

## PLANNING COMMITTEE – 5 FEBRUARY 2019

<b>Application No:</b>	<b>18/02146/FUL</b>	
<b>Proposal:</b>	<b>Variation of condition 2 attached to planning permission 17/01861/FUL to vary the approved plans</b>	
<b>Location:</b>	<b>The Orchard, Middle Lane, Morton, Southwell, Nottinghamshire, NG25 0UY</b>	
<b>Applicant:</b>	<b>Mr &amp; Mrs Cresswell</b>	
<b>Registered:</b>	<b>19<sup>th</sup> November 2018</b>	<b>Target Date: 14<sup>th</sup> January 2019</b> <b>Extension of time agreed in principle</b>

**The application is reported to Committee as the view of the Parish Council is contrary to the Officer's recommendation.**

### The Site

The application site is centrally located within the village of Morton and within the Conservation Area for the village, on the north side of Middle Lane. The site comprises a newly built two storey detached dwelling granted planning consent in 2017. The site is bounded by properties on all sides having formally formed part of the rear garden of Gable House which is located to the SW of the site. To the east of the site lies the Public House 'The Full Moon Inn' and its associated car park with properties along Manor Drive and Church Lane to the east and north respectively.

Hedgerows provide the boundaries to all sides, with some tree planting to these boundaries. There are also a number of trees of various sizes within the site alongside more hedging. Access to the site is via a newly formed drive from Middle Lane.

### Relevant Planning History

Planning permission was granted in December 2017 under planning application **17/01861/FUL** for the erection of the dwelling which is now constructed. A non-material amendment application was permitted in June 2018 under application reference **18/00922/NMA** to reposition the garage through a rotation of 90 degrees.

An application for the erection of a dwelling within the site was originally permitted in June 2017 under planning application reference **17/00382/FUL**. This was presented to Planning Committee in May 2017 with the recommendation of refusal; however Members resolved to approve this planning application.

## The Proposal

The application retrospectively seeks to vary condition 2 of 17/01861/FUL to substitute approved plans as the development has not been carried out fully in accordance with the plans submitted with the original application. Amendments to the development are as follows,

1. Internal extension of the gallery over the kitchen to create a separate room (study) with the addition of 2no. Velux Conservation-type rooflights in the NE and SW elevations
2. Increase the width of the bathroom window on the NE elevation to match the width of the door below
3. Additional window in the NE elevation to serve the kitchen
4. Substitution of full height windows with bi-fold doors on SW elevation
5. Substitution of door on the SE elevation with window
6. Amendment to window opening on the NW elevation
7. Additional window on NW elevation to en-suite
8. Relocation of meter boxes – electric relocated along NE elevation, gas located below patio
9. Proposed new hedging to be laurel not privet
10. Additional field gate at the top of the entrance drive

No other details are proposed to be varied or removed.

No suggested wording for the variations of these conditions has been proposed and therefore it is one for judgement by the LPA which will be discussed in the appraisal section this report.

## Submitted Documents

The following documents accompany the application:

- Site Location Plan
- Site Layout – TH17/11/08 Rev.D
- Elevations – TH17/11/05 Rev.F
- Elevations, Sections – TH17/11/06 Rev.D
- Ground Floor Plan – TH17/11/03 Rev.F
- First Floor Plan – TH17/11/04 Rev.D
- Part site plan showing retention of fir tree to the NE boundary

## Departure/Public Advertisement Procedure

13 neighbouring properties have been consulted by letter. A site notice has also been posted close to the site and an advert placed in the local press.

## Relevant Planning Policies

### **The Development Plan**

*Newark and Sherwood Core Strategy Adopted March 2011*

Policies relevant to this application:

Spatial Policy 1: Settlement Hierarchy

Spatial Policy 2: Spatial Distribution of Growth

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 14: Historic Environment

*Allocations and Development Management DPD Adopted July 2013*

Policies relevant to this application:

DM5: Design

DM6: Householder Development

DM9: Protecting & Enhancing the Historic Environment

DM12: Presumption in Favour of Sustainable Development

### **Other Material Considerations**

*National Planning Policy Framework 2018*

*Planning Practice Guidance 2014*

## Consultations

**Fiskerton cum Morton Parish Council** – Object to the proposed for the following reasons,

- Concerns over the loss of the fir tree and existing hedge;
- Impact upon neighbouring properties and fact it is within the Conservation Area.

**NSDC Conservation Officer** – *The proposal seeks to vary the approved plans to allow for some minor modifications to the approved new dwelling, including 2 new roof lights, changes to apertures and a new gate.*

*On balance, Conservation has no material objection to the proposed development. Conservation would not have encouraged the additional roof lights in order to maintain the character of the roof scape and agricultural character implied in the original design. However, in this case, it is accepted that the two additional roof lights are not unduly prominent within the Conservation Area. The additional alterations to apertures is minor and not fundamentally harmful. We have no issue with an additional field gate and replacement hedge as proposed.*

**Local representations** – 5 letters have been received from local residents raising the following

concerns,

- Additional rooflights would result in a loss of privacy to Gable House. The one to the SW elevation would overlook the gravelled driveway of the adjacent property which is used as an outdoor seating area;
- Original scheme submitted was amended to reduce the number of rooflights following concerns raised by the Conservation Officer
- If Council is minded to approve, the windows on the SW elevation should be obscurely glazed and non-opening.
- Additional windows are restricted by covenant
- Proposed window to be increased in size (bathroom window) directly overlooks neighbouring property's bedroom windows and would overlook ground floor windows and private amenity space. Any desire for additional light to this bathroom should be via artificial light.
- Loss in landscaping is not fitting with surrounding properties and legal action will be put forward for this point should it take place under any circumstances.

### Comments of the Business Manager

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

The approved planning policies are set out in the Planning Policy Framework section above. This includes the National Planning Policy Framework (NPPF). These policies advise that the District Council should support amendments subject to an assessment of site specific issues.

The application seeks to vary condition 2 of the planning approval for the erection of the dwelling which sets out the plans approved by the local planning authority. This Section 73 application seeks to replace all approved plans to reflect the 10 changes proposed as part of this application.

The main considerations relating to these amendments are visual impact and residential amenity. An assessment of these is detailed in the following paragraphs.

### Visual Impact

Policy DM5 of the DPD require new development to reflect the rich local distinctiveness of the District's landscape and character through scale, form, mass, layout, design, materials and detailing. 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. Furthermore 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.

Additionally, as the site lies within the Morton Conservation Area, Policy DM9 of the DPD and Core Policy 14 of the Core Strategy, along with Section 16 of the NPPF are also relevant and seek to, at a minimum, preserve the character and appearance of the historic environment.

The design ethos references historic farmstead character in its layout and form, and whilst there are modern domestic elements, these are generally not prominent to the public realm. The proposed amendments are mostly minor from a visual perspective, particularly with regards to alterations to the existing openings; the design and materials proposed for the frames etc are sensitive to the historic environment and match those already agreed by the LPA.

With regards to the proposed new openings within the dwelling, I am mindful that these would further domesticate the appearance of the building; however I note the comments received from the Conservation Officer and would concur that the additional windows would not be unduly harmful to the character and appearance of the Conservation Area.

In terms of landscaping, the proposed laurel hedgerow rather than privet would in my view have a negligible impact upon the appearance of the site; the boundaries would still be green and natural which is welcomed. I note the concerns raised during the consultation period regarding the loss of a fir tree to the rear of the site; the applicant has clarified that this tree is not proposed to be removed and this has been reflected in a plan received on 7<sup>th</sup> January 2019 to confirm this.

Additionally, the application seeks the additional of another field gate closer to the property. This style of gate reflects the rural character of the area and thus has not raised objection from the internal Conservation Officer.

The proposal also seeks to relocate gas and electricity meters, neither of which would result in greater harm to the Conservation Area, with the meters located to the rear of the property, out of sight from the public realm.

### **Impact on Residential Amenity**

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

The original planning approval in June 2017 brought about concerns regarding the impact upon neighbour amenity. I consider it helpful for Members to recall the comments made by the Officer, *I note the comments received relating to the impact of the development upon the privacy of neighbouring properties, along with increased noise disturbance. It is considered that, based on the*

*submitted block plans, the separation distances from neighbouring properties and the existing and proposed boundary treatment are sufficient to limit the overall impact upon neighbouring properties in terms of privacy, overshadowing and overbearing impacts.*

*On the basis of the above, I am of the view that the proposal is unlikely to have a detrimental impact upon the amenities of surrounding land uses.*

The proposed new openings would result in additional ability to overlook neighbouring properties, however I am of the view that the distances between properties remains sufficient to allow for the proposed additional or enlarged windows without resulting in adverse impacts. Taking each new or enlarged first floor window in turn, the following paragraphs assess the potential impacts.

#### *Proposed Velux windows to the study*

The application proposes 2no. velux windows to the newly created study above the kitchen. These would look NE towards Holly Croft on Church Lane and SW towards Gable House.

With regards to the NE window, this would look out on to a tall hedgerow which significantly obscures views from this rooflight. However, even if this hedgerow were to be reduced in height, there is still a substantial distance (over 28m) between the window and the rear building line of Holly Croft which I consider to be acceptable. I note that the window would overlook onto private amenity space, however this neighbouring dwelling is afforded a substantial area and in any event the window would only offer an obscured view over the garden. Therefore I would not consider the siting of the window to be so detrimental to direct overlooking to warrant refusal of planning permission on that basis.

Turning to the SW rooflight, this would primarily overlook the courtyard associated with The Orchard with the boundary wall separating the site from Gable House beyond. Having been in to the new dwelling and looked out from the new Velux window (personally, visibility without stretching to view out of the window was limited and thus observation from an elevated platform was required), I note that the window would provide views over the garage and driveway afforded to Gable House but it would not provide views over the wider garden area due to the position and height of the garage to The Orchard.

I note that comments received suggested that this driveway is used for outdoor seating and whilst I appreciate that as the site was visited in the winter months when this seating is unlikely to be required, I am mindful that Gable House has a large garden, most of which I would expect to receive sufficient sunlight throughout the day to enjoy outdoor seating. In addition to this, in terms of views into Gable House itself, there is only one ground floor window visible from the opening which is located 43.5m away and thus any visibility would be difficult to achieve at this great distance away.

#### *Bathroom window in NE elevation*

A window opening serving the first floor bathroom has already been approved through the previous planning applications and thus as part of this application, I can only assess whether

widening it would have any additional impact upon residential amenity. In this instance, the window is set back from the boundary and as such limits the impact in terms of overlooking. The window is also obscurely glazed which I consider reasonable to condition to remain as obscure glazing for the lifetime of the development, should Members be minded to approve the application.

In addition to the first floor openings, the application also proposes alterations to the ground floor openings. These are considered to be minor in scale and given the boundary treatments and separation distances from surrounding properties, are unlikely to have any further impact upon residential amenity.

The application also proposes some minor changes to the boundary treatments, replacing the proposed privet hedge with a laurel hedge. This amendment would not have any greater impact upon the amenities of neighbouring properties and would retain a natural, green buffer between properties to ensure privacy is retained.

### **Other Matters**

Whilst the proposed amendments required consent from the LPA as the dwelling is still under construction, Members should be mindful that the proposed additional windows would require consent even if installed once the dwelling is lived in. This is due to the removal of permitted development rights by condition on the original planning approval.

The conversion of the gallery to a study and installation of a field gate could however be carried out under permitted development once the dwelling is substantially complete.

Aside from these matters, I note the legal issues raised by local residents during the consultation period. For awareness, these are civil matters and are beyond the control of the local planning authority. The applicant should however be mindful of the private legal covenant placed upon the land which is outside the realms of planning to enforce but could still be up-held legally.

I am also mindful that the conditions attached to the original approval have been met to enable development to commence. As the build is externally complete, there is no requirement to re-impose any pre-commencement conditions. The plans condition and compliance conditions are still required however.

### **Conclusion and Planning balance**

This application is a Section 73 application to make amendments to the approved scheme including changes to fenestration and landscaping. Having considered the amendments, it is concluded that the proposed amendments to the scheme would not result in any unacceptable impact on the visual amenity of the site or wider Conservation Area and would not result in any unacceptable impact on the amenities of neighbouring land uses, including the adjacent dwellings.

As such, the proposal would accord with the relevant aims of the NPPF as well as Policy DM5 of the DPD and it is recommended that the variation of condition is granted.

### **Recommendation**

**That full planning permission is approved subject to the following conditions;**

#### **Conditions**

01

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

- Site Location Plan
- Site Layout – TH17/11/08 Rev.D
- Elevations – TH17/11/05 Rev.F
- Elevations, Sections – TH17/11/06 Rev.D
- Ground Floor Plan – TH17/11/03 Rev.F
- First Floor Plan – TH17/11/04 Rev.D
- Part site plan showing retention of fir tree to the NE boundary

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.

02

All hard and soft landscape works shall be carried out in accordance with the details submitted as part of the planning application unless otherwise agreed in writing by the local planning authority. The works shall be carried out before any part of the development is occupied or in accordance with the programme agreed with the local planning authority.

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

03

No trees, shrubs or hedges within the site which are shown as being retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior consent in writing of the local planning authority. Any trees, shrubs or hedges which die, are removed, or become seriously damaged or diseased within five years of being planted, shall be replaced with trees, shrubs or hedge plants in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority.

Reason: To ensure the existing trees, shrubs and or hedges are retained and thereafter properly maintained, in the interests of visual amenity and biodiversity.

04

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (and any order revoking, re-enacting or modifying that Order), 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 A: The enlargement, improvement or other alteration of a dwellinghouse, including extensions to the property and the insertion or replacement of doors and windows.
- Class B: The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.
- Class C: Any other alteration to the roof of a dwellinghouse.
- Class D: The erection or construction of a porch outside any external door of a dwellinghouse.
- Class E: Development within the curtilage of a dwellinghouse.
- Class F: The provision or replacement of hard standing within the curtilage of a dwellinghouse.
- Class G: The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse.
- Class H: The installation, alteration or replacement of a microwave antenna on a dwellinghouse or within the curtilage of a dwellinghouse.

Or Schedule 2, Part 14 of the Order in respect of:

- Class A: Installation or alteration etc of solar equipment on domestic premises.
- Class B: Installation or alteration etc of standalone solar on domestic premises.
- Class C: Installation or alteration etc of ground source heat pumps on domestic premises.
- Class D: Installation or alteration etc of water source heat pump on domestic premises.
- Class E: Installation or alteration etc of flue for biomass heating system on domestic premises.
- Class F: Installation or alteration etc of flue for combined heat and power on domestic premises.
- Class G: Installation or alteration etc of air source heat pumps 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 nearby heritage assets.

05

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 2015 (or any order revoking, re-enacting or modifying that Order), no windows including dormer windows (other than those expressly authorised by this permission) shall be constructed at first floor level on the northern elevation of the development hereby permitted.

Reason: To safeguard against overlooking and loss of privacy in the interests of protecting the amenity of occupiers of neighbouring properties in accordance with the aims of Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (2013).

06

The first floor bathroom window on the NE elevation of the development hereby approved shall be obscurely glazed to level 3 or higher on the Pilkington scale of privacy or equivalent for the lifetime of the development.

Reason: To safeguard against overlooking and loss of privacy in the interests of protecting the amenity of occupiers of neighbouring properties in accordance with the aims of Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (2013).

07

No part of the development hereby permitted shall be brought into use until the access to the site has been completed and surfaced in a bound material for a minimum distance of 5m behind the highway boundary in accordance with approved plan ref. TH17/11/08.

Reason: In the interests of highway safety.

08

Occupation of the proposed dwelling shall not take place until a vehicular crossing is available for use and constructed in accordance with the Highway Authority's specification.

Reason: To ensure that drivers can cross the verge in a safe and controlled manner.

#### Notes to Applicant

01

The development makes it necessary to construct a vehicular crossing over a verge of the public highway. These works shall be carried out to the satisfaction of the Highway Authority. You are therefore required to contact VIA, in partnership with NCC, tel: 0300 500 8080 to arrange for these works to take place.

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: [www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil](http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil)

03

This application has been the subject of discussions during the application process to ensure that the proposal is acceptable. 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 Nicolla Ellis on Ext 5833.

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 & Regeneration**

Committee Plan - 18/02146/FUL

