

## PLANNING COMMITTEE – 5 MARCH 2019

<b>Application No:</b>	<b>19/00084/RMA</b>	
<b>Proposal:</b>	<b>Reserved matters application for the erection of 3 dwellings. (Resubmission)</b>	
<b>Location:</b>	<b>Brooklyn, Lower Kirklington Road, Southwell</b>	
<b>Applicant:</b>	<b>ISP Developments Ltd, Simon Pogson &amp; Ian Sargeant</b>	
<b>Registered:</b>	<b>21 January 2019</b>	<b>Target Date: 18 March 2019</b>

**This application is before the Planning Committee for determination given the professional officer view differs from that of the Town Council and given that previous schemes were considered by the Committee.**

### The Site

The site comprises a modern chalet style bungalow (Brooklyn, the host property) set well back from Lower Kirklington Road and its extensive mature garden. The site is bound largely by mature hedgerows and there are a number of trees within the site, forming a wild orchard setting. The land rises gradually from the road and falls away again towards the south of the site.

Vehicular access to Brooklyn is currently taken from the eastern side of the frontage on Lower Kirklington Road which leads to a gravel driveway and plenty of off-street parking for the existing dwelling. Brooklyn has some outbuildings attached to its western side and there is a pergola/covered structure adjacent to its eastern side.

There is a dyke to the south of the southern site boundary. The site lies in flood zone 1 and is not identified as an area prone to surface water drainage issues on the Environment Agency maps.

There is a mix of housing styles and types in the vicinity of the site, including both single and two storey development. Franklyn to the south-east is a property similar in design and style to Brooklyn whereas the new two storey dwelling constructed adjacent to Benaigh is contemporary in design and scale.

### Relevant Planning History

**17/00383/OUT** – Outline permission was sought for the erection of 3 dwellings with just the means of access open for consideration. All other matters were reserved. It was recommended for approval by officers but refused by the Planning Committee on 9<sup>th</sup> May 2017 for the following summarized reasons:

- That the site was green field and brown field sites should be developed first where we can demonstrate a 5YHLS
- Loss of green character, removal of trees, loss of ecological habitat and piecemeal

approach would have detrimental impact upon the character and appearance of this part of Southwell

- Proposal for 3 units with substantial plots would not deliver the smaller house types that Southwell requires as identified by Policy SoHN1

**APP/B3030/W/17/3179351** – This refusal was subject to an appeal which was allowed on 17<sup>th</sup> January 2018 subject to 13 conditions.

**18/01337/RMA** – ‘Reserved matters application for the erection of 3 dwellings. Approval sought for the design, siting, scale and layout. Approved reference 17/00383/OUT.’ Refused as recommended by the Planning Committee in November 2018 for the following reason:

*“Core Policy 3 (Housing Mix, Type and Density) of the adopted Newark and Sherwood Core Strategy states that the Local Planning Authority will seek to secure new housing which adequately addresses the local housing need of the district, namely family housing of 3 bedrooms or more, smaller houses of two bedrooms or less and housing for the elderly and disabled population. It goes on to say that ‘such a mix will be dependent on the local circumstances of the site, the viability of the development and any localized housing need information’. The proposed amended CP3 as set out within the Publication Core Strategy deletes reference to family housing of 3 bedrooms or more but is otherwise broadly unchanged albeit limited weight can be attached to this as there remain unresolved objections. In addition to CP3 of the Core Strategy (both the adopted version and the Publication amended version), Policy So/HN/1 of the Allocations and Development Management DPD sets out that within Southwell, subject to local circumstance and the viability of the development, the majority of new housing on allocated and windfall sites shall be one or two bedroom units in line with the identified housing need.*

*In the opinion of the Local Planning Authority the scheme proposed does not represent an appropriate mix of dwellings to meet the identified local need for the Southwell Area. The most up to date evidence of the housing need in Southwell is contained within the Housing Needs Survey Sub Area Report 2014 by DCA (as advocated by the Inspector in allowing the outline permission) and provides that in the Southwell Sub Area (where this site falls) the most needed type of accommodation are 2 beds (37.9%) followed by 4 beds (33%) followed by 3 beds (16.3%) followed by 1 beds (10.1%) and finally five or more beds (2.7%). The dwellings as advanced whilst described as 4 and 5 bedroom dwellings are in reality more akin to 5 and 6 bedroom dwellings given their significant sizes and that there is an upstairs study in all three plots capable of being used as a bedroom. Thus these plots are unlikely to cater for the most needed types of houses, rather they are the least needed type of accommodation in the locality and do not offer an appropriate mix to meet the identified need. The proposal is therefore contrary to CP3 of the Development Plan. There are no other material planning considerations that outweigh the harm identified.”*

**APP/B3030/W/19/3220206** - An appeal has been lodged against this decision, which is currently invalid. The appellant has requested this be heard via the written representations route.

### The Proposal

Reserved matters approval is sought for 3 dwellings on this site where outline permission has been granted upon appeal. Matters to be considered are the appearance, landscaping, layout and scale.

All 3 dwellings are two storey and detached and set out in a linear arrangement of development in depth served off a private access drive from Lower Kirklington Road.

### **Plot 1**

At ground floor an open plan kitchen, sitting and dining room, utility, separate lounge, snug, cloakroom, store and hall are proposed whilst at first floor 4 bedrooms (1 with dressing room and en-suite, 1 with just en-suite), bathroom are proposed. A triple garage is proposed which is attached to the dwelling via the single storey utility link.

### **Plot 2**

At ground floor an open plan kitchen, sitting and dining room, utility, separate lounge, snug, cloakroom, store and hall are proposed whilst at first floor 4 bedrooms (1 with dressing room and en-suite, 1 with just en-suite), bathroom are proposed. A triple garage is proposed which is attached to the dwelling via the single storey utility link.

### **Plot 3**

At ground floor an open plan kitchen, sitting and dining room, separate lounge, snug, home office, cloakroom, store and hall are proposed whilst at first floor 5 bedrooms (1 with dressing room and en-suite, 2 with just en-suite) and a bathroom are proposed. A triple garage is attached to the dwellings.

The application is accompanied by the following plans:

- Drawing No. 580-04 Rev C (Site Layout and Location Plan Scheme Design)
- Drawing No. 580-02 Rev G (Plot 1 Scheme Design)
- Drawing No. 580-01 Rev H (Plot 2 Scheme Design)
- Drawing No. 580-03 Rev H (Plot 3 Scheme Design)
- Drawing No. 580-05 (Site Access Showing Visibility Splays)
- Design Supporting Statement, January 2019

### Departure/Public Advertisement Procedure

Occupiers of 16 properties have been individually notified by letter. A site notice has also been displayed near to the site giving an overall expiry date of 22<sup>nd</sup> February 2019.

### Planning Policy Framework

#### The Development Plan

#### **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 DH1 – Sense of Place  
Policy DH2 – Public Realm  
Policy DH3 – Historic Environment

Policy DH4 – Highways Impact  
Policy TA4 – Parking Standards

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

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 1 – Affordable Housing Provision  
Core Policy 3 – Housing Mix, Type and Density  
Core Policy 9 -Sustainable Design  
Core Policy 10 – Climate Change  
Core Policy 12 – Biodiversity and Green Infrastructure  
Core Policy 14 – Historic Environment  
Core Policy 13 – Landscape Character

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

Policy So/Ho/4 – Southwell – Housing Site 4  
Policy So/HN/1 – Southwell Housing Need  
Policy So/PV – Southwell Protected Views  
Policy DM1 - Development within Settlements Central to Delivering the Spatial Strategy  
Policy DM2 – Development on Allocated Sites  
Policy DM3 - Developer Contributions  
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 DM12 - Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2019
- Planning Practice Guidance
- Publication Core Strategy
- Appeal Decision APP/B3030/W/17/3179351

### **Consultations**

#### **Southwell Town Council – (07/02/2019)**

“Southwell Town Council considered application 19/00084/RMA Brooklyn Lower Kirklington Road and agreed unanimously to object to this application for the following reasons:

The houses are marginally smaller but there are still no plans for the treatment of the surface water.

The previous comments still apply, as below:

The conditions of appeal must be applied in particular the treatment of foul and surface must be submitted and approved in writing.

Policy E1 Flood Risk Assessments and Mitigation and Policy E2 Flood Resilience Design- The data used in the Flood Risk assessment is out of date.

There are no plans for the treatment of surface water and these must be submitted in writing and permission should not be granted without this, it should be remembered that this location can negatively impact on flooding downstream.

In the original application (17/00383/OUT), there was an unjustified assumption that ground drainage was suitable despite the fact that no percolation tests had been carried out. These are essential for proving the case for ground drainage.

The designs increase the Massing edge of the town.

The view of the planning inspectorate should be observed regarding the information required.”

**NCC Highways Authority – 07.02.2019:**

“It is considered that submitted drawing 580-05 satisfies condition 5 of the Appeal Decision relating to application 17/00383/OUT. It should be pointed out for the sake of clarity that the 2.4m x 65m visibility splay to the east of the new access may slightly encroach over third party land. However after a further site visit and taking account of recorded vehicle approach speeds, and; the latest splay measurement methodology, I am satisfied that a safe sight distance can be achieved within the limits of the public highway (over 54m in this case).

Whilst the above drawing satisfies the condition, it should be noted that the indicated construction detail may need adjusting so that any works within the extent of the public highway are in accordance with the standards and specification of the Highway Authority. Therefore, the following condition should be applied:

Notwithstanding the detail shown on drawing 580-05, no dwelling forming part of the development hereby permitted shall be occupied until a dropped vehicular footway crossing is available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.

Reason: To protect the structural integrity of the highway and to allow for future maintenance.

**Note to Applicant:**

The development makes it necessary to construct a vehicular crossing over a footway/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 Agent, Via East Midlands tel. 0300 500 8080 to arrange for these works to be carried out.

**Southwell Civic Society – 11.02.2019:**

‘This new application differs only from the previous application in that the size of the houses has been reduced. However the footprints are still much larger than those shown on drawing Site Plan 118.F02 Rev B which was approved by the Planning Inspector.

Site Plan 118.F02 Rev B shows five mature trees to be left in place. The Plan submitted with this application shows that except for one on plot 1 all the trees are to be removed.

This site was not included in Allocated site So/04 because of its ecological importance. It is worth repeating part of NSDC's Decision to refuse application 17/00383/OUT.

*The site offers important green amenity and relief within this part of the town, which is otherwise largely surrounded by residential development, permissions or site allocations. The loss of green character with removal of numerous trees, ecology habitat, and general piecemeal approach to development with multiple planning submissions for housing and their own access points will be detrimental to the character and appearance of this part of the settlement. The proposals are therefore contrary to Core Policies 9 and 12 of the Newark and Sherwood Core Strategy (2011) and Policies DM5 and DM7 of the Allocations and Development Management DPD (2013), which seek to promote local distinctiveness and character as well as protecting the biodiversity of the District. There are no other material planning considerations that would outweigh such harm.*

The Flood Risk Assessment is out of date and no mitigation strategy has been submitted. It is important the applicant complies with the drawing approved by the Inspector. Not to do so makes a complete mockery of the planning process.'

**NSDC Tree Officer** – 30.01.2019, 'The amendments are acceptable. Have we been supplied any specifics of tree size/root stock at this stage or will that be conditioned? I would normally recommend 12-14cm girth containerised.'

28.01.2019: 'Proposed tree planting will result in a row of trees that have insufficient room for full development resulting in poorly developed canopies and branch structure. Species mix is only of 2 tree types.

I would recommend that the applicant investigates the use of a more diverse species mix and allows sufficient spacing for any tree to full develop.'

**NSDC Access & Equalities Officer** – Makes general observations.

**STW – Previously commented:** (31/07/2018):

"Please note for the use or reuse of sewer connections either direct or indirect to the public sewerage system the applicant will be required to make a formal application to the Company under Section 106 of the Water Industry Act 1991. They may obtain copies of our current guidance notes and application form from either our website ([www.stwater.co.uk](http://www.stwater.co.uk)) or by contacting our Developer Services Team (Tel: 0800 707 6600).

#### Suggested Informative

Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under, The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building."

**Trent Valley Internal Drainage Board** – 'The site lies outside of the Trent Valley Internal Drainage Board district but within the Boards catchment. There are no Board maintained watercourses in

close proximity to the site. The erection or alteration of any mill dam, weir or other like obstruction to the flow, or erection or alteration of any culvert, whether temporary or permanent within the channel or a riparian watercourse will require the Boards prior consent. The Board's Planning and Byelaw Policy, Advice Notes and Application form is available on the website. Surface water run-off rates to receiving watercourses must not be increased as a result of development. The design, operation and future maintenance of the site drainage systems must be agreed with the LLFA and the LPA.'

**Two representations have been received from local residents/interested parties in support of the scheme which can be summarised as follows:**

- Development is in keeping with the surrounding properties that have recently been built and therefore will have a positive effect on the area;
- The development seems to complement the properties on neighbouring Avondale;
- Given that highways only recommended three properties be allowed to access this site it would seem a waste to put smaller properties on here since owners of smaller homes may not want such big gardens.
- Young people struggle to find a home in Southwell; the people buying these 4 and 5 beds may sell their 3 bed houses in or around the area so releasing those homes for younger families.

### **Comments of Business Manager**

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 11<sup>th</sup> October 2016 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.

### **Principle of Development**

Outline planning permission has already been granted for the erection of 3 dwellings with just the means of access having been considered. As such the principle for housing at this quantum is already established through an extant permission and this is not a matter that can or should be revisited by this reserved matters application.

However as other matters (scale, appearance, layout and landscaping) were reserved, the Council is entitled to assess these against the Development Plan, which is the starting point for decision making along with any other relevant material planning considerations, including the previous appeal decision on this site. I therefore make an assessment of the relevant issues below.

## Housing Need and Mix

Members will recall that this matter was the main issue in dispute when the previous reserved matters application was considered and subsequently refused in November 2018, in line with the officer recommendation. I explore this again and update this where necessary for this revised scheme.

Core Policy 3 of the adopted Development Plan states that the LPA will seek to secure new housing which adequately addresses the local housing need of the district, namely family housing of 3 bedrooms or more, smaller houses of two bedrooms or less and housing for the elderly and disabled population. It goes on to say that 'such a mix will be dependent on the local circumstances of the site, the viability of the development and any localized housing need information'. I am also mindful of the proposed amended CP3 as set out within the Publication Core Strategy which deletes reference to 'family housing of 3 bedrooms or more' but is otherwise broadly unchanged. However equally I note that there are at the time of writing unresolved objections to this policy such that I do not attach full weight to this. It should be noted that Policy HE1 of the SNP only applies to developments of 11 or more dwellings.

In addition to CP3 of the Core Strategy (both the adopted version and the Publication amended version), Policy So/HN/1 of the Allocations and Development Management DPD sets out that within Southwell, subject to local circumstance and the viability of the development, the majority of new housing on allocated and windfall sites shall be one or two bedroom units in line with the identified housing need.

I have carefully considered the appeal decision which allowed the outline scheme and I acknowledge that the Policy SO/HN/1 was considered by the Inspector to be somewhat outdated being based on 2011 evidence. However I also note that housing mix is a reserved matter (given that layout and appearance were reserved) and it is right and proper that this matter is assessed as part of the reserved matters submission. The applicant's advisors dispute this as a matter of fact.

It is noted that the previous case officer for the outline consent made a recommendation to the planning committee that on balance, *'a deviation from the Southwell Housing Need policy could be justified with units that better utilize the plots available and better reflect the immediate character of the area subject to final design.'* The outline committee report went on to say that: *'The reserved matters application will determine the final housing mix but it is considered in this particular instance that a scheme with no 2 bedroom dwellings could be justified.'*

However Members resolved to refuse the scheme, in part, because they felt the scheme would not deliver the smaller units that were envisaged by Development Plan policy. This represents the most recent Council's view and one to which weight should be attached, along with those views of the Inspector who determined the subsequent appeal.

Bearing in mind the conclusions the Inspector drew regarding So/HN/1, I have therefore considered the most up to date evidence of the housing need in Southwell which is contained within the Housing Needs Survey Sub Area Report 2014 by DCA. This provides that in the Southwell Sub Area (where this site falls) the most needed type of accommodation are 2 beds (37.9%) followed by 4 beds (33%) followed by 3 beds (16.3%) followed by 1 beds (10.1%) and finally five or more beds (2.7%). It confirms that *'In the market sector the main size of property required by both existing and concealed households moving is two bedrooms.'*



I note that at paragraph 10 of his decision the Inspector states:

*“The most recent evidence on housing need is the Housing Market Needs Sub Area Report which was published in 2014. It found in Southwell that there was a greater need for houses of 3 or more bedrooms than there was for properties of two bedrooms or less. As a result, the proposed development would provide housing of a size for which the current local evidence is the greatest need exists in Southwell...”*

On the face of it therefore, the Inspectors conclusions appear to be incorrect. However, following further interrogation it appears that the Inspector may have been making a reference to a cumulative need, i.e. the cumulative percentage need for 3, 4 and 5 beds is 52% which is greater than the cumulative percentage need for 1 and 2 beds at 48%. In any event it was not in the public interest to challenge the Inspectors decision given that the reserved matters application is able to deal adequately with the matter.

Setting this aside for a moment, I turn now to the scheme which this Authority is now being asked to consider and examine how this differs from the refused reserved matters application (RMA). Members might recall that the original RMA submission was initially for 2 x 5 bedroom units and 1 x 6 bedroom unit which are the least needed types of accommodation in the area. After concerns were raised that the dwellings promoted did not meet the identified need, the applicant then amended the scheme to what they described as 2 x 4 bedroom dwellings (with floor areas of 254m<sup>2</sup> and 258m<sup>2</sup> plus triple garages) and 1 x 5 bedroom dwelling (with a floor area of 316m<sup>2</sup> plus triple garage.).

My advice to Members was that the dwellings promoted at that time were very large and whilst the plans were labelled as having 4 and 5 bedrooms, in reality, in all three plots there would have been an upstairs ‘study’ capable of being used as a 5<sup>th</sup> and 6<sup>th</sup> bedroom. I therefore concluded that all 3 dwellings proposed were more akin to 5 and 6 bedroom dwellings which are significant in size, floorspace and footprint and are thus unlikely to cater for the most needed types of houses identified in the locality. Members agreed with this assessment.

The scheme now promoted as this fresh RMA are 3 detached dwellings, all still substantial in size. The agent sets out that the differences as follows:

*“Plot 1 dwelling gross internal floor area is now to be 2594 sq.ft. – previously approved in principal at 2700 sq.ft. – A reduction of 106 sq.ft. floor area (9.84m<sup>2</sup>)*

*Plot 2 dwelling gross internal floor area is now to be 2626 sq.ft. – previously approved in principal at 2800 sq.ft. – A reduction of 174 sq.ft. floor area (16.16m<sup>2</sup>).*

*Plot 3 dwelling gross internal floor area is now to be 3400 sq.ft. – previously approved in principal at 3400 sq.ft.”*

I note that the advice given to the agent from their planning advisors is that the Inspector created an expectation that 3 larger units would be acceptable. I do not disagree with this. As I have previously stated, I have some sympathy with the applicant’s position albeit many applications are made subject to detailed reserved matters approval being granted and if the applicant has bought the land on an unconditional basis this would be at their own risk. The application for reserved matters must be assessed on the basis of the material planning considerations. I note that the

indicative block plan provided at outline stage showed 3 reasonably large detached and these proposed dwellings are larger still.

In this particular case, I agree with the applicants and their advisors that based on the appeal decision as a material consideration, the Council is unlikely to be able to secure two bedroom dwellings (the most needed type) on this site. Whilst in floor space terms, the proposed dwellings have been amended (reduced) only marginally, the layouts have been reconfigured such that there are more likely to be marketed as four and five bedroom homes (albeit substantial ones) and that these rooms would be difficult to subdivide further to create additional bedrooms.

Bearing in mind the appeal decision, the expectations it raised and that the applicant has sought to address the concerns, I conclude that on a fine balance the scheme to provide 2 x 4 bedroom and 1 x 5 bedroom unit is on this occasion acceptable. Given the specific circumstances that have led to this recommendation, I suggest that permitted development rights are removed such that the dwellings are not increased in size further (thus significantly affecting the housing need and mix) without a further grant of planning permission.

I do not consider that this sets a precedent for other sites in Southwell given the particular circumstances of this case.

#### Design and Appearance

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

The application is set behind the host dwelling known as Brooklyn with Plot 1 being a considerable distance from the back edge of the footpath and the other plots being even further back into the site. As a result of their set back and context these units will not be readily visible from the public realm. This type of development in depth is evident on the adjacent site (Avondale Lane) and as far as I can see is the only way in which the site could be developed for 3 units but in any case I consider that it would not be alien to the character, appearance or grain of the area. The design and appearance of the 3 dwellings is acceptable and they accord with the identified policies in this regard. The facing materials are noted on the drawings and I find that the materials are acceptable for the context which are sufficient to discharge Condition 6 of the outline consent.

#### Impact on Residential Amenity

Impact on amenity is a long standing consideration of the planning process and relates both to the impact on existing development as well as the available amenity provision for the proposed occupiers.

Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in amenity including overbearing impacts and loss of privacy upon neighbouring development. In addition consideration should be given to the potential for crime and anti-social

behaviour. The NPPF seeks to secure a high standard of amenity for all existing and future occupants of land and buildings.

There are existing dwellings to the east (Brooklyn – the host dwelling) and to the east of the application site; (north to south) Franklyn, 2 Avondale Lane, a currently unnamed property and Benaiah. Having assessed the impact of the dwellings upon the existing dwellings I find that there would be no adverse impact that would lead to a loss of unacceptable loss of privacy through overlooking, overshadowing or overbearing. Where there are any, the windows at first floor level facing the neighbouring site serve non habitable rooms to avoid overlooking (a matter to be conditioned) and the applicant has been careful to align the dwellings to avoid overbearing and overshadowing impacts. I am therefore satisfied that the scheme accords with DM5 of the Development Plan.

### Highway Impacts

Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision.

Condition 5 of the outline consent granted on appeal states:

*Notwithstanding condition 4 (the plan condition), details submitted pursuant to the application for approval of reserved matters consent shall include the following which the development shall be carried out in accordance with:*

- i) Minimum access of 4.8m for the first 10metres behind the public highway boundary (with an additional 0.5m if bounded by a wall, fence or hedge; 1m if bounded on both sides).*
- ii) A dropped curb crossing of the existing footway;*
- iii) Visibility splays in accordance with the County Council's current Highway Design Guide. (It is noted that splays of 2.4mx65m to the south-east and 2.4m x 140m to the north east are submitted as being available and if achieved these are acceptable).*

NCC advice that the drawing 580-05 satisfies condition 5 of the outline consent and that safe access can be achieved. However a condition is required to deal with slight adjustments to the construction detail that may affect works within the highway which I consider is reasonable and necessary.

Each of the dwellings propose a triple garage and parking in front of these such that there would be adequate off-street parking provision provided for the units.

### Tree and Ecology Impacts

Core Policy 12 and Policy DM7 promote the conservation and enhancement of the District's biodiversity assets. The NPPF also seeks to minimise impacts on biodiversity and provide net gains where possible.

The application site boundaries comprise mature vegetation which currently offers a robust level of screening to neighbours as well as offering benefits through retaining trees and habitat. As with the previous scheme, the block plan shows that 3 trees would need to be removed to accommodate Plot 1, 2 trees would be removed to accommodate Plot 2 and 7 trees would be lost to make way for Plot 3. For the access a number of smaller trees would need to be removed.

The Tree Survey submitted as part of the outline application identifies that most of the trees within the site are of a C (low quality and value but could be retained) and U (trees considered to have no landscape value but with no overriding need for removal) grade. Only two trees were identified as B graded trees, being a Sycamore near the site frontage which appears to be retained and an Ash tree to the southern part of the site. B graded trees are considered desirable to retain and of a moderate quality and value.

The Ash tree (T16) appears to be one of the 7 lost to accommodate Plot 3, which is categorized as of reasonable quality with a good life expectancy and was suggested as being retained if possible in the Tree Survey. As I previously concluded, the loss of this tree is therefore regrettable, especially in the context that a smaller unit there may have avoided the loss of this tree. However I am also mindful that the tree would grow and dominate this part of the site such that in the longer term, there may have been pressure to remove this in any event such that I again conclude that this should not be a barrier to development in itself.

The Tree Survey does not include the hedgerow or vegetation to the eastern boundary but I note that it is shown as being retained. As with the previous scheme, the garages of the plots are between 0.85m and 1.3m away from the boundary hedge which is likely to be adequate to ensure that vegetation remains along these boundaries.

Condition 7 of the outline consent requires details of the hard and soft landscaping to be submitted before development can commence. Details are shown on the layout plan. Following advice from the Council's tree consultant, the scheme was amended to show an increased variety of trees to be planted within each curtilage and giving more space for these to grow. The amendments are acceptable subject to details of the tree size and root stock being containerized and between 12-14cm in girth which can be conditioned. This would essentially discharge Condition 7 of the outline consent.

In terms of ecological impacts, these were assessed at outline stage and measures to mitigate any harm to bats and breeding birds were subject to conditions at outline stage as well as enhancement measures. I am therefore satisfied that there would be no unacceptable harm to the ecological value of the site.

### Flood Risk Impacts

Policy E2 of the SNP states that development proposals requiring a flood risk assessment must be designed to avoid increasing the risk of flooding both on and off site. The proposed development is located in Flood Zone 1 in accordance with Environment Agency mapping and the type of development does not necessitate the need for a Flood Risk Assessment. In addition the site is not considered to be at high risk of surface water flooding. I note that Condition 9 of the appeal decision requires that a scheme for foul and surface water disposal needs to be submitted before development can be commenced. I consider that this is therefore a matter for a discharge of condition application to consider rather than the reserved matters application.

### Planning Balance and Conclusions

The principle of developing 3 dwellings on this site is established through the extant outline permission. I am satisfied that the scheme is acceptable in terms of residential, amenity and ecology. It is regrettable that one of the better trees is to be removed to make way for Plot 3 but

overall I consider that this should not form a reason for refusal, particularly as this did not previously. In terms of the impact upon the highway, information to satisfy the planning condition imposed by the Inspector has been provided and the Highways Authority raise no objection.

Taking into account the previous appeal decision, I do not now consider that the Council is able to secure any 2 bedroom dwellings on the site. A mix that better reflects the housing needs of Southwell has been sought with the applicant now offering 2 x 4 bedroom units (the second most needed type of units) and 1 x five bedroom dwelling, albeit large versions. The internal configuration of the house types have also been altered to make it more likely that these dwellings will be offered to the market as such and thus meet the identified need. On balance I conclude that this mix is now acceptable in this particular case, taking into account the specific appeal decision which is material.

## **RECOMMENDATION**

**That reserved matters approval is approved subject to the conditions set out below:**

### Approve

01

The development hereby permitted shall not be carried out except in accordance with the following approved plans, reference(s)

- Drawing No. 580-04 Rev C (Site Layout and Location Plan Scheme Design)
- Drawing No. 580-02 Rev G (Plot 1 Scheme Design)
- Drawing No. 580-01 Rev H (Plot 2 Scheme Design)
- Drawing No. 580-03 Rev H (Plot 3 Scheme Design)
- Drawing No. 580-05 (Site Access Showing Visibility Splays)

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 approval.

02

Notwithstanding the detail shown on drawing 580-05, no dwelling forming part of the development hereby permitted shall be occupied until a dropped vehicular footway crossing is available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.

Reason: To protect the structural integrity of the highway and to allow for future maintenance.

03

The proposed tree to be planted as shown on drawing number Drawing No. 580-04 Rev C (Site Layout and Location Plan Scheme Design) shall be containerised specimens of between 12-14cm in girth unless otherwise agreed in writing by the Local Planning Authority.

Reason: For the avoidance of doubt, to avoid the applicant from having to apply for a discharge of condition application and to ensure that Condition 7 of outline consent 17/00383/OUT is fully discharged.

04

The first floor windows on the south elevation of Plots 1 and 3 (serving an en-suite and bathroom respectively) shall be obscured glazed to level 3 or higher on the Pilkington scale of privacy or equivalent and shall be non-opening up to a minimum height of 1.7m above the internal floor level of the room in which it is installed. This specification shall be complied with before the development is occupied and thereafter be retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

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

05

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 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.

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

Reason: To ensure that the local planning authority retains control over the specified classes of development normally permitted under the Town and Country Planning (General Permitted Development) Order 1995 or any amending legislation) given the substantial scale of the dwellings approved and that these were approved in order to meet an identified housing need/mix.

## Notes to Applicant

01

It should be noted that the conditions imposed on the outline permission (our reference 17/0383/OUT) remain relevant and where necessary must be discharged before development can commence on site.

02

The development makes it necessary to construct a vehicular crossing over a footway/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 Agent, Via East Midlands tel. 0300 500 8080 to arrange for these works to be carried out.

03

Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under, The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.

04

The application as submitted is acceptable. In granting permission without unnecessary delay the District Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

05

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)

## BACKGROUND PAPERS

Application case file.

For further information, please contact Clare Walker on ext 5834.

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 - 19/00084/RMA



