

## **PLANNING COMMITTEE – 20 NOVEMBER 2018**

<b>Application No:</b>	<b>18/01450/FUL</b>	
<b>Proposal:</b>	<b>Erection of 1 No. two bed bungalow and 1 No. three bed bungalow</b>	
<b>Location:</b>	<b>The Old Stables, Crab Lane, North Muskham, NG23 6HH</b>	
<b>Applicant:</b>	<b>Mr and Mrs Margaret / Mark and Tanya Henderson / Fryer</b>	
<b>Registered:</b>	<b>23.08.2018</b>	<b>Target Date: 18.10.2018</b>

**This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as the Officer recommendation is one of approval which is contrary to the views of the Parish.**

### **The Site**

The application site is located on land to the rear of Peters Cottage and The Old Stables between Thomas Place and Crab Lane and is within the main built up area of North Muskham. The site is currently a grass paddock field/orchard, with two traditional outbuildings located within the north-eastern corner of the site. The site is level in nature with a traditional 2m high brick wall running along the rear boundary of the site and mature hedgerows and trees running along all of the remaining boundaries of the site.

The site lies within Flood Zone 2 of the Environment Agency's Flood Risk Maps.

There are residential properties located in close proximity to the rear boundary of the site, namely 2 Thomas Place and Gilstrap House on Crab Lane. The site is located outside of the conservation area, although this section of Crab Lane has retained its traditional appearance and generally comprise detached properties set within large plots and a narrow highway.

### **Relevant Planning History**

**03/02417/FUL** - Erection of 3 two storey dormer dwellings with garages and formation of vehicular access and private drive – Refused for the following reasons:

01

*The proposal is subject to Policy H22 of the Newark and Sherwood Local Plan, which states:*

*"Within those parts of villages outside Conservation Areas, which retain their traditional rural form and character, areas have been defined on the Proposals Map where further intensification of development is considered inappropriate. Planning permission will only be granted for new residential development within these areas if:*

1. *It reflects the character of the existing development in terms of density, design, materials and layout;*
2. *It would not introduce alien forms of development, such as backland or tandem development that are contrary or inconsistent with Policies H21 and H23;*
3. *It would not result in a loss of buildings or other features, including open space, which contribute to the character of the village; and*
4. *It does not adversely affect the amenities of neighbouring properties.*

*This policy does not rule out development, but it does mean that it will be strictly limited."*

*The part of Crab Lane upon which the application site is situated is characterised by frontage dwellings set within large plots. In the opinion of the Local Planning Authority, the introduction of backland development as proposed, is alien to the area and will adversely affect its character. The proposal also introduces a denser form of development out of character with that in the locality. The proposal is therefore considered to be contrary to Policy H22 of the Newark and Sherwood Local Plan.*

02

*The proposal is also subject to policy H21 of the Newark and Sherwood Local Plan, which states: inter alia*

*"Planning permission will be granted for new residential development provided:*

1. *It reflects the character of the locality in terms of scale, density, design, materials and layout;*
2. *It respects features of landscape importance including features that contribute to the setting or character of the surrounding area;"*

*As stated above, in the opinion of the Local Planning Authority, the development proposed introduces an alien form of development, which fails to reflect the existing character of the area. In addition to this, the proposed new access and required visibility splays also involve the removal of the substantial roadside hedge, which in the opinion of the Local Planning Authority would adversely affect the character of this rural lane. The Local Planning Authority are therefore of the opinion the proposal fails to accord with policy H21 of the Newark and Sherwood Local Plan.*

**Appeal Ref. APP/B3030/A/04/1145650** - The proposal was subsequently dismissed at appeal on the grounds that the proposal would harm the character and appearance of the area and that there were no other considerations which would outweigh the presumption in favour of determining the appeal in accordance with the Development Plan.

### The Proposal

The proposal seeks permission for the erection of 2 No. detached bungalows (1 x 2-bedroom and 1 x 3-bedroom). Both bungalows would have an L-shaped layout and would be positioned either

side of the site, with a turning and parking area positioned centrally within the site.

Unit 1 would be a 3 bedroom property located within the eastern side of the application site. The property would measure 15m in maximum width and 17m in maximum depth. The roof design would be hipped with an eaves level of 2.6m and ridge height of 4.6m.

Unit 2 would be a 2 bedroom property located in the western side of the site. The property would measure 15m in maximum width and 15.5m in maximum depth. The roof design would also be hipped with an eaves level of 2.6m and ridge height of 4.6m.

A new access drive would be created by utilising the existing entrance point serving Peters Cottage and altering to include a wider visibility splay. The driveway would run between the two existing properties and lead to the central parking and turning area serving the proposed development.

#### Public Advertisement Procedure

Occupiers of nine properties have been individually notified by letter. A site notice has also been displayed near to the site.

#### Planning Policy Framework

##### The Development Plan

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

Spatial Policy 1: Settlement Hierarchy

Spatial Policy 3: Rural Areas

Spatial Policy 7: Sustainable Transport

Core Policy 3: Housing Mix, Type and Density

Core Policy 9: Sustainable Design

Core Policy 12 Biodiversity and Green Infrastructure

Core Policy 13: Landscape Character

Core Policy 14: Historic Environment

##### **Allocations & Development Management DPD**

Policy DM5 – Design

Policy DM7 – Biodiversity and Green Infrastructure

Policy DM9 – Protecting and Enhancing the Historic Environment

#### Other Material Planning Considerations

- National Planning Policy Framework 2018
- Planning Practice Guidance 2014
- Guidance Note on Spatial Policy 3, 2013
- Publication Amended Core Strategy 2017

#### Consultations

##### **North Muskham Parish Council - - Object to Proposal**

Comment: This application was considered by Members at the Parish Council meeting on Monday, 10th September 2018.

In the opinion of Members the application had failed the sequential test, as there was potential land available at the north end of the village, which was within flood zone 1.

Members were also concerned to note that, within the flood risk assessment, at paragraph 2.18, advice had been given by Planning Officers that this development was delivering an identified need, and the assessment referenced the Housing Needs Survey.

It was noted that access was extremely tight and narrow, with room for only one car at a time. Councillor Saxton proposed, seconded by Councillor Jones, that the application not be supported as it had failed the sequential test, as potential land was available at the north end of the village which was within flood zone 1 and that the access was inadequate.

This was AGREED unanimously.

**NCC Highways Authority** – ‘This proposal is for the erection of 2 no. bungalows served by the existing access to Peters Cottage, which will be widened as part of this application, as shown on dwg. no. 1758(P)09 Rev. a.

There are no highway objections to this application subject to the following:

1. No part of the development hereby permitted shall be brought into use until the access to the site has been widened to 5.25m and surfaced in a bound material for a minimum distance of 5m behind the highway boundary in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. Reason: In the interests of highway safety.
2. Pedestrian visibility splays of 2m x 2m shall be provided on each side of the access. These measurements are taken from and along the highway boundary. The areas of land forward of these splays shall be maintained free of all obstruction over 0.6m above the carriageway level at all times. Reason: In the interests of pedestrian safety.
3. No part of the development hereby permitted shall be brought into use until the parking areas are provided in accordance with the approved plan. The parking areas shall not be used for any purpose other than the parking of vehicles. Reason: To ensure adequate parking is provided within the site.’

**Environment Agency** – ‘The dwellings are located in Flood Zone 2 and as such Standing Advice can be applied. Access/egress from the site may be compromised by deeper floodwater during a major flood event and the occupants would be advised to leave the site in a westerly direction away from the floodplain.’

**Historic Environment Officer (Archaeology)** - This development site lies in an area of significant cropmarks and close to a scheduled Iron Age settlement the potential for disturbing archaeology during development is high.

Recommendation: Prior to any groundworks the developer should be required to commission a Scheme of Archaeological Works (on the lines of 4.8.1 in the Lincolnshire Archaeological Handbook (2016)) in accordance with a written scheme of investigation submitted to and approved in writing by the local planning authority. This should be secured by an appropriate condition to enable heritage assets within the site to be recorded prior to their destruction. Initially I envisage that this

would involve monitoring of all groundworks, with the ability to stop and fully record archaeological features.

'Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publically accessible.' Policy 199 National Planning Policy Framework (2018)'.

**Trent Valley Internal Drainage Board** – No objection. Comments that the Boards consent is required for any erection or alteration of any mill, dam, weir or other obstruction to the flow or erection or alteration of any culvert.

A brief will be produced by this department which will lay out the details above, and the specification for the work should be approved by this department prior to the commencement of works. Please ask the developer to contact this office for further details.

**NSDC Environmental Health (Contaminated Land)** – 'This application is for two new residential dwellings at a site that borders a former depot and an historic cemetery.

There is the potential for contamination to be present on this site due to these nearby former uses.

The applicant/developer will need to have a contingency plan should the construction phase reveal any contamination, which must be notified to the Pollution Team in Environmental Health at Newark and Sherwood District Council on (01636) 650000.'

**NSDC Strategic Housing** – The evidence clearly demonstrates that there is a need for affordable housing in North Muskham. The recent consent for an exception site scheme (16 dwellings) will meet that need. Part of the scheme will provide 4 market dwellings (bungalows) which are the preferred housing for some people responding to the parish survey. The survey highlighted the demand for bungalows and houses, however this is only a preference and not a need. I defer to the planning officer to determine how much weight they wish to accord to a preference in determining the application.

**NSDC Access and Equalities Officer** – 'As part of the developer's considerations of inclusive access and facilities for all, with particular reference to disabled people, it is recommended that their attention be drawn to Approved Document M of the Building Regulations, which contain useful standards in respect of visitable, accessible and adaptable, and wheelchair user dwellings and that consideration be given to incorporating accessible and adaptable dwellings in the development. The requirements of a dwelling's occupants can change as a result of illness, accident such as sports injury for example, disability or ageing giving rise to reduced mobility or increasing sensory loss. In order to meet these changing requirements, homes need to be accessible to residents and visitors' alike as well as meeting residents' changing needs, both temporary and longer term. Similarly, inclusive access improves general maneuverability for all including access for those with push chairs and baby buggies as well as disabled people etc.

It is recommended that disabled persons and wheelchair users' access to, into and around the dwellings be carefully examined. External pathways to and around the site should be carefully considered and designed to accepted standards to ensure that they provide suitable clear unobstructed 'vehicular free' access to the proposals. In particular, 'step-free' access to and into the dwellings is important and an obstacle free suitably surfaced firm level and smooth 'traffic

free' accessible route is essential to and into the dwelling from facilities such as car parking and from the site boundary with reference to the topography of the site. Any loose laid materials, such as gravel or similar, can cause difficulty for wheelchair users, baby buggies or similar and should be avoided. It is recommended that inclusive step free access be considered to garden areas, amenity spaces and external features.

Carefully designed 'step-free' approach, ramps, level flush thresholds, generous doorways, all carefully designed to facilitate easy access and maneuver on all floors are important considerations. Switches and sockets should be located at suitable heights and design to assist those whose reach is limited to use the dwellings together with suitable accessible WC and sanitary provision etc.

It is recommended that the developer make separate enquiry regarding Building Regulations matters.'

**Representations have been received from 1 local resident which can be summarised as follows:**

- Overdevelopment of the site;
- The only identified need is for affordable housing which has already been addressed in Main Street;
- The planning application does not include an ecology survey. Any approval should include a caveat to maintain the plant cover already in place;
- The two proposed bungalows will congest the access for the existing dwelling Peters House.

#### Comments of the Business Manager

##### *Principle of Development*

The Council has published that it has a 5 year housing land supply against its promoted Objectively Assessed Need undertaken on behalf of NSDC, Ashfield and Mansfield DC's. This position has also been accepted by a number of appeal decisions that have recently been considered and should therefore carry weight. It is the Council's view that paragraph 14 of the NPPF is not engaged and the Development Plan is up-to-date for the purposes of decision making.

The NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 77 states that in rural areas, planning decisions should be responsive to local circumstances and support housing development that reflect local needs. Para. 78 goes on to advise that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby.

North Muskham is not defined within the Core Strategy as a principal village or a main urban area as defined within Spatial Policies 1 and 2. As an 'Other Village' it falls to be assessed against Spatial Policy 3 (Rural Areas) of the Development Plan. Outside of principal and urban areas, new housing should be located within sustainable and accessible villages and should principally meet the five criteria as set out within Spatial Policy 3 (SP3). These are 1) Location; 2) Scale; 3) Need; 4) Impact and 5) Character. The proposal is assessed against these criteria below.

The Amended Core Strategy and evidence base documents were submitted to the Secretary of State on 29th September 2017 for independent examination by a Planning Inspector with the examination taking place on the 2nd February 2018. The main modification document has been out to public consultation and is now with the Inspector for consideration. Accordingly for the purposes of this proposal it is considered that some weight can be attached to this emerging policy.

### *Location*

SP3 states that new development should be within the main built-up areas of villages which have local services and access to the Newark Urban Area, Services Centres or Principal Villages. I have assessed the site's location taking into account the existing situation in terms of the built form of the area. I am satisfied that the application site is situated within the main concentration of existing development in the village and is not in an isolated position.

North Muskham is a village with a good range of facilities including a primary school, village hall, a public house and restaurant with access to public transport (bus stops and bus services) to Newark, Normanton-on-Trent, Grantham, Retford and the catchment secondary schools. I therefore conclude that the site meets the locational criteria of SP3.

### *Need*

SP3 provides that new housing must meet an identified proven local need. The Spatial Policy 3 Guidance Note (September 2013) states that proven local need must relate to the needs of the community rather than the applicant. Assessments should be based on factual data such as housing stock figures where the need relates to a type of housing or census data where the needs relate to a particular population group. The onus is ordinarily on the Applicant to demonstrate a local need.

As referenced within the submitted Planning Statement, I am mindful of the Housing Needs Survey (by Midlands Rural Housing) of March 2015 as a demonstration of housing need for the community which has previously been accepted as demonstrating a need for additional residential development at a number of sites within the village. The Survey concludes that there is a need for up to 6 affordable homes and a preference for 10 open market (sale) homes for local people enabling them to be suitably housed in the community. The preference for open market dwellings can be broken down into:

- 1 x 2 bed house;
- 2 x 3 bed house;
- 5 x 2 bed bungalows;
- 2 x 3 bed bungalows.

The survey was supported by this Council, its findings are not disputed and so it follows to assess whether the proposal would help to meet the identified need. In the case of social housing, need is addressed through the allocation process administered by the social landlord but with market housing the only control is at the point of sale. As the policy requirement is to 'help meet' proven local need I consider that the availability of a house on the open market which local people *could* (emphasis added) purchase/rent is sufficient to meet this.

The proposal is for 1 No. 2 bedroom bungalow and 1 No. 3 bedroom bungalow, and therefore the proposed dwellings would fall into the property types being in demand as identified by the Housing Needs Survey. I am mindful that recent approvals in the village listed below could already in time potentially satisfy this need.

- Erection of dwelling and widening of Crab Lane to create passing space at front of site 18/00015/FUL.
- 12 affordable homes and 4 2-bedroom market bungalows (18/00597/FULM) – Members minded to approved at Planning Committee subject to the signing of a S106
- 1 no. 3 bed dwelling at South View, Crab Lane (17/00282/FUL which supersedes the original outline to which the needs survey was generated – 15/01440/OUT)
- 1 no. 3 bed dwelling at Old Hall Farm, Main Street (15/02239/FUL)
- 3 no. 3 bed dwellings at 8 Willow Drive (16/00155/FUL)
- 3 bed detached dwelling at New Manor Park North Muskham (18/01575/FUL) – new PP granted

I am also conscious that while these approvals remain extant, there is no guarantee that the other approvals will come forward to be available to the open market and thus I have attached only limited weight to their approval. I take the view that until the need is met (i.e. through these dwellings being built out on site and available for use) the housing need remains unmet.

Overall, I am satisfied that in this instance a local need has been established and that the proposed development falls into a property category identified as a preference which must attract weight. Furthermore, I am satisfied that the proposal would accord with the need element of policy SP3 when attaching weight to the emerging Spatial Policy 3. The principle of the proposal is therefore considered acceptable subject to its compliance with the remaining requirements of Spatial Policy 3 and any other material considerations.

#### *Scale and Character*

SP3 sets out that new development should be appropriate to the proposed location and small scale in nature.

The guidance note to accompany SP3 referred to above confirms that the scale criterion relates to both the amount of development and its physical characteristics. In terms of scale, I am of the opinion that in numerical terms, the addition of 2 dwellings would be proportionate to the size of North Muskham as a settlement. Furthermore and with the relatively low eaves/ridge height of the proposed bungalows in mind and the ratio of built form to landscaped area at the site, the proposed scheme is considered to result in a scale and density that is appropriate to the site and in keeping with the character of the wider locality.

New development should not have a detrimental impact on the character of the location or its landscape setting.

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 requires the rich local distinctiveness of the District's



landscape and character of built form to be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development. Moreover, 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.

The application site falls within the built up part of the village with dwellings on Crab Lane positioned at varying distances from the boundary with the highway. Whilst not within a conservation area, this part of the village retains its traditional rural form and character assisted by the narrow lane which helps make the location feel more rural. Many properties along the lane are two storey and are unique in design.

The proposed dwellings would be situated to the rear of The Old Stables and Peters Cottage and set back from Crab Lane by approximately 55m. As such, it is appropriate to describe the proposal as backland development.

Policy DM5 states that 'proposals creating backland development will only be approved where they would be in keeping with the general character and density of existing development in the area, and would not set a precedent for similar forms of development, the cumulative effect of which would be to harm the established character and appearance of the area.'

North Muskham, particularly at the part of the village to which the site is positioned, is a relatively linear settlement, however there is by no means a defined urban grain in terms of setback of dwellings from the highway.

I am mindful of previous reason for refusal in terms of the impact on the character and appearance of the site and wider locality from residential development in this position as well as the comments from the appeal Inspector which agreed with this conclusion. However, in also considering that there are properties along Crab Lane which abut the highways edge, while others, such as The Old Stables and Peters Cottage as well as properties along Main which are set back from the highway considerably. I am also mindful that to some extent backland development has already occurred on Main Street as well as the recent grant of planning permission on Crab Lane Ref. 18/00015/FUL for a single dwelling to the rear of 10 Crab Lane. Furthermore, immediately to the rear of the site are the detached properties along Thomas Place, which, while part of a comprehensive development, are accessed via private drive off of Main Street and set back considerably from the main highway and have occurred since the time of the appeal decision on the previous application at the site referred to.

The application site is unusual within the settlement of North Muskham, in that it is made up of a large open area and not residential curtilage, but surrounded by residential properties on all sides. While it is acknowledged that the properties along this section of Crab Lane are predominately large detached dwellings set with substantial plots, and therefore have the potential to accommodate backland residential development, it is considered that similar development of the scale and nature to that of the proposal could not be accommodated within neighbouring plots.

Furthermore, and in light of the existing backland development within North Muskham as well as the recent grant of planning permission along Crab Lane, it could be argued that a precedent for this form of development within the locality has already been set.

In regards to the visual harm arising from the proposal, I am mindful that due to the position of the proposed development, set back from Crab Lane, plus the low overall height and hipped roof single storey design of the proposed bungalows, it is considered that proposed development

would be highly visible from public vantage points and that the impact on the visual amenity of the locality would be minimal.

While the locality is predominately made up of two storey properties, there are also single storey bungalows, notably to the rear of the site along Thomas Place. Therefore in terms of the general character of the area, it is considered that the type and form of the proposed development would not be inappropriate.

I am mindful that the proposed development would involve the loss of some of the existing hedgerows either side of the existing access drive in order to incorporate the required visibility splays, which did make up part of the refusal reason for the previous application for residential development at the site Ref. 03/02417/FUL that also utilised the same access drive. However, I am also mindful of the appeal Inspectors comments in respect of this part of the proposed development which, whilst dismissing the appeal on other grounds, made the following comments;

‘Whilst hedges are a typical boundary feature along Crab Lane, I do not consider the hedge adjacent to the appeal site, which contains alien as well as indigenous species to be a feature of landscape importance. The lane varies in width so that in my view, providing consent was conditioned to secure the replanting of a suitable hedge, was conditioned to secure the replanting of a suitable hedge.’

I take the same view held by the Inspector in this case and conclude that whilst the loss of a portion of existing hedgerow at the site is regrettable, a replacement landscaping scheme which also worked with the required visibility splays would mitigate this visual harm and this could be controlled by condition attached to any grant of planning permission.

Overall it is considered that while the proposed scheme would take the form of backland development, the proposal is considered to be compatible with the scale and form of the built form in the vicinity and would not result in any material impact on the visual amenity of the locality. As such, it is considered that the proposal would conform with the scale and character criteria of SP3.

### *Impact*

SP3 states new development should not generate excessive car-borne traffic from out of the area. Proposals should not have a detrimental impact on the amenity of local people nor have an undue impact on local infrastructure, including drainage, sewerage systems and the transport network. The NPPF and Development Management Policy DM5 also seek to ensure a good standard of amenity for all existing and future occupants of land and buildings whilst protecting the amenities of neighbouring occupiers. Impacts are considered further below.

### Highways Impacts

Spatial Policy 7 includes that development proposals should provide safe, convenient accesses for all and provide appropriate and effective parking provision, both on and off-site, and vehicular servicing arrangements. The policy also states that proposals should ensure that vehicular traffic generated does not create new, or exacerbate existing on street parking problems, nor materially increase other traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision.

The proposal makes use of the existing access serving Peters Cottage, I note that the Highway Authority have not raised any objection to the proposal and consider the proposed widening of the vehicular access to be acceptable from a highway safety perspective. The proposed scheme includes 2 No. off street parking spaces to serve each of the proposed dwellings and a shared off street turning area to facilitate vehicles entering and leaving the site in a forward gear.

In light of the above and subject to the conditions suggested by NCC Highways, it is considered that the proposal would be compliant with Spatial Policy 7 and the relevant elements of Policy DM5.

#### Impact on Residential Amenity

Policy DM5 of the DPD states 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 am mindful that the proposed access driveway runs between to existing properties and associated residential curtilages. The potential impact on the residential amenity on The Old Stables and Peters Cottage from the associated noise, and headlights of vehicles travelling along the access drive was a concern raised at pre-application stage and voiced to the applicants. I note that the submitted planning statement sets out that the windows on the flank elevation of The Old Stables facing the driveway are proposed to be bricked up as part of the proposal in order to mitigate this impact.

The 2 No. windows on the flank elevation of Peters Cottage facing the proposed access driveway are noted, although I am also mindful that these are small secondary windows. Therefore while the potential impact on the residential amenity has been identified, in also taking into account that the access driveway would serve 2 No. properties, and as such the number of vehicular movements along the driveway is unlikely to be excessive, overall it is considered that the impact from the access driveway is unlikely to result in a material impact on residential amenity that would warrant refusal of planning permission on its own. Nevertheless, a condition securing the side facing ground floor windows and flank elevation of the conservatory serving The Old Stables to be bricked up as shown within the submitted planning statement is considered appropriate in order to mitigate the impact on this property.

I am mindful of the relatively close relationship with the properties to the north of the site, with unit 1 being positioned 5.7m to the south of No. 2 Thomas Place and unit 2 being positioned 7m to the south of Gilstrap House on Crab Lane. However, due to the single storey hipped roof design and modest height dimensions of the proposed bungalows, I am of the view that the proposal would not result in any material overbearing or overshadowing impact on the neighbouring amenity of these properties. Furthermore, as the high brick wall running the northern boundary is shown to be retained and all windows would be serving accommodation at ground floor level, it is considered that the proposed development would not give rise to any material overlooking concerns.

It is also considered that there is sufficient level of separation between the proposed dwellings and other immediate properties surrounding the site, so as to not result in any material overbearing, overshadowing or overlooking impact on residential amenity.

### Impact on Trees

The application has been accompanied by a tree and boundary treatment plan which identifies two No. apple trees located centrally within the site which are proposed to be removed in order to facilitate the creation of a vehicular turning area. These fruit trees are relatively small and not highly visible from any public vantage point. As such, their removal is not considered to result in any material impact on the visual amenity of the locality.

### Flood Risk and Drainage

Core Policy 10 of the Core Strategy requires development to be located in order to avoid both present and future flood risk. Core Policy 9 requires new development proposals to proactively manage surface water. Policy DM5 sets out that the Council will aim to steer need development away from areas at highest risk of flooding and confirms that in Flood Zones 2 and 3m development will only be approved where it constitutes appropriate development and that it can be demonstrated by way of the Sequential Test, that there are no reasonable available other sites at lower risk of flooding. It further requires that the development would need to be safe for its lifetime. The NPPF provides that development should be located in the least sensitive areas to flood risk through the application of the Sequential Test and Exception Test where necessary.

The site is located within Flood Zone 2 according to the Environment Agency's flood risk maps and is therefore at medium probability of flooding from river sources. As such consideration must be given as to whether the application passes the Sequential Test. It is clear that if the District of Newark and Sherwood were considered as a whole, this site would certainly fail the Test as there are other areas within the District that fall within Flood Zone 1 where new housing could be built. However, if the Sequential Test is considered locally, the majority of North Muskham falls within Flood Zones 2 and 3, being located adjacent to the River Trent.

The applicant has submitted information in relation to the sequential test within the flood risk assessment. There has not been a detailed assessment of all potential sites within North Muskham although areas within the village inside flood zone 1 have been identified and argued to be ruled out as suitable for residential development due to the distance and level of detachment from the village centre.

While an independent assessment of all available sites at lower flood risk within the search area would ideally have been submitted, I am aware of such assessments within recent applications for residential development within North Muskham. These have found there to be no available sites within the main built up area of North Muskham within a lower flood risk area than the application site i.e. flood zone 1. Of particular note is application Ref. 18/00597/FULM for 12 affordable and 4 market dwellings, within the committee report for this application, the officer, having had regard to the submitted independent assessment, concluded that the only available site in flood zone 1 within North Muskham was land at Rose Cottage within the northern part of the village. However, this site would not be comparable to the application site as the majority of the site is located in an open countryside position with only the small portion of the site within the main built up area of the village and this portion of the site would not be capable of accommodating the level of development proposed within this application.

Furthermore, I am also mindful of other applications at South View, Crab Lane, both the outline application Ref. 15/01440/FUL and the full application Ref. 17/00282/FUL (for one x 3 bedroom dwelling). These applications accepted that in the absence of available sites in Zone 1 to meet the

housing need for the village that the proposal passed the Sequential Test. Within the committee report for the outline the application, the officer commented;

*'Officers raised initial concerns that the Flood Risk Assessment submitted with this application did not robustly demonstrate that there were no sequentially preferable sites within the village in Flood Zone 1 which could accommodate the proposed development. The agent subsequently submitted a Supplementary Sequential Test which assessed 14 alternative sites within Flood Zone 1 (i.e. that may be at lower risk of flooding). The agent has put forward various reasons why these sites are not reasonably available for residential development at this time including that some sites are in multiple ownership, impacts on residential amenity, access issues and relationship with heritage assets. The agent goes on to assess what they consider to be the 4 most suitable sites against Spatial Policy 3 and has concluded that the sites are not considered to be realistically available or deliverable at this time.'*

*In my opinion, whilst the alternative sites have not been independently assessed, there may be some merit to the arguments put forward and I consider it unlikely that any of the alternative sites would be able to accommodate all the housing need for the village (as indeed this site cannot). This may not be the case for sites beyond the exiting main built up area of the village. Whilst the application site would be ideally assessed alongside others as part of the Development Plan review, I consider that at the present time, it may well be difficult to present a case that there are other sites readily available. It is acknowledged that although the proposal would only make a minimal contribution towards housing need in the village (6%), it would nevertheless reduce the number of dwellings required and therefore should the Development Plan review find that the housing need cannot be catered for within the existing built up part of the village (which I consider is likely for 16 units in total), there would be slightly less requirement for alternative land to be found.'*

Within the full application, the officer expanded and followed on from these original comments with the following;

*'Given these previous findings, it would be difficult to reach an alternative view...'*

Whilst subsequent applications for residential development within North Muskham have been received and granted planning permission since the determination of the applications relating to the site at South View, as discussed previously there is no guarantee that these will come forward. In also taking into account of the numbers of open market dwellings listed within the Housing Needs survey, I therefore conclude that there remains an unfulfilled need within the village and as such the situation remains largely the same. Therefore, given the above, I am also of the opinion that it would be very difficult to reach an alternative view than that of the argument put forward in the detailed alternative site assessment submitted in connection with South View application Ref. 17/00282/FUL, in that there are no sequentially preferable sites within the built up area of the village. It is therefore considered that the application would pass the sequential test with the search area carried out on a local settlement only basis.

As the proposed development would fall into a 'more vulnerable' classification and the application site is located within Flood Zone 2, the proposed development would be classed as appropriate within the Flood Risk Vulnerability and Flood Zone compatibility table and as such the Exception Test referred to in para 160 of the NPPF is not required to be applied.

Section 5 of the submitted FRA sets out the mitigation measures which would be incorporated the development, these measures include the floor level of the proposed bungalows being set 0.50m above the 1 in 1000 year level and flood resilient construction including water resistant airbricks, backwater valves and non-return valves. The FRA also confirms that the site is located in an area

of low level flood risk from fluvial and ground water sources. These measures can be secured by condition should Members be minded to grant permission.

Overall and in light of the above, it is considered that the proposed development would not be at significant risk of flooding, the development would be appropriately flood resistant and resilient and would not increase the risk of flooding elsewhere. The proposal is therefore considered to be in line with the guidance contained within Core Policy 10, DM5 and section 14 of the NPPF.

#### Impact on Ecology

CP12 states that applications should seek to conserve and enhance the biodiversity and geological diversity of the district and sets out a number of expectations. DM7 states that new development should protect, promote and enhance green infrastructure to deliver multi-functional benefits and contribute to the ecological network both on and off-site.

An Ecological Appraisal accompanies the application which concludes that there are no habitats of conservation concern and the site did not contain the potential to support protected and/or rare species. A number of potential enhancements to the site are recommended including, hedgehog nest boxes, bumblebee boxes, bug hotel and wild meadow area.

With no evidence to the contrary and from site inspection, I am inclined to agree with these findings. It is therefore considered that with a condition to secure the recommended biodiversity enhancements at the site, the proposal would comply with the aims of CP12 and DM7.

#### Other matters

The comments from the archaeological officer are noted and I am mindful of the advice contained within para 189, 190 and 199 of the NPPF which advises on sites which have the potential for heritage assets with archaeological interest and requires developers to submit an appropriate desk based assessment and where necessary a field evaluation. As such the recommended condition relating to the requirement of a scheme of archaeological works is considered appropriate to be attached to any grant of planning permission.

#### Planning Balance and Conclusion

The proposal would make a modest yet positive contribution to helping to facilitate the housing needs and preferences for North Muskham. This is of benefit to both the village and to the district council's wider housing supply.

There are no known sequentially preferable sites within the village that are in flood zone 1 that are available and could meet the housing needs for the village and as such I consider that the Sequential Test is passed in this case. The application has demonstrated that the application could be made safe. Whilst it may place an extra burden on emergency services when compared with the existing situation this would be minimal and could be partly mitigated by conditions requiring the applicant to sign up to the EA's Flood Warning system and raising the finished floor levels.

I have identified no demonstrable harm in terms of the impact on neighbouring dwellings, ecology or the highways network and on balance the impact on the character and appearance of the site and wider locality is considered acceptable.

On balance I am satisfied that the provision of the proposed dwelling and the public benefit in terms of meeting an identified need would outweigh the minimal additional flood risk in this

instance. Overall, I am satisfied that the provision of the proposed bungalows and the public benefit in terms of meeting an identified need would outweigh the failure of the sequential test and the minimal flood risk in this instance.

## **RECOMMENDATION**

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

### **Conditions**

01

The development hereby permitted shall not begin later than three years from the date of this permission.

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

02

The development hereby permitted shall not be carried out except in complete accordance with the following approved plans received 9 March 2018 reference:

1758 P 01 B SITE LOCATION PLAN

1758 (P) 02 B SITE PLAN

1758 (P) 03 GROUND AND ROOF PLANS - UNIT 1

1758 (P) 04 ELEVATIONS - UNIT 1 - SHEET 1

1758 (P) 05 ELEVATIONS - UNIT 1 - SHEET 2

1758 (P) 06 GROUND AND ROOF PLANS - UNIT 2

1758 (P) 07 ELEVATIONS - UNIT 2 - SHEET 1

1758 (P) 08 ELEVATIONS - UNIT 2 - SHEET 2

1758 (P) 09A INDICATIVE PROPOSED DRAINAGE

1758 (P) 10 TREES AND BOUNDARY TREATMENT PLAN

REV D REVISED SUPPORT STATEMENT

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

Reason: So as to define this permission.

03

No development above damp proof course shall be commenced until details of the external facing materials identified below have been submitted to and approved in writing by the local planning

authority. Development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Facing materials

Bricks

Roofing tiles

Reason: In the interests of visual amenity.

04

Prior to first occupation full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:

a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species.

existing trees and hedgerows, which are to be retained pending approval of a detailed scheme, together with measures for protection during construction.

means of enclosure

car parking layouts and materials

Reason: In the interests of visual amenity and biodiversity.

05

The approved soft landscaping shall be completed during the first planting season following the first occupation/use of the development, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority. All tree, shrub and hedge planting shall be carried out in accordance with BS 3936 -1992 Part 1-Nursery Stock-Specifications for Trees and Shrubs and Part 4 1984-Specifications for Forestry Trees ; BS4043-1989 Transplanting Root-balled Trees; BS4428-1989 Code of Practice for General Landscape Operations. The approved hard landscaping scheme shall be completed prior to first occupation or use.

Reason: To ensure the work is carried out within a reasonable period and thereafter properly maintained, in the interests of visual amenity and biodiversity.

06

Development shall not commence within the application site until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of



investigation (in line with 4.8.1 in the Lincolnshire Archaeological Handbook (2016) which has been submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure that any features of archaeological interest are protected or recorded.

07

No part of the development hereby permitted shall be brought into use until the access to the site has been widened to 5.25m and surfaced in a bound material for a minimum distance of 5m behind the highway boundary in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

08

No part of the development hereby permitted shall be brought into use until pedestrian visibility splays of 2m x 2m are provided on each side of the access drive. These measurements are taken from and along the highway boundary. The areas of land forward of these splays shall be maintained free of all obstruction over 0.6m above the carriageway level at all times.

Reason: In the interests of pedestrian safety.

09

No part of the development hereby permitted shall be brought into use until the parking areas are provided in accordance with the approved plan. The parking areas shall not be used for any purpose other than the parking of vehicles.

Reason: To ensure adequate parking is provided within the site

10

Prior to the occupation of either of the dwellings hereby approved, the ground floor windows on the flank elevation of 'The Old Stables' shall be bricked up as shown within the supporting statement Rev D and retained as such for the life of the development.

Reason: In the interests of residential amenity.

11

Prior to the first occupation of either of the dwellings hereby approved, a scheme for ecological enhancements shall be submitted to and be approved in writing by the Local Planning Authority. These enhancements shall draw upon those recommended in the ecological survey submitted to accompany the application by Elite Ecology and may include but need not be limited to hedgehog nest boxes, bumblebee boxes, bug hotel and wild meadow area. The scheme shall also set out where on the site the enhancements will be located.

Reason: In the interests of maintaining and enhancing biodiversity.

The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) and the following mitigation measures detailed within the FRA:

1. Finished floor levels are set no lower than 10.90m AOD and 0.50m above the 1 in 100 year floodplain level.
2. Bungalows to incorporate flood resilient construction including water resisting airbricks, backwater valves and non-return valves and all electrical installation to be above 11.20m AOD.
3. The future occupants of the bungalows sign-up to the EA flood warning system;
4. The surface water will be disposed via soakaways into the sand and gravel and the foul water to the existing foul sewer

The mitigation measures shall be fully implemented prior to occupation or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: Reduce the risk of flooding to the proposed development and any future occupants.

#### Notes to Applicant

01

Your attention is drawn to the comments made by the Environmental Health section who advise that a contingency plan is required should the construction phase reveal any contamination, and in which case the Pollution Team in Environmental Health at Newark and Sherwood District Council must be notified on (01636) 650000

02

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](http://www.newark-sherwooddc.gov.uk)

The proposed development has been assessed and it is the Council's view that CIL IS PAYABLE on the development hereby approved as is detailed below. Full details about the CIL Charge including, amount and process for payment will be set out in the Regulation 65 Liability Notice which will be sent to you as soon as possible after this decision notice has been issued. If the development hereby approved is for a self-build dwelling, residential extension or residential annex you may be able to apply for relief from CIL. Further details about CIL are available on the Council's website: [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/) or from the Planning Portal: <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

03

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).

**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 - 18/01450/FUL



