

Application No:	17/01839/FUL	
Proposal:	Demolition of shed and erection of 1 No. 4 bedroomed house	
Location:	Land At Rear 37 Easthorpe, Southwell, NG25 0HY	
Applicant:	Mr Jason Templeman	
Registered:	30.10.2017	Target Date: 25.12.2017
		Extension of Time Agreed Until 31.03.2018

This application is being referred to the Planning Committee for determination by the local ward member Cllr. Laughton as he considers there to be conflicting Conservation advice between the current application and the site at Platts Orchard. The Town Council has also supported the proposal which differs to the professional officer recommendation.

The Site

The application site relates to a linear plot approximately 0.16 hectares in extent to the north of, and accessed from Easthorpe. The site is within the urban boundary of Southwell as defined by the Proposals Map in the Allocations and Development Management DPD. The access to the site is within the designated Conservation Area but the majority of the site is outside of this Area albeit the western boundary abuts the Conservation Area boundary.

The site is to the rear of 37 Easthorpe; a Grade II listed building. The majority of the properties fronting Easthorpe are listed buildings. The immediate surroundings are largely residential in nature albeit there are dispersed commercial uses such as public houses.

A small proportion of the site, including the highways access, is considered as being within Flood Zone 2 and 3 as designated by the Environment Agency. The majority of the site where built form is proposed is within Flood Zone 1.

As existing the site is currently undeveloped, although there is a small wooden outbuilding along the western boundary and piles of waste building material within the site. The boundaries to the access road are established by an attractive brick wall and the gable ends of the two properties (37 and 39) which front Easthorpe. The boundaries of the site itself are characterised by hedging (with the exception of the southern boundary shared with 37 Easthorpe which forms a recently constructed brick wall). The hedging to the western boundary is relatively dense in nature and incorporates a number of mature trees reaching a significant height. There is a slight change in land levels within the site with the residential development along Potwell Close set at a slightly lower level.

Relevant Planning History

16/01437/FUL - Residential Development : 3(No.) Two Bedroom Bungalows. *Application withdrawn prior to determination.*

09/00496/FUL - Erection of 1 four bed roomed house. *Application withdrawn prior to determination.*

01/00018/FUL - Proposed three new dwellings. *Application refused.*

97/51763/FUL – Erect Bungalow and Garages. *Application refused.*

96/51592/RMA - Erect Bungalow. *Application refused.*

93/51557/OUT – Erect Bungalow. *Application approved.*

92/51022/OUT – Erect Bungalow. *Application refused.*

There have also been recent approvals (2013) for renovation works and a new garage at the host dwelling 37 Easthorpe.

The Proposal

The application seeks full planning permission for a detached four bedroom dwelling. The dwelling is designed as a two storey property with a maximum pitch height of approximately 8.4m and eaves height of approximately 4.1m. Materials proposed are red clay pantiles and mixed red facing brickwork. The dwelling would be orientated with the principle elevation facing eastwards featuring a recessed gallery landing. The overall footprint of the proposed dwelling would be approximately 102m².

The submitted site plan annotates the provision of two parking spaces following the demolition of an existing outbuilding. Existing hedges along the eastern boundary and part of the western boundary are shown to be retained with a proposed new fence of approximately 1.8m along the northern boundary and the remainder of the western boundary.

Departure/Public Advertisement Procedure

Occupiers of 34 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

Southwell Neighbourhood Plan

Policy SD1 – Delivering Sustainable Development
Policy E1 – Flood Risk Assessments and Mitigation
Policy E2 – Flood Resilient Design
Policy E3 – Green Infrastructure and Biodiversity
Policy E6 – Climate Change and Carbon Emissions
Policy DH1 – Sense of Place
Policy DH3 – Historic Environment
Policy TA3 – Highways Impact
Policy HE1 – Housing Type and Density

Newark and Sherwood Core Strategy DPD

Spatial Policy 1: Settlement Hierarchy
Spatial Policy 2: Spatial Distribution of Growth
Spatial Policy 6: Infrastructure for Growth
Spatial Policy 7: Sustainable Transport
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 13: Landscape Character
Core Policy 14: Historic Environment
SoAP 1: Role and Setting of Southwell

Allocations & Development Management DPD

Policy So/HN/1 – Southwell Housing Need
Policy DM1- Development within Settlements Central to Delivering the Spatial Strategy
Policy DM3 – Developer Contributions and Planning Obligations
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
Policy DM10 – Pollutions and Hazardous Materials
Policy DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

- National Planning Policy Framework 2012
- Planning Practice Guidance 2014
- Southwell Conservation Area Appraisal 2005

Consultations

Southwell Town Council –Southwell Town Council considered application 17/01839/FUL Land Rear 37 Easthorpe Southwell and agreed unanimously to support this proposal. The committee is unsure of the Conservation Officer's comments.

Southwell Civic Society – This proposal is for further backland development.

We are concerned that the site and the adjacent bungalows in Potwell Close were flooded in the July 2013 flood event.

The Flood Report whilst identifying likely causes of flooding does not demonstrate how flooding can be prevented on the site or from adding to the flooding problems already experienced in the town. The report merely makes suggestions but does not state exactly how this can be achieved. Keeping the net discharge from the site to the current green field rate is irrelevant if the site is subject to surface water and fluvial ingress.

In Appendix D of the applicant's Flood Report the second drawing Figure 4-8 clearly shows that where the proposed house is to be situated the flood level was between 0.5m and 0.75m.

The Environment Agency Map for Surface Water flooding clearly shows the strip of land forming the site to be subject to a 1:100 year event. The corresponding map for Rivers and Sea shows part of the site within Zone 3. In 2013 the site and the adjacent Potwell Close were flooded and from local knowledge the flood waters from Easthorpe flowed through the site down to the Potwell Dyke.

The application can only be confidently assessed when JBA Consulting's remodelling of the Southwell Area catchments is complete and the report published.

In any event the application should not be considered until a fully engineered and detailed drainage solution is submitted. This cannot be left to later to be sorted out by imposing "Conditions".

There appears to be no appraisal of the biodiversity as required under the NP policy E3 especially in relation to the hedgerow which may also be of historic importance and certainly of landscape value for adjoining houses.

There are already sufficient houses allocated (NSDC Allocations and Development Management Options Report) to meet Southwell's housing needs until 2033.

NSDC Conservation – The proposal site is the plot associated with number 37 Easthorpe, which is a Grade II listed building. The proposal site is partly within and immediately adjacent to the Conservation Area of Southwell.

Statutory Background

Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 is relevant; in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting, or any special features of architectural or historic interest which it possesses.

Case law has shown that in this context 'preserve' means causing no harm and that the statutory duty here is a high test, and not simply a material planning consideration like any other.

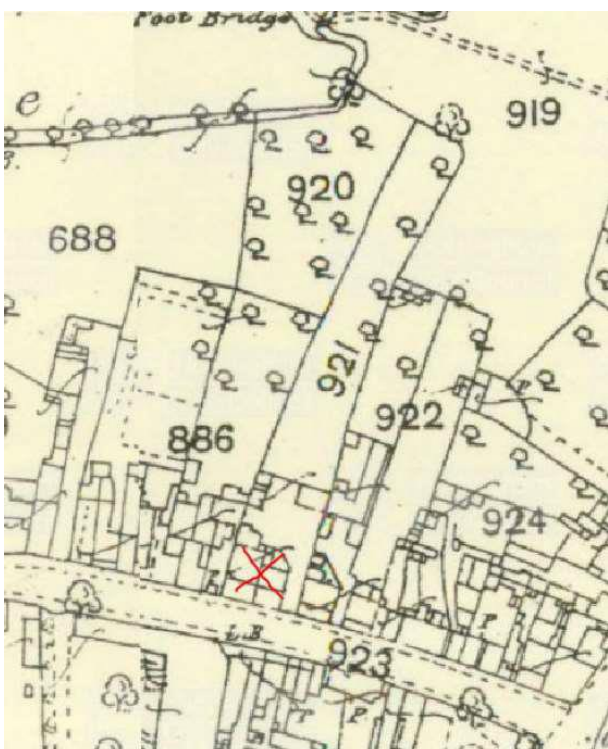
It is acknowledged that the application site falls mostly out of the Conservation Area, however development here affects a heritage asset which forms part of the Conservation Area (i.e. the listed building) and development directly adjacent to the Conservation Area could still have an impact on the character and appearance of the Conservation Area. As such, the decision maker should still be mindful of Section 72 (1) which states that 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area'.

Site description and significance

37 Easthorpe is Grade II listed (listed under 35 Easthorpe) and is described as formerly two houses, now one house, dating back to the early C18, with possible timber framing. While the historic building is a relatively simple and vernacular cottage, I wonder if it may have once been a higher status building, owing to its relatively wide plot and the fact it addresses the road (see below). The site is notable for its distinctive long, narrow plot. Historic map evidence shows the plot to have existed in this overall form since at least the Tithe Map of 1840, as below (the cottage being marked by a red cross for ease of identification):



The first OS map of 1875-85 shows a similar long narrow plot, marked as being in the same ownership (again, the listed building is marked by a red cross):



These long narrow plots are known as burgage plots within towns and toft and croft plots in more rural areas and were laid out in medieval times, when land was owned and managed in long narrow strips, usually set at right angles to thoroughfares. The 'toft' was used for the house, the 'croft' as a smallholding for the toft. This leads to a distinctive historic pattern in towns and villages of successive narrow strips of land running at right angles to a road, with development clustered at the street front and sometimes stretching part way down the plot, with open land to the rear. Because of the narrow width of these strips most buildings ended up being sited gable end onto the road and having long narrow ranges stretching down the plot. Only the wealthy could afford to accrue more than one plot next to each other, allowing a wider plot and therefore a building which addressed the street front, rather than sitting gable end onto the road. This kind of wider plot and house position can be seen at number 37 Easthorpe, hinting at a possible higher status past than its current cottage appearance would suggest.

Vestiges of these medieval plots are seen through most of our historic towns and villages and can be seen today in Easthorpe and throughout the historic core of Southwell. They are indicative of a system of land division which ceased with the enclosures of the C18 and C19 and are an important part of the legibility and understanding of settlements with a medieval origin.

Burgage/toft and croft plots are very much part of the historic interest of the town of Southwell, and as they directly influenced the plan form of the settlement are also part of the appearance of Southwell. The survival of burgage plots contributes to both the character and appearance of the Conservation Area of Southwell and the setting of this listed building.

This is reinforced in the Southwell Conservation Area Appraisal (July 2005) which states that [emphasis added], 'The most important features contributing to its designation as a conservation area are the presence of the Minster Church, *its well-preserved historic layout*, the high proportion of listed building and unlisted building of quality, its strong character areas and its attractive landscape setting' (pg 2). The importance of the historic plan form of Southwell is therefore identified as a key element of the area's overall significance. The site falls within the Easthorpe character area, and the Appraisal explains its former agricultural and semi-rural origin, which despite the tight urban form on the street frontage still survives in areas of open land to the rear of the street, describing how to the north of Easthorpe areas of open land survive in the gardens of properties along the road (p 41-42). The summary section on p 42 states that, 'the open areas that provide the setting of the conservation area should not be developed'.

The survival of this medieval plot at 37 Easthorpe is a feature of historic interest in its own right and is a positive feature in the setting of the listed building, giving historic context and showing that its setting, in plan form terms, is relatively unaltered.

This application has allowed a better understanding of the significance of this plot, such as when the Conservation Area is next reviewed the boundary should logically be expanded to include the whole of the plot associated with number 37.

Impact of this application

I note this is a more evolved version of the application in 2016 for three bungalows, and while this is a less harmful scheme it remains, in my opinion, harmful.

I accept that the proposed new structure is linear, so in this respect is angled with the plot.

However, the tradition of long narrow structures lining narrow medieval plots is seen from the street front stretching back, usually in a solid or almost unbroken row. This would be a stand-alone structure, some distance from the garage of 37 and even further from the main house and the main road, so it doesn't read as a part of the street front development. Being linear in form and position is therefore not enough to make this seem like a natural addition, and it would still read as back-land development.

I accept its positioning would allow views down the plot from the public realm, but limiting a consideration of impact to publically accessible viewpoints is too narrow when considering impact on heritage assets, especially when planform itself is being considered. This visibility makes this a less harmful scheme than one which would block the view, but does not in itself *remove* the harm.

The proposed structure is substantial in footprint and scale, being a more imposing structure than the cottage historically was. This is a confusion of historic hierarchy, in so much as the principal building was usually at the street front end of the plot, with attached outbuildings of lesser status serving it to the rear.

I also object to the proposed form of the new building, which is a pastiche threshing barn. Again, this completely confuses the site, giving the impression of a historic farmstead where there is none. A threshing barn of this size would have related to a substantial farmstead of other outbuildings and what would usually be a significant farmhouse. While there are former farm buildings throughout Southwell, and in this respect I can see the reference for this building, it is a confusing pastiche to use on this site.

I do stress, however, that a change in the house design would not mitigate my concerns to the point of supporting the application.

I have considered the point that there is already a small outbuilding here, which is of such a rundown state that its replacement could potentially enhance the site. However, the size of a commensurate replacement would make it still no more than an outbuilding (maybe residential annex at best) in scale and status. Any more than this size would bring back into play the issues I have highlighted above.

I appreciate there are some historic buildings behind the street frontage development in this area, but these are generally built to serve the main street frontage building, so are ancillary in nature. I also appreciate a new house has been approved to the rear of 39, but there were apparently site specific circumstances here which do not necessarily set the precedent for back land development at this plot.

Conclusions

Overall I object to this application. I think it will harm the setting of the listed building by dividing up its historic toft and croft plot, which relates strongly to the history and development of the building, it will create a confused hierarchy for the site and is of a pastiche style that further harms the interpretation of the site. I also appreciate that any approval here could give rise to the very real possibility of further piecemeal division and development of this plot, further compounding this harm. As an asset within the Conservation Area, harm to the significance of this listed building will also cause harm to the character and appearance of the Conservation Area. I also consider this to be harmful development within the setting of the Conservation Area, harming the appreciation of the toft and croft plots which are an important part of the Area's character and rivalling the primacy of street front development with harmful back land development.

Under the terms of the NPPF I would regard this harm to the significance of the Listed Building and Conservation Area to be less than substantial, but any harm is contrary to the statutory test of the 1990 Act.

I would regard this proposal as being contrary to the Planning (Listed Building and Conservation Areas) Act 1990, Policy CP14 and SoAP1 of the Core Strategy and DM9 of the Allocations & Development Management DPD.

While I appreciate the site is mostly outside of the Conservation Area I do believe the Southwell Neighbourhood Plan should carry some weight here, which under Policy DH3 states that, 'Development within the Southwell Conservation Areas must meet the guidance within the current and any future Conservation Area Appraisal and the requirements of the relevant NSDC Core Strategy and Neighbourhood Plan policies in relation to the conservation and enhancement of the historic environment in Southwell. Development proposals will be expected to respond to the particular characteristics of the individual Conservation Area within which they are located.'

I trust this adequately explains and justifies why Conservation objects to this application.

NSDC Access and Equalities Officer – Observations in relation to Building Regulations.

NCC Highways Authority – This proposal is for one dwelling served by an existing access, which has been recently improved and currently serves two dwellings.

The access width at the rear of the footway is acceptable, however, it tapers further into the site. In view of this, for one additional dwelling it may be considered unreasonable for the Highway Authority to recommend refusal.

Therefore, there are no highway objections subject to the following:

No part of the development hereby permitted shall be brought into use until the parking/turning areas are provided in accordance with the approved plan. The parking/turning areas shall not be used for any purpose other than the parking/turning of vehicles. Reason: To ensure adequate parking provision is made to reduce the possibilities of the proposed development leading to on street parking in the area.

NCC Lead Local Flood Authority - Current preliminary comments: Object for the following reasons:

1. The proposals do not identify a robust method of disposing of surface water from the development.

It is also recommended that any proposals are constructed using flood resilient techniques as parts of the site are at risk of flooding and these techniques should be detailed in any further submissions.

Revised comments received 28 December 2017:

No Objections subject to the following:

1. No construction works shall start until a detailed surface water design is submitted to and approved by the LPA. This design should be based on the rainwater harvesting and soakaway

proposals contained within the Flood Risk Assessment and be supported by a BRE365 complaint soakaway design.

Environment Agency – Thank you for referring the above application which was received on 6th November 2017.

Environment Agency position

In the absence of an acceptable Flood Risk Assessment (FRA) we object to the grant of planning permission and recommend refusal on this basis for the following reasons:

Reason

The FRA submitted with this application does not comply with the requirements set out in the National Planning Policy Framework (NPPF) and paragraphs 030 - 032 of the Planning Practice Guidance (PPG). The submitted FRA does not, therefore, provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.

In particular, the submitted FRA fails to:

1. Take the impacts of climate change into account
2. Consider the effect of a range of flooding events including extreme events on people and property.
3. Consider the requirement for flood emergency planning including flood warning and evacuation of people for a range of flooding events up to and including the extreme event.

Overcoming our objection

1. Your FRA states that the expected flood level for a 1 in 100 year climate change flood is 25.0 metres above Ordnance Datum. However, this is the topographic ground level of the site and therefore does not account for the flood depths shown on the maps you have included in your FRA Appendix from the Southwell Flood Study 2015. The map showing the modelled flood depth for the 1 in 100 year climate change (20% allowance) event gives a flood depth at the location of the proposed house of around 0.1-0.25 metres. The map showing the modelled flood depth for the July 2015 event gives a flood depth at the location of the proposed house of around 0.5-0.75 metres.
2. Government climate change guidance, available online at <https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances>, gives the climate change allowances which should be taken into account when planning new developments. In Nottinghamshire we would expect finished floor levels to be set with a freeboard above the 1 in 100 year 30% climate change modelled flood level, with flood resilience up to the 1 in 100 year 50% climate change flood level. This data is not available for the current site, so we would expect you to estimate the level from the current data. In this case, the modelled July 2015 event flood depths are the most severe flood which has been mapped, and could be considered a proxy for a more severe climate change flood. For this site the floor level would therefore be 25m AOD 0.75m 0.6m = 26.35m AOD. Flood resilience measures should be incorporated to a higher level which you estimate to be equivalent to the 1 in 100 year 50% climate change flood level.

3. When considering access and egress within your FRA you should consider the depth of flood water, and therefore the flood hazard, along the escape route from the property to higher ground.

You can overcome our objection by submitting an FRA which covers the deficiencies highlighted above and demonstrates that the development will not increase risk elsewhere and where possible reduces flood risk overall. If this cannot be achieved we are likely to maintain our objection to the application. Production of an FRA will not in itself result in the removal of an objection.

Revised comments received 6 February 2018:

Thank you for the additional information received on the 22nd January 2018. After review of the information the Environment Agency is satisfied to remove our objection. Our revised response is detailed below:

Environment Agency Position

The Agency has no objections, in principle, to the proposed development but recommends that if planning permission is granted the following planning conditions are imposed:

Condition

The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) January 2018, Reference ME/103B/FRA, Armstrong, Stokes and Clayton Limited and the following mitigation measures detailed within the FRA:

1. Finished floor levels are set no lower than 26.05m above Ordnance Datum (AOD).
2. Flood resilient construction as described in section 8.5 of the FRA to a minimum of 26.35m above Ordnance Datum (AOD).

Reason

Ensure reasons are site specific and related to planning policy. This can be provided as free text or based on the following prompts.

1. To reduce the risk of flooding to the proposed development and future occupants.

To reduce the impact on the occupants should floodwater enter the property during an extreme flood event.

Severn Trent Water – No comments received.

Anglian Water – No comments specific to this application.

Trent Valley IDB – The site is within the Trent Valley Internal Drainage Board district.

There are no Board maintained watercourses in close proximity to the site.

Surface water run-off relates to receiving watercourses must not be increased as a result of the development.

The design, operations and future maintenance of site drainage systems must be agreed with the Lead Local Flood Authority and Local Planning Authority.

Representations have been received from 11 local residents/interested parties which can be summarised as follows:

Principle of Development

- A good quality building would improve the current site
- Further development will possibly lead to an over sufficiency of large empty properties
- The proposal is backland development

Flooding

- The site was flooded in 2007 and 2013 and any development of this site should mitigate future risks
- The very large increase in impermeable surfaces could have a detrimental effect on water run-off
- Powell Close was severely flooded in 2013 leading to elderly residents having to be re-homed
- The application should not be considered until a fully engineered and detailed drainage solution is submitted
- There does not appear to be a plan for flood risk assessment and mitigation
- The FRA includes incorrect statements re: previous flood events
- Anything built on the site is likely to increase the risk of flooding

Amenity

- This development will have a negative impact on neighbours through an increase housing density, loss of privacy, overshadowing and loss of wildlife habitat
- The proximity of the proposed development will directly affect the views and outlook of at least 8 properties on Powell Close and the views from 39a Easthorpe
- There will be more noise pollution

Development around the Site

- There has been extensive redevelopment of the existing listed building and plot – it is not clear whether the wooden shed referred to in the current application which has been moved is regarded as a listed building
- The extension at the existing property is neither appropriate to location nor does it enhance the natural and built environment
- The newly built garage is large enough to be converted to a dwelling – if this happens this development would mean four large properties using the existing driveway

Character

- The building design does nothing to enhance the locality
- The area was delineated as an historically and environmentally important urban green space

Impact on Highways

- The construction of another property will cause continued disruption
- The road is dangerous will poor visibility

- Easthorpe is an extremely busy road and is already tightly packed with cars
- Lorries will add to the chaos

Other Matters

- The wording on the site plan refers to three bungalows
- There does not appear to be an appraisal of biodiversity as required under policy E3 of the neighbourhood plan
- The previous owners included a covenant on the land to prevent future use of the plot
- The maps used are inaccurate and omit buildings that have been in place since the mid 1990s and 2006

Comments of the Business Manager

Principle of Development

The NPPG acknowledges that Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area, thus providing a powerful set of tools for local people to ensure that they get the right types of development for their community where the ambition of the neighbourhood is aligned with the strategic needs and priorities of the wider local area.

Following public consultation and independent examination, at its council meeting on 10th October 2017 Newark and Sherwood District Council adopted the Southwell Neighbourhood Plan. The Neighbourhood Plan now forms part of the development plan for the district and its policies are a material consideration alongside other policies in the development plan and carry weight in the determination of planning applications in Southwell. In this instance the most relevant policies in the Neighbourhood Plan are listed above and are considered against the relevant aspects of the proposal in the assessment below.

The adopted Neighbourhood Plan for Southwell outlines an overall support for residential development within the town, through meeting the strategic requirements for growth whilst maximizing the benefits for the community (Objective 6). Spatial Policy 1 of the Core Strategy outlines the settlement hierarchy for the District identifying Southwell as a Service Centre. It is intended that Service Centres will act as a focus for service provision for a large local population and a rural hinterland. As such residential development within the site is acceptable in principle provided the proposal accords with the remainder of the development plan.

It is relevant to acknowledge that at the present time, the LPA is well advanced in the process of a plan review following the Independent Examination which took place on February 1st and 2nd 2018. For the avoidance of doubt the Council does currently have a 5 year housing land supply against the only OAN available and produced independently by consultants and colleague Authorities. I do not consider it necessary to rehearse the full position in respect of this matter given the support for additional housing in Southwell in principle. Whilst the NPPF identifies that there is a presumption in favour of sustainable development, this does not automatically equate to the development being granted as other material considerations need to be taken into account.

Housing Type and Density

Core Policy 3 of the Core Strategy states that development densities should normally be no lower than an average 30 dwellings per hectare net. The current proposal for a single dwelling within the site area of 0.16 hectares would fall well below the aspirations of Core Policy 3. However I do not consider that it would be appropriate to negotiate a greater housing density within the site given the surrounding constraints such as heritage assets and the potential implications to the highways network which are discussed further below. It should be noted as is referenced by the site history that a scheme for three bungalows has been previously withdrawn owing to issues identified through determination.

Policy So/HN/1 is clear in seeking, subject to local site circumstances and viability, the majority of new housing on allocated and windfall sites as 1 or 2 bed units. This was adopted in 2013 based on an earlier 2009 housing evidence base. This applies to all housing developments in Southwell irrespective of whether they are market or affordable. However, in 2014 new Housing Market information became available (in the Housing Market Needs Sub Area Report) for market dwellings. This made clear that there is a greater need for houses of 3 or more bedrooms than there was for properties of two bedrooms or less (48/52% split in favour of 3 beds or more). This is an important material consideration and indeed one that has been referenced by a recent appeal decision in Southwell (Brooklyn, Lower Kirklington Road APP/B3030/W/17/3179351). On this basis I do not consider that it would be justifiable to resist the application purely on the basis that it does not propose a 1 or 2 bed dwelling.

Impact on Character

The application site is set to the rear of 37 Easthorpe adjacent to the designated Conservation Area (although the access to the site falls within the Conservation Area designation). The proposal would introduce built form into a currently undeveloped site (notwithstanding the small outbuilding to be demolished), fundamentally changing the character of the site. Policy DM5 is clear 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. Policy DM5 also confirms that, where local distinctiveness derives from the presence of heritage assets, as in the case in the context of this proposal, development will also need to satisfy Policy DM9.

It is noted that the majority of the site is outside of the designated Conservation Area (CA) albeit the access road from Easthorpe falls within the CA and thus the application has been advertised on this basis. 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. Policy DM9 reminds us that proposals should be compatible with the fabric of historic buildings. Commentary surrounding Policy DH3 of SNP confirms the Prebendal houses of the Historic Town Centre form one of the features that creates the central attraction for residents and visitors. It is stated that these features must not be compromised by development. This is carried through to the wording of the Policy DH3 which states:

'Within the Historic Town Centre the established layout of large houses within their own extensive grounds must be retained and that the surviving Prebendal plots must not be subdivided.'

It is fully appreciated that the site is not within the Historic Town Centre as identified by the Proposals Map within the SNP nor does it represent a prebendal plot explicitly referred to. However, the stance nevertheless demonstrates that the Neighbourhood Plan illustrates an

understanding of how a building's historic boundary can be part of its significance which can be subsequently harmed through inappropriate development.

Notwithstanding that the proposed dwelling would be outside of the designated CA, in being directly adjacent to it, it could still have an impact on the character and appearance of the Conservation Area, and so the decision maker should still be mindful of Section 72 (1) which states that '*special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area*'. Moreover, the development has the potential to affect the setting of numerous listed buildings along Easthorpe (notably the 'host' dwelling to which the site is associated).

As is acknowledged through the comments of internal conservation expertise, the plot forms a long burgage plot to which preservation is of importance. These plots are an important part of the legibility and understanding of settlements with a medieval origin and are very much part of the historic interest of Southwell as they directly influenced the plan form of the settlement. The site itself is notable for its distinctive and historic long, narrow plot. This is summarised by the Conservation Officer comments repeated for completeness below:

The survival of this medieval plot at 37 Easthorpe is a feature of historic interest in its own right and is a positive feature in the setting of the listed building, giving historic context and showing that its setting, in plan form terms, is relatively unaltered.

This application has allowed a better understanding of the significance of this plot, such as when the Conservation Area is next reviewed the boundary should logically be expanded to include the whole of the plot associated with number 37.

I note this is a more evolved version of the application in 2016 for three bungalows, and while this is a less harmful scheme it remains, in my opinion, harmful.

I accept that the proposed new structure is linear, so in this respect is angled with the plot. However, the tradition of long narrow structures lining narrow medieval plots is seen from the street front stretching back, usually in a solid or almost unbroken row. This would be a stand-alone structure, some distance from the garage of 37 and even further from the main house and the main road, so it doesn't read as a part of the street front development. Being linear in form and position is therefore not enough to make this seem like a natural addition, and it would still read as back-land development.

I would concur entirely with the above assessment and the justification provided in the policy context including the Southwell Conservation Area Appraisal which explicitly states that '*the open areas that provide the setting of the conservation area should not be developed.*' Additionally Southwell Neighbourhood Plan, at Policy DH3, confirms an expectation that development should respond to the particular characteristics of Conservation Areas.

The application has been accompanied by a Built Heritage Assessment undertaken by Grover Lewis Associates and dated August 2017. The document outlines a sound understanding of the relevant policies to be considered in respect to the effect of the proposal on heritage assets. It also provides a more detailed assessment of the evolution of Southwell acknowledging that the townscape of Easthorpe is characterized by a close-grained townscape of traditional brick building of generally urban scale and character. It is stated that '*many of the former toft and croft plots in Easthorpe and Church Street have also been developed with ancillary outbuildings and domestic cottages to the rear.*' Officers indeed acknowledge that this is the case at 37 Easthorpe through the recent development of the detached garage.

The Built Heritage Assessment goes on to give examples of cases of rear plot development including to the rear of no. 39 Easthorpe (application reference 05/01353/FUL). However, I have attached limited weight to this development in the assessment of the current application given the specific site circumstances which related to this approval (notably the demolition of previous agricultural built form).

During the life of the application officers have taken the opportunity to meet on site with the agent and heritage expertise to discuss the implications of the original consultation comments. During this meeting, further cases were raised as having 'comparable' impacts to the Conservation Area. Indeed Members will note that the reason Cllr Laughton has called the application to Committee is due to a concern that the advice of Conservation Officers in this case is contradictory to that offered through the assessment of other cases in the vicinity. Specifically reference is made to a scheme at Platts Orchard for residential development (reference 17/01688/FUL). For the avoidance of doubt, officers consider the application at Platts Orchard to be materially different from the current submission. Firstly, the application site at Platts Orchard has an extant permission which was allowed at appeal in 2007 following the Council's refusal (which was partially based on heritage grounds). In considering the 2017 application, Conservation expertise have attached considerable weight to this fall back position and consider that by way of comparison, the 2017 scheme represents a better design in terms of the scale of the individual plot. It is also noted that Platts Orchard was not a burgage plot but a historic orchard.

Attention has also been drawn to an existing two storey dwelling at the rear of 67 Church Street which was approved in 2010. Again, after a review of the case history to this application, it is confirmed that this plot also had an extant permission dating from 1987. Given that every application must be treated on its own merits, I do not consider that any of these examples should be afforded significant weight to the consideration of the current scheme which must be determined taking account of the existing Development Plan which has clearly evolved since the stated examples (when factoring in extant permissions).

Overall, it is contended by the Built Heritage Assessment submitted to support the application that:

'Development of part of rear portion of the curtilage of 37 Easthorpe would not necessarily result in a loss of significance to the listed building, provided that the long of the long, narrow 'signature' of the former croft plot is preserved, along with glimpsed views to the land to the rear.'

As is identified by the comments of the Conservation Officer, this rationale is considered too simplistic of an approach when considering historic planform and character.

I accept its positioning would allow views down the plot from the public realm, but limiting a consideration of impact to publically accessible viewpoints is too narrow when considering impact on heritage assets, especially when planform itself is being considered. This visibility makes this a less harmful scheme than one which would block the view, but does not in itself remove the harm.

The comments of the Conservation Officer are also noted in terms of the specific objection to the form of the development proposed noting that the pastiche threshing barn would in itself confuse the site. Officers have attempted to engage with the applicant in terms of presenting a potentially revised scheme (albeit significantly compromised to that currently proposed) but the agent has confirmed that the application should be assessed and ultimately determined in its current form.

The proposal is considered to harm the setting of the listed building and the Conservation Area by introducing back land development which would divide up the historic toft and croft plot and would create a confused hierarchy for the site. The identification of any harm is contrary to the statutory test of the 1990 Act. The proposal is also contrary to Policy CP14 and SoAP1 of the Core Strategy and Policies DM5 and DM9 of the Allocations & Development Management DPD. In addition the proposal is contrary to other material policy considerations notably Policy DH3 of the Southwell Neighbourhood Plan.

Impact on Flooding / Drainage

Based on the latest maps of the Environment Agency, in terms of traditional flood risk (i.e. that from rivers), the majority of the site, including where the footprint of the dwelling would be, is located outside of Flood Zones 2 and 3. Notwithstanding this, it should be noted that the proposed vehicular access into the site is classed as being within Flood Zone 3. Thus in a potential flood event, the implication would be that in order to evacuate the site, occupiers would have to cross the flood plain as identified by the Environment Agency maps. The authority have been presented with this scenario in the past and supported at appeal in the application of the sequential test in the circumstance (APP/B3030/A/08/2075136 decision dated October 2008). It is noted that the development plan has evolved since this time but the principle of resisting development in areas at risk of flooding is a key message within the NPPF:

'Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.'

I fully accept that the built form itself would be within an area of the site considered to be within Flood Zone 1 and equally that the dwelling could be designed to avoid flood risk through mitigation techniques such as a raised floor level. Nevertheless the implication of the access being in Flood Zone 3 is that the development would be isolated in a flood event meaning that movements to and from the site would potentially place additional burden to the emergency services.

It is material to note that Southwell has recently experienced a significant flooding event. This included severe flash flooding from the Potwell Dyke and Halam Hill subcatchment watercourses as well as overland surface water flows which affected a significant number of properties. In light of this significant flood event and the more frequent but less severe flooding which is experienced it is crucial that flood risk can be appropriately considered as part of the planning process. Indeed this is reaffirmed by SNP which outlines specific policies in relation to flood risk assessments and mitigation. Recent events have highlighted a clear need for further investigation to be carried out so that the nature and extent of flood risk to the settlement can be fully understood.

In addition to the above, new mapping has been released by the Environment Agency on surface water flood risk. This surface water mapping provides a useful indication of low spots where water is likely to 'pond', where surface water flooding is deeper or shallower, direction and approximate speed of flowing water (indicating flow paths) and the spatial location of surface water flood risk in relation to sites.

The stance for new development is that the applicant should be able to demonstrate to the satisfaction of District Council, the Environment Agency, Nottinghamshire County Council and Severn Trent that flooding issues can be adequately addressed. This assessment should take into account the findings of the surface water flood maps.

I note the level of objection to the scheme summarised above, of which there are numerous references to the implications of the development proposal on surface water flooding in the area. The comments include references to inaccuracies within the submitted Flood Risk Assessment (FRA) report including implying that the site is not prone to flooding from excess overland flows.

The original application was accompanied by an FRA undertaken by Armstrong Stokes & Clayton Limited dated August 2017. It is stated that the Environment Agency mapping is based on the River Greet 2008 hydraulic model and thus is not the most up to date information currently available for Southwell.

Members will note that both NCC as the Lead Local Flood Authority and the Environment Agency originally objected to the application for reasons outlined in full above within the consultation section. However, Members will equally note that, on the basis of additional documents submitted during the life of the application (notably a revised FRA dated January 2018) both parties have subsequently removed their objections.

The revised FRA makes reference to the existing levels within the site and confirms that the site falls generally from south to north within the highest level of the site being the southern boundary where the driveway joins Easthorpe. The flood risk classification as defined by the Environment Agency maps is however acknowledged (in terms of the access being within Flood Zone 3). The stance of the FRA is that the Southwell Flood Study 2015 based on modelling undertaken by AECOM represents the best and most recent model data currently available but that 37 Easthorpe has not experienced flooding to the extent or level indicated by either this study or the Environment Agency flood mapping.

In accordance with Table 2 of the PPG (Flood Risk Vulnerability Classification), residential uses are considered as 'more vulnerable' development. In applying the Sequential Test, such uses should be directed towards areas at a lower risk of flooding. The applicant's case rests on the fact that site specific hydraulic modelling indicated that the site is not at risk of fluvial flooding up to the 1 in 100 year climate change event and could therefore be considered to be located entirely within Flood Zone 1. The difficulty for Officers in appraising this position is that it contradicts the available data from the Environment Agency Flood Risk maps.

Given the clear importance to ensure that residential development could be considered safe for its lifetime in flood risk terms, officers have taken the opportunity to discuss the matter in more depth with the Environment Agency following the submission of their latest response removing their objection. It has been confirmed that, *ideally*, the maps included within the Southwell Flood Study 2015 would have been made available to the Environment Agency so that they could be translated into flood zones on the appropriate maps. It is further stated that although the revised FRA makes reference to local hydraulic modelling this has not been submitted to the Environment Agency either and thus has not been considered in full in respect to this application (but is in any case superseded by the 2015 study).

The Environment Agency has confirmed that, on the basis that the land rises towards the south, they consider that it would be possible to put in a dry access which links from the new dwelling (which could have floor levels raised in flood mitigation terms) to the higher ground of the access. Conditions are suggested in respect to the level of finished floor levels and a flood resilient construction but notably the original objection has been removed.

Members will be aware that it falls for the LPA to apply the Sequential Test. Ordinarily an application of this nature would be resisted on the basis that the proposal fails the Sequential Test given the position of the access within Flood Zone 3. However, officers are conscious that the current application has been accompanied by a level of site specific information that appears to cast doubt over the accuracy of the Environment Agency maps in this particular location. This doubt has been further harnessed by separate discussions with the Environment Agency in which they have confirmed they consider that a safe access and egress could be achieved. Taking these factors into account, officers consider that it would be extremely difficult to resist the application on flood risk grounds without up to date evidence that contradicts the position of the Southwell Flood Study 2015. Officers view is that the Councils case at appeal would be weak particularly noting that no objections have been raised by the relevant expertise. On this basis, the proposal is deemed indefensible to resist on flood risk ground. If the application were to be otherwise approved, appropriate conditions could be attached to ensure the mitigation measures outlined by the revised FRA are implemented in full. It should be explicitly stated that this judgement is taken solely on the basis of the site specific factors of this case including that the foot print of the proposed dwelling is within Flood Zone 1 in its entirety and that the proposed access would be situated on higher ground than the development proposed.

Impact on Highways

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.

The proposal has been presented on the basis that vehicular access to the site would be gained from an existing access from Easthorpe which currently serves 37 and 39a Easthorpe. The dwelling would be allocated two car parking spaces.

Officers note that on the previously withdrawn application for an additional 3 dwellings, NCC as the Highways Authority raised concerns in respect to Highways Impacts noting that Easthorpe as a busy main road through Southwell suffering from a heavy amount of on-street parking which restricts driver visibility. However, it is a material difference that the current proposal seeks for just one additional dwelling and thus inevitably the highway implications would be reduced. In this context the comments of NCC Highways on the current scheme are noted. These acknowledge that the existing access by which the proposed dwelling would be served has recently been improved. Although it is conceded that the access width tapers further into the site, it is not considered that this would be a determinative issue for one additional dwelling. On this basis, no objections are raised subject to the inclusion of a condition for the provision of the demonstrated parking and turning areas.

Despite the concerns raised through consideration of the previously withdrawn scheme, in the context of the current application for a single dwelling, the proposal is considered acceptable in highways safety terms and compliant with Spatial Policy 7.

Impact on Amenity

An assessment of amenity, as confirmed by Policy DM5, relates both to an assessment in relation to existing neighboring residents but also to the proposed occupiers of the proposed dwelling.

In respect to the amenity provision which would be available for the proposed occupiers, the site is of an ample size such that there would be a generous level of amenity provision.

Moving then to assess the implications of the proposal on existing neighbouring residents, it is noted that, unlike the previously withdrawn scheme for three single storey bungalows, the current proposal relates to the provision of a two storey dwelling.

The existing site boundaries are largely comprised of dense vegetation which in some respects screens the development site on an east-west transect. The site plan submitted to accompany the application details boundary treatment of both existing hedging and new vertically boarded timber fences. Beyond the boundaries of the site there is a dense level of tree cover (notably to the west) but I do not consider that these would be adversely affected by the proposed development.

Officers consider that the most sensitive receptors to the development will be the single storey properties to the east of the development site along Potwell Close. The properties closest to the proposed development would be no. 5 and no. 7 Potwell Close with the closest distance between the existing dwellings and the proposed dwelling of around 21m. The design of the dwelling is noted in that, although the principle elevation would be east towards Potwell Close, the first floor of the property would be served by roof lights and windows on the gable ends (i.e. not towards Potwell Close). It is fully acknowledged that the rear outlook of the bungalows would be altered through the introduction of built form but it is my view that the most likely experienced amenity impact would be of overbearing rather than issues of direct overlooking. I have carefully considered whether the proposed dwelling, at a maximum pitch height of approximately 8.4m would amount to a degree of overbearing or overshadowing which would be detrimental to neighbouring amenity. The proposed development would be sited due west of the bungalows on Potwell Close. Given the orientation, potential overshadowing impacts would be predominantly restricted to the evening as the sun is setting. It is also noted that the closest properties (no. 5 and no. 7 referred to above) are orientated at an angle to the shared boundary such that their line of sight towards the proposed development (more so for the occupiers of no. 5) would be oblique. Given the aforementioned distance of over 20m between the existing and proposed, I do not consider that there would be sufficient grounds to resist the application on detrimental amenity impacts. In reaching this judgment I am mindful of the orientation of the proposed dwelling such that the maximum height would be set away from the shared boundary owing to the pitched roof design. On balance, I find that the proposal complies with the intentions of Policy DM5.

Other Matters

The reference to the recent works undertaken at 37 Easthorpe are not considered material to the determination of the current application. In the same respect, the legal covenants on the land would not have a bearing on the current determination being a private legal matter.

Comments received during consultation in respect to a lack of ecological assessment are noted but to confirm officers do not consider that the proposal would warrant a request for ecological surveys. I appreciate the concern of Southwell Civic Society in respect to the potential ecological value of the hedgerows but the proposed block plan confirms that if the proposal were to be approved, these would be retained.

Overall Balance and Conclusion

The application site forms a historic burgage plot within the urban boundary of Southwell forming part of, and adjacent to, numerous designated heritage assets including the host listed building at 37 Easthorpe and the Conservation Area. The development of this plot in the manner proposed is considered to represent back land development which would destroy the croft element of the plot and radically alter its appearance, which is characterised by street front development with open land behind. The open croft would be replaced by a modern and pastiche development which would harm the setting of the listed building in a way which would harm the special interest of the listed building. It would also erode the character and appearance of the Conservation Area. It is acknowledged that the application site falls mostly out of the Conservation Area, however development here affects a heritage asset which forms part of the Conservation Area (i.e. the listed building) and development directly adjacent to the Conservation Area could still have an impact on the character and appearance of the Conservation Area. As such, the decision maker should still be mindful of Section 72 (1) which states that '*special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area*'. The duties in s.66 and s.72 of the Listed Buildings Act do not allow a local planning authority to treat the desirability of preserving the settings of listed buildings and the character and appearance of conservation areas as mere material considerations to which it can simply attach such weight as it sees fit. When an authority finds that a proposed development would harm the setting of a listed building or the character or appearance of a conservation area, it must give that harm considerable importance and weight. Whilst the harm identified in this case is considered to be less than substantial, it nevertheless represents harm. The Act means that a finding of harm to a listed building, or harm to the setting of a listed building, or to a conservation area gives rise to a strong presumption against planning permission being granted. The presumption is a statutory one. However, the presumption is not irrefutable; it can be outweighed by material considerations powerful enough to do so.

Officers remain concerned in respect of the potential flood issues arising from the proposal. Whilst the above discussion has concluded that, without the support of relevant expertise, matters of flooding would not be robust enough to resist the application in its own right, the fact remains that the latest maps from the Environment Agency show that the access to the proposed dwelling is within Flood Zone 3. Officers consider that this attaches a marginal negative weighting against approval.

The proposal would deliver an additional residential unit in a sustainable location which must afford significant positive weight in the overall balance of the application. However, this is not deemed sufficient to outweigh the aforementioned character and heritage harm which would arise from this proposal. The development is therefore contrary to Core Policies 9 and 14 of the Core Strategy (Sustainable Design and Historic Environment respectively); SoAP1 (Role and Setting of Southwell) of the Core Strategy; Policies DM5 and DM9 of the Allocations and Development Management DPD (Design and Protecting and Enhancing the Historic Environment); Policies DH1 and DH3 of the Southwell Neighbourhood Plan (Sense of Place and Historic Environment respectively); the NPPF which forms a material consideration; its associated guidance within the NPPG; and the Southwell Conservation Area Appraisal Supplementary Planning Document.

RECOMMENDATION

That the application is **refused** for the following reason:

01

The proposal seeks full planning permission for the erection of a single four bed dwelling with associated vehicular access. The dwelling would be situated to the rear of 37 Easthorpe; a Grade II listed building. In addition, the vehicular access to the site is within the designated Conservation Area boundary which also abuts the western boundary of the site.

The development of this plot in the manner proposed is considered to represent backland development which would destroy the croft element of the plot and radically alter its appearance, which is characterised by street front development with open land behind. The open croft would be eroded by a modern and pastiche development which would harm the setting of the adjacent listed building at 37 Easthorpe in a way which would harm the special interest of the listed building. It would also erode the character and appearance of the Conservation Area.

The development is contrary to Core Policies 9 and 14 of the Core Strategy (Sustainable Design and Historic Environment respectively); SoAP1 (Role and Setting of Southwell) of the Core Strategy; Policies DM5 and DM9 of the Allocations and Development Management DPD (Design and Protecting and Enhancing the Historic Environment); Policies DH1 and DH3 of the Southwell Neighbourhood Plan (Sense of Place and Historic Environment respectively); the NPPF which forms a material consideration; its associated guidance within the NPPG; and the Southwell Conservation Area Appraisal Supplementary Planning Document.

The proposal causes harm to the setting and significance of the listed building and the character and appearance of the conservation area. The duties under Sections 66 and 72 place a statutory presumption against granting planning permission where harm to a listed building and conservation area, respectively, has been identified. For the purposes of paragraphs 133 and 134 of the NPPF the harm to the significance of these designated heritage assets has been identified as being less than substantial.

The Local Planning Authority has attached positive weight to the delivery of an additional residential unit which would (albeit marginally) enhance the Districts housing supply in a sustainable location. However, this is not considered to outweigh the aforementioned harm identified through the development of the plot in the manner and design as proposed.

Informative

01

You are advised that as of 1st December 2011, the Newark and Sherwood Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date. Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website www.newark-sherwooddc.gov.uk/cil/

02

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. However the District Planning Authority has worked positively and proactively with the applicant to make some revisions to the proposal. Whilst not all problems arising can be overcome, several potential reasons for refusal have been negated.

BACKGROUND PAPERS

Application case file.

For further information, please contact Laura Gardner on extension 5907.

All submission documents relating to this planning application can be found on the following website www.newark-sherwooddc.gov.uk.

Matt Lamb
Business Manager – Growth and Regeneration

Committee Plan - 17/01839/FUL

