

## **PLANNING COMMITTEE – 04 SEPTEMBER 2018**

<b>Application No:</b>	<b>18/00698/FUL</b>	
<b>Proposal:</b>	<b>Application to vary plans condition attached to planning permission 06/01847/FUL to vary the approved plans</b>	
<b>Location:</b>	<b>Park Farm, Main Street, Carlton on Trent</b>	
<b>Applicant:</b>	<b>Peterhouse Construction Ltd - Mr Peter Harpham</b>	
<b>Registered:</b>	<b>16.04.2018</b>	<b>Target Date: 11.06.2018</b>

**This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Sutton on Trent Parish Council has objected to the application which differs to the professional officer recommendation.**

### The Site

The application site relates to a roughly rectangular parcel of land (approx. 0.6ha) between Old Bell Lane and Main Street within the main built up area of Carlton on Trent and within the Conservation Area. The site contains a number of former barns, workshops and stables as well as semi-detached and terrace dwellings which are currently under construction. The site is bound to the west by B1164 and to the east and south by residential properties along Main Street. The main vehicular access to the site is via Old Bell Lane to the north. The majority of the site is located within Flood Zone 2.

### Relevant Planning History

06/01847/FUL - Conversion of former barns into 1 No. dwelling, former stables into workshop and carport, former cartshed into garages and erection of 4 No. detached dwellings, 3 No. terraced houses and associated garages. Refused 22/05/07. Allowed on Appeal 07.11.07.

17/00959/FUL - Proposed new dwelling - revised design to Plot 4. Approved 21.08.2017.

17/02228/NMA - Application for non-material amendment to planning permission 06/01847/FUL to include an approved plans condition to the original permission. Approved 02.01.2018.

### The Proposal

The proposal seeks a variation to the approved plans condition attached to the original consent for residential development of the site under section 73 of the Town and Country Planning Act 1990

A plans condition was attached to the original consent (Ref. 06/01847/FUL) by virtue of the non-material amendment application 17/02228/NMA. This condition lists all of the approved details that were granted planning permission by the Inspector appointed by the secretary of state on appeal Ref. APP/B3030/A/07/2048040 planning permission and APP/B3030/E/07/2048046 conservation area consent (see above site history section).

One of the uses of a section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied. In this respect the plans of the extant 2006 consent are controlled by the plans listed on the condition attached by virtue of the non-material amendment application 17/02228/NMA. This proposal seeks to vary that condition through the substitution of a new set of plans. These new plans show the following changes to the approved set of plans;

**Plot 1 – Drawing Number: 10A/32/2016**

- North East Elevation: replace ground floor lobby doors with glazing to be in line with main building line; infill of porch and replacement of recessed door and window with small window; alteration to air vents;
- South East Elevation: removal of roof light and modification to French door;
- North West Elevation: removal of roof light; addition of 3 windows; modifications to approved windows and alteration to design and pitch of the roof of connecting building;
- South West Elevation: addition of windows and doors and alteration to pitch and design of roof of connecting building;
- The new build element ('connecting building') that links the existing barn and outbuilding (which are to be converted), has had its design amended slightly – the pitch has been altered and style/materials (windows, doors, etc.) have been changed to better reflect its role as a link between the two buildings and to ensure it fits in better on a visual level.

**Plot 2 – Drawing Number: 22A/32/2016**

- South Elevation: removal of top section of large window; one window replaced;
- East Elevation: addition of one window.

**Plot 3 – Drawing Number: 32/32/2016**

- North Elevation: addition of two roof lights;
- West Elevation: repositioning of first floor window and modification to design of ground floor window;
- South Elevation: removal of large central glazed section and door, addition of 2 small windows at ground floor; replacement of ground floor window with doors to match opposite side;
- East Elevation: removal of one first floor window, modification to design of ground floor window.

**Plot 5/6/7 – Drawing Number: 53/32/3016**

- North East Elevation: additional window at first floor serving plot 7;
- Modification of door and window designs.

### **Plot 8 – Drawing Number: 82A/32/2016**

- South West Elevation: removal of bay window section;
- North West Elevation: removal of door and replacement with window; addition of two windows;
- North East Elevation: removal of one window; addition of a smaller window; remodelling of ground floor bay window;
- South East Elevation: removal of door and first floor window; removal of ground floor window; alterations to window and door in garden room;

### **Amended Site Plan – Drawing Number: 2G/32/2016**

- Plot 1: western boundary moved 1200mm west. A new 1.8m vertical wooden fence along the new boundary with plot 8.
- Plot 3: western boundary moved to increased distance between western gable and plot 4's garage access.
- Plot 5+6: addition of a footpath to connect plot 6 with its parking spaces – this will run parallel to the landscaped mound on the western boundary of plots 5+6.
- Plot 7: repositioning of car parking spaces.

### **Public Advertisement Procedure**

Occupiers of fifteen 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.

### **Planning Policy Framework**

#### **The Development Plan**

#### **Newark and Sherwood Core Strategy DPD (adopted March 2011)**

Core Policy 3 - Housing Mix, Type and Density

Core Policy 9 – Sustainable design

Core Policy 10 - Climate Change

Core Policy 12 - Biodiversity and Green Infrastructure

Core Policy 14 - Historic Environment

#### **Allocations & Development Management DPD (adopted July 2013)**

DM5 – Design

DM7 - Biodiversity and Green Infrastructure

DM9 – Protecting and Enhancing the Historic Environment

DM12 – Presumption in Favour of Sustainable Development

## Other Material Planning Considerations

- National Planning Policy Framework 2012
- Planning Practice Guidance, on line resource
- Section 66 of the Planning Act.

## Consultations

### **Carlton on Trent Parish Council – Objects to the proposal;**

There was much discussion about this application at last night's meeting, not least the fact that it was very difficult to work out what was changing.

The councillors voted unanimously to **oppose** the application.

The principal reasons for this were the impact of some changes on other properties:

1. Plot 3 East elevation - repositioning of windows. These windows overlook properties making privacy of neighbouring gardens an issue. Councillors believe that the original plans stated 3 smaller windows with obscure glass. Some months ago the issue was raised that there had been deviation from these plans and a site visit took place by Chris Briggs. The council were informed that changes had been made to meet current building regulations so two larger windows were necessary. However, residents from neighbouring properties report that objects such as step ladders can still clearly be seen inside the property so presumably inhabitants could equally see out. Should you be minded to approve the application the council would like to see a condition enforcing obscure glass in these windows. Councillors would also like confirmation that future residents would not be able to change these to clear glass.
2. Plot 3 North elevation - addition of roof lights. The dormer windows appear to sit on the wall joists meaning that they will overlook neighbouring gardens and will give direct line of sight straight into the windows of the barn resulting in loss of privacy for those properties. Should you be minded to approve the application the council would like to see a condition imposed so that these have to be set at a height which prevents inhabitants from looking out.
3. Plot 5/6/7 window - North East Elevation - addition of window at first floor. Whilst plot 5 and 6 do not overlook other properties, plot 7 does, so councillors are again concerned about the loss of privacy resulting from the addition of this window in plot 7 and would like to see this removed.

Just as a point of note, councillors were concerned that the plan being used is out of date - the public footpath no longer follows this route, having been moved several years ago - it would have helped to see the present route to ensure that none of these changes impacted upon the footpath.

Thanks again for the extension giving councillors chance to visit the site and fully consider the impact of the proposed changes.'

**Conservation Section –** 'Conservation has no objection to the amended details. The window tweaks and general modifications are relatively minor and cause no harm to the historic

environment in this case. The proposals are consistent with the overall approach envisaged when the scheme was originally approved.

I have taken into account our duties under sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990 in reaching this view.'

**No other representations have been received.**

#### Comments of the Business Manager

Section 73 of the Town and Country Planning 1990 Act provides that applications may be made for planning permission to remove or vary conditions applied to a previously approved planning permission. It is stated that local authorities may decide whether to grant permission subject to differing conditions, remove the conditions altogether or refuse to alter the conditions. Thus it is possible to apply for conditions to be struck out, or for their modification or relaxation. The section makes it clear that in considering such an application a local planning authority may only consider the "question of the conditions" affected rather than considering the principle of the development again. However, in terms of decision making, a Section 73 application should be treated just like any other application, and due regard paid to the development plan and other material considerations.

An application under Section 73 is therefore a fresh planning application but should be determined in full acknowledgement that an existing permission exists on the site. This Section provides a different procedure for such applications for planning permission and requires the decision maker to consider only the question of the conditions subject to which planning permission was granted. As such, the principle of the approved development cannot be revisited as part of this application.

The principle of development has been established through the previous granting of planning permission (06/01847/FUL), it is only the amendments as outlined above in the proposals section of this report which are the subject of this application.

#### **Heritage Considerations and the Impact on Character of the Area**

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') requires the Local Planning Authority (LPA) to pay special attention to the desirability of preserving or enhancing the character and appearance of the CA.

Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. Key issues to consider in proposals for additions to heritage assets, including new development in conservation areas, are proportion, height, massing, bulk, use of materials, land-use, relationship with adjacent assets, alignment and treatment of setting.

The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 16 of the National Planning Policy Framework (NPPF – revised July 2018). When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, for example. Any harm to, or loss of, the significance of a designated heritage asset

(from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

In terms of overall design considerations, The NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive as a result of good architecture and appropriate landscaping. Core Policy 9 states that new development should achieve a high standard of sustainable design and layout that is of an appropriate form and scale to its context complementing the existing built and landscape environments. Policy DM5 of the DPD states that local distinctiveness should be reflected in the scale, form, mass, layout, design and materials in new development.

I note that colleagues in conservation raise no objection to the proposed development, and I concur with the expressed opinion in that the amendments to the approved scheme put forward within this application are minor in nature would not result in any harm to the historic environment. It is therefore considered that the proposal would accord with the aims of Policies CP14 and DM9 as well as being consistent with section 72 of the Act.

### **Impact on Residential Amenity**

Policy DM5 of the DPD states that the layout of development within sites and separation distances from neighbouring development should be sufficient to ensure that neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy. The NPPF seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings. I have assessed the impacts on a plot by plot basis below.

#### *Plot 1*

With regards to the changes to plot 1, and in considering the additional glazing that would be positioned at ground floor level and there being a significant degree of separation between plot 1 and the closest neighbouring properties (in excess of 30m to No. 3 Park Farm Cottages and the properties on Old Bell Lane), I am of the opinion that the proposal would not result in any further material overlooking impact on existing neighbouring properties.

In regard to the additional windows on the north-west elevation facing plot 8, and having now received confirmation from the application that a 1.8m timber fence would run along the re-positioned boundary line between plot 1 and plot 8, I am satisfied that the additional glazing on this elevation would not result in any material overlooking impact on the future occupiers of plot 8.

As the other amendments relate to the removal of features, I am satisfied that the changes to plot 1 would not result in any material impact on neighbouring amenity.

#### *Plot 2*

The changes to the south elevation of plot 2 results in a loss of glazing, with the loss of the top section of the large window and the change from one window to an entrance door. As such, it is considered that there will be no undue impact on residential amenity of neighbouring properties. While the change to the east elevation would involve the addition of one window, as this would be positioned at ground floor level, it is also considered that there would be no material overlooking impact on neighbouring amenity over and above the approved scheme. Overall, the proposed

changes are considered to be minor in nature and would not result in any material impact on the character and appearance of the residential unit.

### *Plot 3*

The proposed amendments to plot 3 consist of additional rooflights on the north elevation, which faces into the development site. These rooflights would be positioned above 6 feet from floor level at their lowest point as confirmed by the agent and as such, as such I am satisfied that there would be no undue overlooking impact arising from the additional rooflights.

With regard to the re positioning of windows to this plot, given the separation distances it is not considered this would result in any undue overlooking to existing neighbouring properties.

The windows at first floor level on the east elevation are shown to be obscure glazed, with the escape window W15 confirmed by email to have a limiter restricting it to a maximum opening distance of 5 inches, which is considered to mitigate any material overlooking impact on neighbouring amenity.

The re-positioning of the window on the west elevation is considered to be minor in nature. This would serve an ensuite and a condition requiring it to be obscure glazed and non opening up to a minimum height of 1.7 above floor level would again mitigate any potential overlooking.

The removal of the glazed screen and insertion of 2 No. recessed windows at ground floor level to the south elevation are not considered to result in any material overlooking impact.

### *Plots 5 & 6*

There are no changes to plots 5 and 6, which make up 2 out of the 3 terrace dwellings. The change to the end terrace, plot 7, is detailed below.

### *Plot 7*

The single change to plot 7 is an additional first floor window on the north-east elevation. As this would serve a bathroom and the applicant has confirmed that obscure glazing would be used, I am satisfied that this would not result in any material overlooking impact.

### *Plot 8*

I am mindful of the additional glazing on the north-west elevation of plot 8, however as this elevation overlooks the rear garden and main road (B1104) beyond, I am satisfied that this change would not result in any material overlooking issues. The remaining changes involve the removal of windows and doors or minor remodeling of existing windows. As such these changes are considered to not result in any material impact on the amenity of neighbouring amenity or the character and appearance of this residential unit.

### *Other Layout Changes*

The remaining amendments relate to minor alterations to the layout within the development site, including internal boundaries and slight re-positioning of car parking spaces. These amendments are not considered to result in any material impact on the amenity of the future occupants of the development or existing neighbouring properties.

### **Impact on Highway Safety**

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

As the vehicular and pedestrian entrance/exits to the site would remain identical to the approved scheme with only minor layout changes to pedestrian footpaths within the site, I am satisfied that the proposed amendments would not result in any material impact on highway safety at the site.

### **Other Matters**

In terms of the CIL liability for the proposal, the original development was granted in 2007 prior to the adoption of CIL and implemented within the timeframe set out in condition 1 of this permission. This application seeks minor material amendments to the approved scheme although there is no increase in floor space over the previously approved scheme. As such, it is considered that the development would be unlikely to be CIL liable.

### **Conclusion**

For the reasons outlined above it is considered that the proposed variation of the plans condition is acceptable and that the application should be supported.

As noted above, Section 73 allows the Local Authority to modify conditions as deemed necessary upon the granting of a variation. In this instance, details have been previously provided which have been considered acceptable to discharge conditions. As such it is recommended that the wording of the conditions be modified to reflect the previously approved details. An additional condition is also deemed necessary to secure the obscure glazing on the additional window on Plot 7 as previously discussed. There is no need for a commencement condition to be applied as the development has already started on site and therefore remains extant.

### **RECOMMENDATION**

**That planning permission is approved subject to the conditions and reasons shown**

#### Conditions

01

The development hereby permitted shall not be carried out except in complete accordance with the following approved plans, references

2G 32 2016 REV G SITE PLAN

10A 32 2016 REV A - PLOT 1 - PLANS AND ELEVATIONS

21A 32 2016 PLOT 2 - FLOOR PLAN

22A 32 2016 REV A - PLOT 2 – ELEVATIONS

31 32 2016 PLOT 3 - FLOOR PLANS

32 32 2016 – PLOT 3 ELEVATIONS

51 32 2016 – PLOT 5, 6 and 7 GROUND FLOOR PLANS

53 32 2016 - PLOT 5, 6 AND 7 ELEVATIONS

81A 32 2016 REV A PLOT 8 - FLOOR PLANS

82A 32 2016 REV A - PLOT 8 - ELEVATIONS

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Email from the agent dated 22/08/18 stipulating the boundary treatment along Plot 1 and 8 plus details of the restrictor on plot 3 first floor windows.

Reason: So as to define this permission.

02

The external elevations of development shall be constructed with the approved materials which consist of Autumn Russet and Oast Russet facing brickwork.

Reason: In order to preserve or enhance the character and appearance of the conservation area.

03

The development shall be carried out in accordance with the approved joinery details, as shown on plans Ref.

LNBU 204782 – 02 proposed door and skylight details Plot 1

LNBU 20478 – 03 proposed window details Plot 1

LNBU 204782 – 04 typical door and Window Detail

56/32/2016 casement window details plots 5, 6 and 7

57/32/2016 French door details Plot 5, 6 and 7

86/32/2016 casement window details plot 8

85/32/2016 casement window section Plot 8

87/32/2016 front entrance door and surround Plot 8

84/32/2016 vertically sliding sash window frame Plot 8

Reason: In order to preserve or enhance the character and appearance of the conservation area.

04

All pointing of existing brickwork shall be flush jointed using a lime based mortar mix, the extent of which, joint width and finish shall firstly be agreed in writing by the Local Planning Authority (LPA) following an inspection on site by the LPA's representative, of a sample panel of no less than 1 metre square prepared as the first pointing/re-pointing work to take place associated with the works/alterations hereby approved.

Reason: In order to preserve or enhance the character and appearance of the conservation area.

05

The approved planting scheme as shown on Plan Ref. drawing LNBU 80137-10 A together with a species list of the same number dated 16th April 2010 shall be carried out during the first planting season (November – March) following the date when the proposed dwellings are ready for occupation. The scheme shall be maintained for a period of 5 years following the date of planting. During this period any trees or shrubs which die or are damaged, removed or become seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally required to be planted.

06

The first floor bathroom window opening on the north-east elevation serving plot 7 shall be obscured glazed to level 3 or higher on the Pilkington scale of privacy or equivalent and shall be non-opening up to a minimum height of 1.7m above the internal floor level of the room in which it is installed. This specification shall be complied with before the development is occupied and thereafter be retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard against overlooking and loss of privacy in the interests of amenity of occupiers of neighbouring properties.

07

The dressing area and bedroom windows (W15 and W16) opening on east elevation on plot 3 at first floor level shall be obscured glazed to level 3 or higher on the Pilkington scale of privacy or equivalent and window W16 shall be non-opening up to a minimum height of 1.7m above the internal floor level of the room in which it is installed and window W15 shall have a restrictor in place as detailed by the email from the agent dated 21/08/18 restricting the maximum opening to 125mm. This specification shall be complied with before the development is occupied and thereafter be retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard against overlooking and loss of privacy in the interests of amenity of occupiers of neighbouring properties

## Notes to Applicant

01

This application has been the subject of pre-application discussions and has been approved in accordance with that advice. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

02

The applicant is advised that all planning permissions granted on or after the 1<sup>st</sup> 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/](http://www.newark-sherwooddc.gov.uk/cil/)

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development given that there is no net additional increase of floorspace over the development that was granted planning permission under Ref. 06/01847/FUL in 07/11/07 prior to the adoption of CIL and lawfully implemented within the original timeframe.

### BACKGROUND PAPERS

Application case file.

For further information, please contact Gareth Elliott on ext 5836.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**  
**Business Manager Growth and Regeneration**

Committee Plan - 18/00698/FUL

