

## PLANNING COMMITTEE – 4 DECEMBER 2018

<b>Application No:</b>	<b>18/01965/FUL</b>	
<b>Proposal:</b>	<b>Variation of condition 3 attached to planning permission 16/00883/FUL to alter the rear window to a french door and install a Franklyn Juliet Balcony</b>	
<b>Location:</b>	<b>1 Tenters Cottage, Tenters Lane, Eakring, Nottinghamshire, NG22 0DQ</b>	
<b>Applicant:</b>	<b>Mr Simon Prest</b>	
<b>Registered:</b>	<b>22.10.2018</b>	<b>Target Date: 17.12.2018</b>

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

### The Site

The application site is a rectangular plot approximately 0.2 hectares in extent at the corner of Church Lane and Tenters Lane. The site as existing comprises a development site in line with the residential development approved by recent planning permissions as detailed in the planning history below. This includes the building of two semi-detached dwellings set towards the north western corner of the site with their principle elevations orientated towards Tenters Lane albeit their rear elevations are visible from Church Lane.

There is also a detached dwelling to the north east of the site and a further two semi-detached properties in the process of being built towards the south of the site.

The site is situated within the designated conservation area. There are neighbouring residential properties shared with the southern and eastern boundaries of the site as well as on the opposite side of Church Lane. The land use to the west, on the opposite side of Tenters Lane is a farmyard with associated detached buildings along the eastern boundary.

### Relevant Planning History

The site is subject to an extensive planning history;

**17/01780/FUL** - Demolition of No.2 Tenters Cottage and Erection of Replacement Dwelling; Erection of Extension to No.1 Tenters Cottage; and Erection of Two Dwellings (Resubmission).

*This application related to a similar scheme to the original approval detailed below albeit a revised design demonstrating a greater foot print and additional dormer windows to the semi-detached replacement cottages. Application approved 7<sup>th</sup> December 2017.*

**17/01488/FUL** - Variation of condition 3 attached to planning permission 16/00883/FUL to allow amendments to the layout of the new dwelling to be retained.

*This application related to the dwelling in the north east corner of the site (Phase A of the original approval) to which the current application also relates. Application approved 20 October 2017.*

**17/01178/FUL** - Demolition of No.2 Tenters Cottage & Erection of Replacement Dwelling; Erection of Extension to No.1 Tenters Cottage; and Erection of Two Dwellings.

*Application refused 23 August 2017 for a single reason in relation to the fact that the proposal would provide a wholly 3 bed scheme which would be contrary to the identified need for smaller units which was afforded weight in the initial approval reference 16/00883/FUL.*

**17/00754/FUL** - Application to vary condition 3 of planning permission 16/00883/FUL to allow the following amendments: Addition of a rear two-storey extension to the existing No.1 Tenters Cottage and the replacement No.2 Tenters Cottage and Substitution of new design for the pair of new semi-detached cottages on Tenters Lane.

*Application returned on the basis that the application could not be determined as a Section 73 application given that the amendments would affect the number of bedrooms as described by the description of development.*

**17/00597/FUL** - Application to vary condition 2 of planning permission 16/00883/FUL in relation to the Phasing arrangements on the site.

*Application approved by Planning Committee (in line with officer recommendation) with the decision notice dated 7 June 2017. This application essentially amended the wording of the Phasing condition to allow commencement of Phase C before Phase B was completed (albeit not before Phase B were capable of occupation).*

**17/00531/DISCON** - Request for confirmation of discharge of conditions 04, 05, 06, 10 and 11 of planning permission 16/00883/FUL: Demolition of Southernmost existing cottage (No 2 Tenters Lane) and erection of replacement two bedroomed cottage, demolition of derelict outbuildings (Nos. 1 and 2 Tenters Cottage); erection of pair of two bedroomed semi-detached cottages, erection of three bedroomed detached dwelling and creation of new access to No 1 Tenters Cottage.

*Conditions discharged 18<sup>th</sup> May 2017 in respect to Phases B and C.*

**16/01947/DISCON** - Request for confirmation of discharge of conditions 04, 05, 06, 10 and 11 attached to planning permission 16/00883/FUL for Demolition of Southernmost existing cottage etc. and Erection of three bedroom detached dwelling and creation of access to No.1 Tenters Cottage.

*Conditions discharges 16<sup>th</sup> January 2017 allowing commencement of Phase A.*

**16/00883/FUL** - Demolition of Southernmost Existing Cottage (No.2 Tenters Cottage) & Erection of Replacement Two Bedroom Cottage , Demolition of Derelict Outbuildings (Nos.1&2 Tenters Cottage), Erection of Pair of Two Bedroom Semi-Detached Cottages, Erection of Three Bedroom Detached Dwelling and Creation of New Access to No.1 Tenters Cottage.

*Application approved by Planning Committee in August 2016 (in line with the officer recommendation) with the decision notice dated 4 August 2016.*

## The Proposal

The current proposal has been submitted as a Section 73 Variation of Condition application to allow the plan reference of the original approval to be amended demonstrating changes to the fenestration details of the dwelling to the north east of the site. The revised plan submitted to accompany the application (reference 281.W03 Rev. C) details changes to the south elevation through the replacement of a first floor window with a door and associated Juliet balcony.

## Departure/Public Advertisement Procedure

Occupiers of 11 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)**

Spatial Policy 1: Settlement Hierarchy  
Spatial Policy 3: Rural Areas  
Spatial Policy 7: Sustainable Transport  
Core Policy 3: Housing Mix, Type & Density  
Core Policy 9: Sustainable Design  
Core Policy 10: Climate Change  
Core Policy 12 Biodiversity and Green Infrastructure  
Core Policy 13: Landscape Character  
Core Policy 14: Historic Environment

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

Policy DM4 – Renewable and Low Carbon Energy Generation  
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
- Eakring Conservation Area Appraisal
- SP3 Guidance Note
- Section 72 of the Planning Act 1990

## Consultations

**Eakring Parish Council** - Eakring Parish Council are opposed to the changes proposed re the French door and Juliet balcony. This is because we wish the original consent to remain to safeguard any privacy issues.

**NSDC Conservation** – We have reviewed the submitted details, and have no objection to the proposal. The change to the window design affects the rear of the property, and will not be prominent from the roadway.

In reaching this view, we have considered the Council's special duty under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to consider the desirability of preserving the character and appearance of the conservation area.

**One letter of representation has been received, details of which can be summarised as follows:**

- The house is close to neighbouring boundaries which are set at a lower level.
- The window overlooks the ground floor of neighbouring windows and the proposed door would increase the view resulting in a further erosion of privacy.

### Comments of the Business Manager

#### *Principle of Development*

The application has been submitted as a Section 73 application to vary an existing condition. The principle of development in terms of the erection of 3 dwellings and the refurbishment of the existing cottages has therefore already been accepted. Indeed it is acknowledged that the scheme is already in the process of being delivered on site.

As is outlined above through the description of the proposal, the current application seeks to amend the approved plans to allow changes to one of the dwellings (Phase A of the overall scheme). Although it is acknowledged that a Section 73 application is essentially a new permission which warrants assessment of all material planning considerations, it is deemed appropriate to focus the following appraisal on the impacts of the revised plan submitted.

#### *Impact on Character*

Whilst assessment of character impacts should be made in respect of differences between the extant proposal and the current plans, it is nevertheless relevant to refer to the original assessment at the time of the 2016 approval (16/00883/FUL):

*'The character criterion of SP3 states that new development should not have a detrimental impact on the character of the location or its landscaped setting. The assessment overlaps with the consideration required by Policy DM5 which confirms the requirement for new development to reflect the rich local distinctiveness of the District's landscape and character through scale, form, mass, layout, design, materials and detailing. The site's location within the designated conservation area is also important to consider and the council's conservation team have been consulted in this regard.'*

*'Local and national planning policy pay special attention to the desirability of preserving or enhancing the character and appearance of the CA. Core Policy 14 and policy DM9 of the 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 new dwellings exhibit positive architectural detailing which is compatible with the general vernacular of the CA.'*

As is referenced above in the planning history section, the plot to which the proposed changes of this application relate has already been subject to a Section 73 Variation of Condition application to allow for changes to the dwelling which was originally built not in accordance with the original plans. For the avoidance of doubt, the dwelling as built has now been regularised by the aforementioned S73 application and the changes now sought would not be retrospective in nature.

The change from the approved window to a French door with Juliet balcony would be relatively unperceivable in their character impact being positioned at the rear of the property orientated towards the associated rear garden. The French door and balcony would still be interpreted as part of a modern residential development and therefore would not harm the character of the area nor the associated designated heritage asset of the Conservation Area in accordance with aims of Policies CP14 of the Core Strategy and DM9 of the Allocations and Development Management as well as being consistent with Section 72 of the Planning Act

#### *Impact on Amenity*

The French door would be positioned at the location of an existing window which is orientated towards primarily the amenity space for the proposed dwelling before the amenity space for the semi-detached cottages at the south of the site beyond. Despite the concern received during consultation, it is considered that the effect on neighbouring amenity would be marginal. Whilst the Juliet balcony may amount to a perception of occupiers being stood looking out of the doors, the reality of this occurring is considered to be low. The doors would afford no greater line of sight or overlooking opportunity when compared to the extant approval for a window and therefore it would be extremely difficult to resist the application based on amenity impacts. The proposal is compliant with the relevant amenity criteria of Policy DM5 on this basis.

#### *Conclusion*

There exists an extant planning permission on the site which has accepted the development in principle. In a comparison of the current application to the extant scheme, officers have identified no harm which would warrant a resistance of the proposal.

Given that the proposal relates to variation of a condition attached to a previous approval it is necessary to repeat all relevant conditions for clarity. In the instance where conditions have been previously discharged, the conditions shall be re-worded to ensure that development is implemented in accordance with the approved details. For the avoidance of doubt where the wording of the conditions have been altered they are done so through underlined text. As the site history above outlines this is the second S73 application which has been assessed and therefore the revised wording agreed through the previous decision has been indicated by italicised text for completeness. The numbers of the original conditions will be altered owing to the removal of a time compliance condition given that the works have already commenced on site. Thus whilst the application description refers to Condition 3, the amended condition is now Condition 2.

#### **RECOMMENDATION**

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

## Conditions

01

The development shall be implemented in accordance with the phasing scheme shown on drawing no. 1723/A/01a received 22nd July 2016 unless otherwise agreed in writing through a non-material amendment. For the avoidance of doubt *the dwellings hereby approved within Phase C shall not be occupied until Phase B is complete to a degree that the existing cottages are capable of occupation.*

Reason: In order for the development to be delivered in a satisfactory manner in the interests of bringing the vacant units back into use before the *occupation* of the two new-build semi-detached properties and in line with the applicant's aspirations for development within the site.

02

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

- Block Plan - 1731.A.1d
- Tenters Lane New Cottages - 1731.A.2a
- Tenters Lane Replacement Cottage Church Lane New House - 1731.A.3c *save for the details in relation to 'Church Lane: New House'*
- *Proposed Floor Plans – OP.01*
- Proposed Elevations – 281.W03 Rev. C

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

*Unless otherwise agreed in writing by the local planning authority, the development hereby approved shall be carried out in accordance with the material details agreed through the discharge of conditions for the original application reference 16/00883/FUL. In respect of Phase A the approved details are contained within the letter sent by the LPA dated 16<sup>th</sup> January 2017 and in respect of Phases B and C, the approved details are contained within the letter sent by the LPA dated 18<sup>th</sup> May 2017.*

Reason: In the interests of visual amenity.

04

*Unless otherwise agreed in writing by the local planning authority, the development hereby approved shall be carried out in accordance with the window; door (and associated treatments); verge and eaves; soil and vent pipes and rainwater details agreed through the discharge of conditions for the original application reference 16/00883/FUL. In respect of Phase A the approved details are contained within the letter sent by the LPA dated 16<sup>th</sup> January 2017 and in respect of*

*Phases B and C, the approved details are contained within the letter sent by the LPA dated 18<sup>th</sup> May 2017.*

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

05

*Unless otherwise agreed in writing by the local planning authority, the development hereby approved shall be carried out in accordance with the drainage details agreed through the discharge of conditions for the original application reference 16/00883/FUL. In respect of Phase A the approved details are contained within the letter sent by the LPA dated 16<sup>th</sup> January 2017 and in respect of Phases B and C, the approved details are contained within the letter sent by the LPA dated 18<sup>th</sup> May 2017.*

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with the requirements of Core Policy 9.

06

No part of the development hereby permitted shall be brought into use until the 2 dropped vehicular verge crossings onto Church Lane are available for use and constructed in accordance with the Highway Authority's specification to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety.

07

No part of the development for any phase pursuant to condition 1 shall be brought into use until the drives and parking/turning areas for that phase are surfaced in a hard bound material (not loose gravel) for a minimum of 5 metres behind the highway boundary. The surfaced drives and parking/turning areas shall then be maintained in such hard bound material for the life of the development.

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

08

No part of the development for any phase pursuant to condition 1 shall be brought into use until the parking areas for that phase are provided in accordance with the approved plan. The parking areas shall not be used for any purpose other than parking/turning of vehicles.

Reason: To ensure that adequate off street parking provision is made to reduce the possibilities of the proposed development leading to on street parking in the area.

09

*Unless otherwise agreed in writing by the local planning authority, the development hereby approved shall be carried out in accordance with the boundary details agreed through the discharge of conditions for the original application reference 16/00883/FUL. In respect of Phase A*

*the approved details are contained within the letter sent by the LPA dated 16<sup>th</sup> January 2017 and in respect of Phases B and C, the approved details are contained within the letter sent by the LPA dated 18<sup>th</sup> May 2017.* The approved boundary treatment for each individual plot on site shall be implemented prior to the occupation of each individual dwelling and shall then be retained in full for a minimum period of 5 years unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential and visual amenity.

010

*Unless otherwise agreed in writing by the local planning authority, the development hereby approved shall be carried out in accordance with the landscaping details agreed through the discharge of conditions for the original application reference 16/00883/FUL. In respect of Phase A the approved details are contained within the letter sent by the LPA dated 16<sup>th</sup> January 2017 and in respect of Phases B and C, the approved details are contained within the letter sent by the LPA dated 18<sup>th</sup> May 2017.* The approved soft landscaping shall be completed during the first planting season following the commencement of the development within its respective phase, 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. The approved hard landscaping elements of the scheme shall be implemented on site prior to first occupation or use of each associated phase.

Reason: To ensure the work is carried out within a reasonable period and thereafter properly maintained and in order to preserve the character and appearance of the Conservation Area in accordance with Policy CP 14 of the Core Strategy and Policies DM5, DM7 and DM9 of the Allocations and Development Plan Development Plan Document (DPD).

011

No hedge or tree that is to be removed as part of the development hereby permitted shall be lopped, topped, felled or otherwise removed during the bird nesting period (beginning of March to end of August inclusive) unless otherwise agreed in writing by the local planning authority.

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

012

Notwithstanding the provisions of the Town and County Planning (General Permitted Development) (England) Order 2015, other than development expressly authorised by this permission, there shall be no development under Schedule 2, Part 1 of the Order in respect of:  
Class B - additions etc. to the roof of a dwelling house

Class C - other alterations to the roof of a dwelling house

Class H - microwave antenna on a dwelling house

Or Schedule 2, Part 2:

Class A - gates, fences, walls etc.



Or Schedule 2, Part 14:

Class A - installation or alteration etc of solar equipment on domestic premises

Class B - installation or alteration etc of stand along solar equipment on domestic premises

Class H - installation or alteration etc of wind turbine on domestic premises

Class I - installation or alteration etc of stand-alone wind turbine on domestic premises

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

Reason: In the interests of visual amenity and in order to preserve the setting of the conservation area.

### **Note to Applicant**

01

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk/cil/](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 hereby approved as the development type proposed is zero rated in this location.

02

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).

03

In the event that any bat/s are found during demolition, work must stop immediately. If the bat/s does not voluntarily fly out, the aperture is to be carefully covered over to provide protection from the elements whilst leaving a small gap for the bat to escape should it so desire. The Bat Conservation Trust should be contacted immediately on (0845) 1300228 for further advice and they will provide a licensed bat worker to evaluate the situation and give advice. Failure to comply is an offence under the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010 which makes it an offence to kill, injure or disturb a bat or to destroy any place used for rest or shelter by a bat (even if bats are not in residence at the time). The Countryside and Rights of Way Act 2000 strengthens the protection afforded to bats by covering 'reckless' damage or disturbance to a bat roost.

04

Trees in Conservation Areas are afforded special protection by legislation. Should you wish to lop, top or fell any tree on this site (other than those expressly shown will be removed to make way for built development permitted by this permission) you may require the prior consent in writing of

Newark and Sherwood District Council and are advised to contact the Development Control Service of the Council on 01636 650000 to discuss the matter.

05

Nesting birds are protected by the Wildlife and Countryside Act 1981 (as amended). It is an offence to intentionally or recklessly kill, injure or take any wild bird; take, damage or destroy its nest whilst in use or being built; and/or take or destroy its eggs. Normally it is good practice to avoid work potentially affecting nesting birds during the period 1st March to 31st August in any year, although birds can nest either side of this period.

06

The development makes it necessary to construct 2 vehicular crossings over a verge of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact the County Council's Highways Area Office tel: 0300 500 8080 to arrange for these works to be carried out.

#### BACKGROUND PAPERS

Application case file.

For further information, please contact Laura Gardner on 5907.

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 - 18/01965/FUL

