

Schedule of Communication Received after Printing of Agenda

Item	Correspondent	Date	Points Raised (Summary)	Officer's Response
8	Cllr Penny Rainbow	30.07.2025	Item 8. - 90 Kirklington Road, Southwell NG25 0AX - 25/00628/S73 Factual Interpretation The officer report doesn't seem to make it explicit that the s73 application involves taking an external covered patio area and enclosing it to be become an internal room and part of the outbuilding as a 'Garden Room'. The existing approved plans under 22/01023/FUL (Proposed single storey extension to host dwelling and alterations, partial rebuilding and conversion of outbuildings for use ancillary to the enjoyment of the dwellinghouse) labelled rooms within the outbuilding as 'store', 'wc', 'study' and 'garden room'; with the external covered patio area labelled 'covered area'. There were 6 internal spaces within the existing approved plans. The proposed plans under 25/00628/S73 now no longer label most of the rooms in the outbuilding, although it still labels the same room as 'store' as in the existing approved plans. The 'wc' label has been moved to a different room and the previously approved external covered patio area has become an internal room and is labelled as 'garden room'. The internal arrangement of the proposed plans	The use of the converted building does not form any part of the consideration of this S73 application. Consideration of this S73 restrict to the followings: a) Roof section of the lean-to structure on the west elevation is larger (in volume) than the previously approved, but footprint remain the same. b) Cladding dimensions on the side (eastern) elevation that is facing the main dwelling is slightly different to the approved. c) Cladding dimensions on the side (western) elevation, and completed with two panes door rather than three panes. Furthermore, the external covered patio area form part of the previous application 22/01023/FUL. There is no increase in terms of footprint when compared to the originally approved scheme. The change to this section of 'external covered patio area' on the S73 application limited to the roof section – increased in overall height and volume. (See paragraphs 3.5, 3.6, 7.9 and 7.14 of the committee report) The conversion of the buildings was completed in December 2024. The internal alteration to a completed building does not constitute to development, therefore no planning

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			is significantly different to the existing approved plans. There are now 7 proposed internal spaces within the proposed plans in a different internal arrangement. Commentary The original application under 22/01023/FUL to convert the large range of outbuildings was for 'use ancillary to the enjoyment of the dwelling house'. The application stated the usage of the space within this to be as a games room, home office, WC and storage space. The application explained the intention to use the outbuildings not only as additional space for the host dwelling but with the option for visiting family and friends to stay in the conversion on an ad hoc basis. Permission was granted for this with a condition that the outbuilding range shall not be occupied at anytime other than for purposes ancillary to the residential use of the main dwelling at 90 Kirklington Road. The reason for this was to prevent the creation of a separate dwelling in a location where new residential development would not normally be permitted. Where it is proposed to construct an extension to or a separate building in the curtilage of a dwellinghouse, the use of the structure will	consideration is required for the internal alteration in this case. The main planning consideration would be the use of the building as whole remains ancillary to the main dwelling or not. (See paragraphs 7.16 to 7.20 of the committee report) The use of the building is considered remain ancillary to the main dwelling. (See paragraphs 7.16 to 7.20 of the committee report).

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			development that requires planning permission. Case law in Uttlesford DC v SSE & White identifies that whether self-contained accommodation with facilities for independent living becomes a separate planning unit is a matter of planning judgement based on the facts and the degree it functions as an annexe with the occupants sharing living activity with those in the main dwelling. In the case of Rambridge v SSE & East Hertfordshire DC, an LDC was sought to use a partially completed building as a residential annex, on completion or one day afterwards. Permitted development rights under Class E of Part 1 of Schedule 2 of the GPDO permits a building only if it is required for a purpose incidental to a dwellinghouse, not for a primary residential use. In that case the court held that where a residential annexe contains primary living accommodation, a judgment should be made on whether the use is part and parcel of the use of the dwelling or there has been a material change of use to create a new self-contained dwelling in its own planning unit. The court clarified that primary living accommodation is not incidental to the use of a dwellinghouse and, to benefit from Class E permitted development rights, an annexe must	

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			be used for incidental purposes. The applicants moved into the outbuilding conversion in May 2024 when their son and children moved into the main dwelling. The lean-to roof covering outside space at the rear appeared unfinished but by October/November 2024 the original outbuilding footprint was extended to incorporate within the internal habitable area that outdoor space that was originally and clearly marked on the approved plans as an outdoor covered area. Factors that are relevant to determining whether something is an independent or separate dwelling can include: • Are the occupants living as part of the household in the main house? • Are any facilities shared with the main house, this can include pedestrian access, vehicular access, parking, garden space, services/utilities? • How does the size of the purported annexe compare in size to the main house? • What facilities does the purported annexe contain, in terms of it being self-contained, does it contain a kitchen, bathroom, living space and bedroom(s)? • How close is it to the main house?	There is no evidence submitted for this claim (time of the converted building used as living separate dwelling). Furthermore, the consideration for proposed S73 application should be on the proposed variation compared to the approved scheme. The S73 did not include to vary the use of the converted building to be a sperate dwelling. (see section 3 of the committee report)

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			Having regard to the above considerations, what the applicants have created within the outbuilding range is a separate, entirely self-contained and fully functioning accommodation unit equivalent to a sizable bungalow with loft space. A separate new pedestrian access has been created in the new roadside boundary fence to the side/rear of the conversion. The applicants, both capable of independent living, now reside permanently in this outbuilding conversion and could well do so for the rest of their lives and possibly with further additions planned. Albeit having regard to case law in <i>Rambridge v SSE & East Hertfordshire DC</i> would appear to suggest that the outbuilding as it is being used could not benefit from any permitted development rights to alter it. The Permitted development rights for householders – Technical Guidance although only guidance, gives an explanation of the rules on permitted development for householders. In relation to Class E on outbuildings, says ‘A purpose incidental to a house would not, however, cover normal residential uses, such as separate self-contained accommodation or the use of an outbuilding for primary living accommodation such as a bedroom, bathroom, or kitchen.’	The use of the building did not form part of the proposal. See committee report for detail assessment.

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			The s73 application in increasing the accommodation available in the outbuilding, thereby making it even more suitable and likely to function as a separate dwelling. The Council has published advice on how it looks to interpret matters relevant to this application. The SPD for householder development states that 'where an annexe includes all of the primary aspects of accommodation (bedroom/ living room, kitchen and bathroom) and the unit could be, or is being, lived in separately with limited or no relationship to the host dwelling either through a family member or the level of accommodation then it will be considered as a new dwelling and so not householder development. Accordingly full planning permission for a new dwelling would be required with relevant policies of the development plan being applied in its consideration.' The size, internal layout and accommodation offer being proposed in this application exceeds what could reasonably be considered as ancillary to the main dwelling. As such the proposed use of the outbuilding cannot be regarded as ancillary to the main dwelling. The s73 application further extends the floorspace	The use of the converted building did not form part of the proposal. See committee report for detail assessment. This is an application for S73 consists of the following: a) Roof section of the lean-to structure on the west elevation is larger (in volume) than the previously approved, but footprint remain the same. b) Cladding dimensions on the side (eastern) elevation that is facing the main dwelling is slightly different to the approved. c) Cladding dimensions on the side (western) elevation, and completed with two panes door rather than three panes. The use of the converted building does not form part of consideration at this application as assessed in the committee report.

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			of the outbuilding which exacerbates this issue. Although being suggested to be ancillary, the accommodation in the outbuilding and the main dwelling are both self-contained, with their own respective front doors and to all intents and purposes the original cottage and the new building are perceived as separate units, set either side of a shared driveway. The floorspace of the outbuilding is already large; will get larger as a consequence of the s73 application if permitted and certainly is not of a size or scale that would represent a typical small annexe that the Council would judge as being ancillary as described in the SPD. The size of the accommodation in the outbuilding could not reasonably be considered to be subservient or subordinate to the host dwelling and it is designed in a manner to easily enable the outbuilding and the original cottage to be used as separate and discrete dwellings. In this respect the Council has already concluded that it is unacceptable to build a second dwelling of any type or siting on this overall site. Given the very clear conclusion in the officer notes on the original application under 22/01023/FUL that in this specific case the use of the outbuildings is only considered to be	The footprint of the converted building has not altered from the previously approved scheme – therefore the scale of the converted building, the use as annexe, the physically and functionally have already been assessed through the previous application. If the complaint/issue is to do with the use of the converted building as stated in the comments received, this is outside of this S73 application's consideration and could be considered by a sperate full application or investigate by enforcement team.

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			ancillary because the accommodation is not proposed to have a kitchen or bathroom and is only to be occupied on an ad hoc basis and that must remain the case. It therefore seems somewhat inconsistent that the development as now built to be retrospectively addressed in this s73 application, is considered to meet the definition of being ancillary. The works have been undertaken not according to the approved plans and the significant changes to the actual layout and use of the outbuilding has created a sizable separate self-contained accommodation unit. What constitutes a self-contained dwelling is not specifically defined in legislation but case law in <i>Gravesham BC v SSE & O'Brien [1982]</i> sets out the characteristics of a dwellinghouse. Those are the ability to afford to its occupants the facilities required for day-to-day private domestic existence. As such it is my understanding based on the facts in this case that the outbuilding appears to function as a self-contained dwelling. This would represent a material change of use arising from the subdivision of a dwelling into two dwellings. This can be considered to be a contravention of the existing planning permission in terms of a	As concluded under section 9 of the committee report, <i>'Only the very narrow scope of the matters of varying the condition imposed are open for consideration.'</i> The use of the converted building does not form part of the planning consideration in the S73

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			breach of condition as well as being a breach of planning control in itself.	application.