow will be managed, fears it will result in an eyesore. This land should be incorporated in to Ullayat's Cottage to make it more commercially viable and less likely it will be demolished.
- TPO on the site which provides for biodiversity value.
- Sceptical that replacing the beech hedge with an instant hedge will provide the same value to nature. Seems ridiculous to remove it.
- Proposed layout does not allow for any tree planting between buildings and the boundary to soften the impact.

Highway impact/Parking/Public Right of Way (PROW)

- Whilst the proposal indicates 4 parking spaces per property, the arrangement will mean only 2 cars can park without obstructing access for the others, so it is inevitable that this will lead to parking on Holly Court, making access problematic and potentially unsafe.
- At its narrowest Holly Court is 4.5m wide and does not allow for a car to pass a larger vehicle, nor for 2 large vehicles to pass each other.
- Concern on the impact of the PROW now being next to the road.
- Perhaps highways should consider the imposition of double yellow lines.
- Holly Court is not an adoptable highway along its entire length. The limit if the public highway is marked in the road and excludes the turning area in front of the gate to no.17. Occupants of the proposed dwellings will have no right to use of the private road.
- The applicant does not address the issue of the inadequate sight line when emerging from Holly Court on to Fiskerton Road.

Flood Risk

- Although the site is at very low-risk from flooding, this is not our experience from living on Holly Court. The ground level of the development site is a good 10 inches higher than Holly Court itself. This is not mentioned in the application. Without flood mitigation measures, the development will cause more problems.
- The development will increase the surface water run-off in heavy rainstorms.
- There is no evidence in the application that the capacity of the existing water, sewer and electricity services can cope with the additional development. Foul drainage is already a problem.
- The existing hedge acts as a natural water barrier to the properties located on Holly Court and downhill from the site.

Principle of Development including Need and Heritage impact

- 4 houses have been built over the past few years, all larger properties. Any housing need would be for small bungalows only.
- Rolleston has no easy or safe access to services for day to day needs.
- Village hall is the only village facility; the pub has closed four times in the last 15 years, should not be relied upon to provide an amenity for the village.
- Neither the train nor bus services operate a viable timetable for regular use, and access roads into the village are liable to flooding.
- This is blatant backland development.
- No history of development on the site previously. The area has always been domestic

garden amenity area for the pleasure of the inhabitants of Ulyatt's Cottage.

- Land has been taken from the cottage to the detriment of its viability as a family dwelling.
- The future of Ulyatt's Cottage should be taken in to consideration.
- Proposal would represent an overdevelopment of the site to the detriment of the character and appearance of the locality.
- Loss of the historical significance to the Kate Greenaway cottage who lived there and has remained largely intact for over 150 years.
- The Council has a 5year housing land supply so there is no need for this scale of development in Rolleston.

7.0 Comments of the Business Manager – Planning Development/ Appraisal

The key issues are:

- Principle of the Development
- Impact on Design and Heritage
- Impact on Highway Safety
- Impact on Residential Amenity
- Impact upon Biodiversity and Ecology
- Impact upon Flood Risk and Surface Water run-off

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

The site is located within the extremities of the village settlement of Rolleston. The site forms part of a former Nottinghamshire County Council small holding where pigs were kept and later became a market garden.

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

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

SP3 of the ACS states that in assessing the scale element that the 'development should be appropriate to the location and small scale in nature'. Two dwellings as can be seen on the illustrative masterplan, can comfortably be accommodated on the site and would numerically, be small scale in nature. Rolleston, although it does not feature within the settlement hierarchy, is a settlement of a reasonable scale and has seen much development in recent years and 2 dwellings would contribute to that mix and would be capable of contributing towards meeting the district housing need.

The NSDC Housing Need Survey 2020 states that within the Southwell area (to which Rolleston is located), the greatest housing need is for 3-bedroom dwellings (33.3%) with 4 bedroomed houses next (24%), followed by 3 or more bedroomed bungalows (15.2%) and then 2 bedroom bungalows (14.8%). Rolleston's own housing need survey (2016), although outdated and does not account for the recent developments, but provides a useful indication of the greatest need within Rolleston itself, states the need is for:

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

Therefore, going by the 2020 survey (the latest one) the greatest need within the settlement is for 3 bedroomed dwellings. However, as the scheme is in outline only with all matters reserved (apart from access), the number of bedrooms is a matter to which the detailed application (reserved matters) would advance but it is considered that up to 2 dwellings could be accommodated on the site which would satisfy local housing need and in order to secure this, a condition is recommended to ensure dwellings come forward which are no greater than 3 bedrooms (or as may be required through any amended or updated housing needs survey) and thus meeting a housing need.

The principle to develop the site with dwellings is acceptable and complies with the criteria within Spatial Policy 3, subject to further on-site assessment which is outlined below. The matter of character is further explained in the following 'design' section below.

Impact on Design and Heritage

The National Planning Policy Framework (NPPF) (2023) 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'. Policy DM5 (Design) (ADMDDPD) states the 'rich local distinctiveness of the District's landscape and character of built form should be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development.'

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

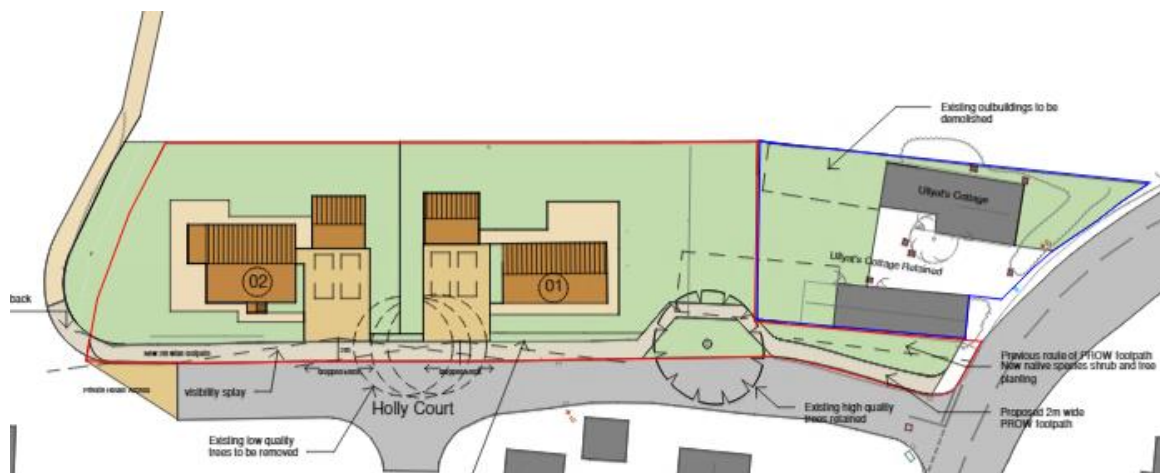
This cottage has been the subject of much interest from residents on the implications of the development upon the longevity of the cottage and its social history associated with Rolleston. Firstly, it is pertinent to consider the condition of the cottage. The NPPF is clear on how to assess applications when Non-Designated Heritage Assets (NDHA) are in the vicinity. Paragraph 203 of the NPPF (2023) states *'the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset'*.

The cottage is late C18 or early C19, not listed and Officers do not consider it meets the qualifying criteria within the Council's adopted NDHA guidance, to define it as such due to its condition and degree of alterations. The original doors and windows have been replaced to uPVC, there are concrete tiles on the roof and very little remains of any stylistic detail. The brick outbuildings have been much altered too and are of no special interest. Members will note however that from the illustrative layout, the outbuildings associated with Ullyat's Cottage are due to be demolished as a result of the proposal. Under Section 55 of the Town and Country Planning Act 1990¹ the definition of development includes demolition. This has not been applied for through this application but given it is in outline form, this can be applied for separately. In this respect it is not considered to contain considerable significance that can be attributed weight in decision making.

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

¹ Updated by The Town and Country Planning (Demolition – Description of Buildings) Direction 2021
<https://www.gov.uk/government/publications/the-town-and-country-planning-demolition-description-of-buildings-direction-2021>

It is pertinent to inform Members of the changes to the application site plan since the previous refusal, which has been done to try to address this relationship.



Proposed site plan



Previously refused scheme under 21/02435/OUT

Previously under 21/02435/OUT the Conservation officer stated that the ‘three dwellings have very little relationship with the dwelling and a reduced number of 1 or 2 dwellings, to afford more space around the cottage would result in a more positive relationship with the cottage.’ Following the refusal, the agent has taken these comments on board and reduced the number of dwellings on site to 2 thus increasing the distance from the existing cottage. The Conservation Officer in their latest comments has now stated that the reduction in the number of dwellings has reduced the intensification of the proposed development, providing more space around the cottage. They raised concern with the detached dwellings and their garages stating they would not respond well to Ulyat’s Cottage, and that a design approach which gives the impression they are ancillary to the cottage could alleviate any impact on the setting. Given the layout is only illustrative, it is considered that a layout and design could be designed which respects the scale and form of the existing cottage such as siting development to the south west of the site and limiting the height at reserved matters stage, if permission is granted. Illustrative plans are provided in order to assist in demonstrating that the quantum of dwellings could be delivered.

Therefore, it is considered that the proposal in principle is acceptable and a design could be achieved which respects the original cottage. This however should be considered in

conjunction with the Trees/hedgerows section which references the trees within the site, which would affect the layout of the development which is reasonably achievable on the site.

Impact on Highway Safety

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

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

The new 2m wide public right of way (PROW) to be created runs along the western edge of Holly Court to realign the existing unsurfaced public right of way (Rolleston no.5). This involves the removal of the existing beech hedgerow and the planting of a new more native rich instant hedgerow to the back edge of the new footway which is illustrated on the landscape plan (DRWG no. (03)001 Rev J). This would allow pedestrians and vehicles to enter the proposed house frontages and would safeguard a safe pedestrian access for the existing and future residents and users of the footway.

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

Residents have raised issues of highway safety from Holly Court onto Fiskerton Road. Highways previously considered this under 21/02435/OUT and reviewed the intensification of this access point and concluded that the visibility to the right from Holly Court is a concern as the visibility splay with a 2.4m setback from the edge of the carriageway is limited due to the Holly Court junction design, overgrown planting from third party land, and a narrow footway along Fiskerton Road. However, when a 2m setback is applied, the visibility is greatly improved and acceptable. Manual for Streets advises that the 2m setback can be considered for some very-lightly trafficked and slow speed situations where the drivers and cyclist travelling along the main road would be able to see the overhanging vehicle at the minor arm and be able to manoeuvre around it without undue difficulty. It is considered that Fiskerton Road complies with this requirement due to the geometrical alignment of the road which allows the north-westbound traffic to see and react to any vehicles waiting at Holly Court to join Fiskerton Road and react to any overhang accordingly. This road has low speeds of traffic

due to the design of the road, i.e. 6.25m wide carriageway, existing frontages, narrow footways, streetlights, bends and low AADT (annual average daily traffic) of 1150 in 2019. There have also been no accidents recorded at the Holly Court and Fiskerton Road junction for over 20 years and any highway improvements to the junction would be seen unreasonable and disproportionate to the proposed scale of development. This position has not changed and the access to Fiskerton Road would remain as existing.

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

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

Right of Way

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

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

NCC Rights of Way colleagues have provided details on practicalities for stopping up and diverting the ROW.

Although comments relating to the ROW have been given due consideration, the relocation would not result in harm to the usability of the ROW and its realignment is not so dissimilar to its current position. It will still connect to the existing PROW to the south-west outside no.17 Holly Court to enable continued use and connectivity. NCC highways have suggested conditions to enable the legal extinguishing of the footway under a S.257 of the Town and Country Planning Act 1990, which is acceptable. Therefore, the realignment is considered acceptable within this proposal.

Impact on Residential Amenity

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

The dwellings are expected to be two storey although the detail would come from the Reserved Matters application. The position within the site compared to other surrounding dwellings, is not likely to result in harm to amenity from overbearing, loss of privacy or light impacts. Comments received during the consultation have alluded to a favourable use of bungalows or 1.5 storey dwellings which again would be appropriate here and would be more in keeping than two storey. One resident has stated a height limit of 6.2m (to the ridge) would be appropriate given that is the height of their dwelling opposite. Should Members resolve to support the proposal a condition to ensure the height of the dwellings which come through the reserved matters application are no greater than 1.5 storey could be imposed. This would allow for dwellings to be designed which would not be dominating to existing neighbours and although scale is a reserved matter, dwellings at 1.5storey would be more in keeping and more acceptable from an amenity perspective.

All of the concerns raised by residents have been given due consideration however it is not Officer's opinion that the proposal would result in harm to neighbour amenity and that dwellings could be sited and designed to not cause undue harm.

Impact on Biodiversity and Ecology

Core Policy 12 (Biodiversity and Green Infrastructure) of the ACS states that the Council will seek to conserve and enhance the biodiversity of the District and that proposals will be expected to take into account the need for the continued protection of the District's ecological and biological assets. Policy DM7 (Biodiversity and Green Infrastructure) supports the requirements of Core Policy 12 and states that development proposals affecting sites of ecological importance should be supported by an up to date ecological assessment. Policy DM5 seeks to avoid adverse impacts upon ecological interest and protected species.

The NPPF (2023) states when determining planning applications LPAs should apply the following principles as stated within paragraph 180 of the NPPF. This states that if "*significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.*"

A Preliminary Ecological Appraisal and Biodiversity Net Gain (BNG) Assessment (Oct 2023) has been submitted and it was concluded that the hedgerows, trees and scrub offer suitable habitat for nesting birds. Most of this habitat will be lost to the proposed development and there is a risk that the removal of this vegetation may result in nesting birds being disturbed

or harmed. However, the submitted Preliminary Ecological Appraisal submitted with the application suggests mitigation measures to be put in place to secure measurable benefits and gains to negate the loss and harm caused. These include additional nesting boxes, new species rich hedgerow and compensatory tree planting which would all result in measurable gains for compensation.

The site provides habitat of moderate suitability to support foraging bats, however the proposals have the potential to increase light spill at the site, which will further reduce its suitability for foraging bats. Mitigation measures can be ensured through the detailed design stage for low luminance lighting which would be more acceptable and managed by condition.

Hedgehogs are known to be present within close proximity to the site such that proposal may result in the loss of foraging habitat for them. However, the provision of new hedgerow planting and species rich grassland planting will compensate for this. In addition, the site boundaries can incorporate hedgehog holes to allow safe access and egress through the site.

As part of the above Assessment, the applicant has submitted a BNG Assessment. As Members are aware a 10% BNG is not mandatory requirement until January 2024 and this will only cover major developments. Smaller sites such as this will become mandatory from April 2024. Nonetheless the NPPF (2023) states that proposals should provide net gains for biodiversity (para 174) which the applicant has demonstrated at paragraph 5.4.1 of the Assessment. The BNG spreadsheet states that with regard to habitat units there is a 115% increase in BNG and for hedgerow units its 57%. These are all positives for the scheme which officers welcome and include measures which the LPA can control moving forward to reserved matters. Officers therefore do not consider there is harm to biodiversity or ecology which has not been adequately mitigated for.

It is therefore considered that subject to the mitigation measures such as bat/bird boxes, carrying out clearance works outside of bird nesting season, hedgehog holes and appropriate lighting for bats, there would be negligible harm caused as a result of the development and as such I consider the proposal accords with the aims of Core Policy 12 and Policy DM7 and the NPPF.

Trees/hedgerows

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

Paragraph 131 of the NPPF (2023) states *'Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work with highways officers and tree officers*

to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.'

Members will note that at the time of the previous application being presented to the former Committee, the TPO was served as provisional on the site. This was later confirmed as an Order on 11 October 2022 and includes the copper beech tree and the group of 3 beech trees. The scheme has been amended during this consideration so these trees are retained and the access points to the site amended to suit. Other trees within the site are due to be felled and these have not raised objections by the tree officer. These comprise of poor species or trees of a condition category C, U or dead trees and can be replaced within the site as illustrated on the illustrative landscape plan.

Members are reminded that the landscaping is a reserved matter but should Members consider the landscaping scheme acceptable, the standard landscaping condition has been imposed with an informative attached stating the landscaping scheme submitted at reserved matters should feature in a similar way to that submitted as part of the outline as shown on drawing no. (03)001 Rev J. This layout of landscaping includes an area of landscaping outside of the land marked for the residential 'plots' (shown in pink on the landscape plan). These areas are shown to comprise of an orchard (to replace the former orchard on site) and areas of wildflower grasses. No details of who or how this area will be managed and maintained, has been submitted with the application. However, the applicant has agreed to enter into a S106 Agreement for the maintenance of the common areas, which includes management which will enable the necessary mechanism to ensure this takes place. This is considered an acceptable approach and would legally secure these areas in perpetuity.

The latest comments received from the Tree Officer state that the TPO trees when reached to full maturity will be located within the parking area as shown on the illustrative layout plan. However, as layout is a reserved matter it is reasonable to consider that parking could be sited outside of this area and therefore it is not considered that this is a justifiable reason to refuse the application.

Therefore, the proposal is considered to be acceptable and it is considered that the site could be developed without conflict with the TPO trees or harm to their longevity. The loss of trees on the site is adequately justified and the compensation, although formally agreed through reserved matters, could be sufficient to not result in a BNG deficit. The proposal therefore complies with policies within the Amended Core Strategy, Allocations and Development Management DPD and the NPPF.

Impact upon Flood Risk and Surface Water run-off

The site is located within Flood Zone 1 as defined by the Environment Agency data maps, it is therefore at lowest risk from flooding. Nonetheless careful consideration will need to be given to the impact of surface water from the development and the use of appropriate materials and other ground materials to improve the permeability of the site to ensure the risk is not increased to the locale. The Environment Agency data maps however have assessed this area to be at very low risk from surface water flooding but the increase in run-off would still be considered at reserved matters stage.

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

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

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

The proposal includes the loss of trees and hedgerows within the site however the loss of trees have been identified as low character and condition with them being categorized as C, U or dead. The trees which are protected by the Tree Preservation Order (N399 2022) are retained and it is considered that the access points and the realignment of the footpath would not result in harm to their longevity. The replacement of trees and hedgerows would increase the BNG for the site and securing the additional landscaping through a S106 agreement would ensure these areas are well managed in perpetuity for the benefit of both nature and the local community.

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

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

All material planning considerations have been taken into account as set out above and appropriate weight has been given to each issue. It is considered that the principle of development is acceptable and two dwellings could be designed to not result in harm to the surrounding area. The proposal is therefore considered to accord with Spatial Policy 3 and 7, Core Policy 9 and 12 of the Amended Core Strategy, Policy DM5 and 7 of the Allocations and Development Management DPD as well as the NPPF and PPG which are material planning considerations.

10.0 Conditions

01

Application for approval of reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.

The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

02

Details of the appearance, landscaping, layout and scale (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.

Reason: This is a planning permission in outline only and the information required is necessary for the consideration of the ultimate detailed proposal.

03

The scale of the dwellings submitted within the 'reserved matters' application, shall be limited to no greater than 6.2m to the ridge and limited to 1.5 storey (first floor within the roof).

Reason: In the interests of neighbour amenity.

Prior to commencement

04

No works shall be undertaken on or affecting any part of the land comprising the highway known as Rolleston Footpath No.5 until such time as a replacement footway has been provided to adoptable standard along Holly Court, Rolleston, and the existing public right of way legally extinguished under S.257, Town and Country Planning Act 1990, to the satisfaction of the Local Planning Authority in accordance with details to comply with Highway Design Guide.

Reason: In the interests of highway safety and to ensure that the public minor highway is properly dealt with under S.257, Town and Country Planning Act 1990, avoiding the commission of criminal offences (which may be committed in relation to the public right of way by disturbing that highway or obstructing or otherwise impeding the lawful exercise of the public's right of way thereover) acknowledging that a) the footpath is only legally extinguished upon confirmation of such order and b) that there is a need for a suitable replacement pedestrian highway to be provided in substitution thereof.

Prior to the commencement of the development hereby approved (including all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to any development commencing on site and the protection measures shall be retained throughout construction until substantial completion of the final dwelling.

Specific issues to be dealt with in the TPP and AMS:

- a) Location and installation of services/ utilities/ drainage.
- b) Methods of demolition within the root protection area (RPA as defined in BS 5837: 2012) of the retained trees.
- c) Details of construction within the RPA or that may impact on the retained trees.
- d) a full specification for the installation of boundary treatment works.
- e) a full specification for the construction of any roads, parking areas and driveways, including details of the no-dig specification and extent of the areas of the roads, parking areas and driveways to be constructed using a no-dig specification. Details shall include relevant sections through them.
- f) Detailed levels and cross-sections to show that the raised levels of surfacing, where the installation of no-dig surfacing within Root Protection Areas is proposed, demonstrating that they can be accommodated where they meet with any adjacent building damp proof courses.
- g) A specification for protective fencing to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing.
- h) a specification for scaffolding and ground protection within tree protection zones.
- i) Tree protection during construction indicated on a TPP and construction and construction activities clearly identified as prohibited in this area.
- j) details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires
- k) Boundary treatments within the RPA
- l) Methodology and detailed assessment of root pruning
- m) Arboricultural supervision and inspection by a suitably qualified tree specialist
- n) Reporting of inspection and supervision
- o) Methods to improve the rooting environment for retained and proposed trees and landscaping

Reason: Required prior to commencement of development to satisfy the Local Planning Authority that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality, and pursuant to section 197 of the Town and Country Planning Act 1990

Prior to occupation

Prior to first occupation of any dwelling hereby approved, full details of all proposed replacement trees, hedgerows and other soft landscaping within the site, shall be submitted

to and approved in writing by the Local Planning Authority. This will include planting and maintenance specifications, including cross-section drawings, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period. All tree planting shall be carried out in accordance with those details and at those times. Any trees that are found to be dead, dying, severely damaged or diseased within five years of the completion of the building works OR ten years of the carrying out of the landscaping scheme (whichever is later), shall be replaced in the next planting season by specimens of similar size and species in the first suitable planting season.

Reason: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 to safeguard and enhance the amenity of the area, to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality.

07

No trees or hedges that is to be removed as part of the development hereby permitted shall be lopped, topped, felled or otherwise removed during the bird nesting period (beginning of March to end of August inclusive) unless they have first been inspected within 5 calendar days of the development commencing, by a suitably qualified ecologist.

Reason: To ensure that adequate provision is made for the protection of any nesting birds on site.

08

No part of the development hereby permitted shall be brought into use until dropped vehicular footway crossings are available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.

Reason: In the interest of highway safety.

09

No part of the development hereby permitted shall be brought into use until the access driveways are constructed with provision to prevent the discharge of surface water from the driveway to the public highway. The provision to prevent the discharge of surface water to the public highway shall then be retained for the life of the development.

Reason: To ensure surface water from the site is not deposited on the public highway causing dangers to road users.

10

No part of the development hereby permitted shall be brought into use until the driveway and any parking or turning areas are surfaced in a hard-bound material (not loose gravel) for a minimum of 8.0 metres behind the highway boundary. The surfaced driveway and any

parking or turning areas shall then be maintained in such hard-bound material for the life of the development.

Reason: To reduce the possibility of deleterious material being deposited on the public highway (loose stones etc.)

11

No dwelling on site shall be occupied until details of at least 2 bat and 2 bird nest boxes and or bricks and hedgehog houses and fence holes, have been submitted to and approved in writing by the Local Planning Authority. The nest boxes/bricks and hedgehog houses and fence holes, shall then be installed, prior to first occupation of the associated dwelling, in accordance with the approved details and retained thereafter for the lifetime of the development.

Reason: In the interests of maintain and enhancing biodiversity.

12

Application for approval of reserved matters shall include dwellings with bedroom numbers which do not exceed 3 bedrooms or in accordance with the latest housing needs survey for Rolleston, if amended or updated.

Reason: In order to comply with Newark and Sherwood District Council's Housing Need Survey 2020 (or as may be amended or updated) and define the expectations of the Reserved Matters application.

Informatives

01

Section 278 Agreement (Highways Act 1980)

In order to carry out the off-site works required you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works, you will need to enter into an agreement under Section 278 of the Act. Please contact Sarah Hancock on 01158043168 for details or e-mail Highways Development Control team on hdc.north@nottscc.gov.uk

02

The applicant is advised that the illustrative landscaping scheme submitted on drawing no. (03)001 Rev J is broadly acceptable in terms of the species mix and the reserved matters should be submitted to follow these similar principles.

03

This application has been the subject of discussions during the application process to ensure

that the proposal is acceptable. The Local Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accord Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

04

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at www.newark-sherwooddc.gov.uk/cil/

The proposed development has been assessed and it is the Council's view that CIL IS PAYABLE on the development hereby approved. The actual amount of CIL payable will be calculated when a decision is made on the subsequent reserved matters application.

05

The decision should be read in conjunction with the associated S106 legal agreement.

BACKGROUND PAPERS

Application case file.

Committee Plan - 22/02341/OUT

