

PLANNING COMMITTEE –4 JUNE 2019

Application No:	19/00779/FULM (MAJOR)	
Proposal:	Application for variation of condition 11 of planning permission 15/01295/FULM to allow the new access junction to be constructed wholly within highway land or that owned by the applicant	
Location:	Springfield Bungalow Nottingham Road Southwell NG25 0QW	
Applicant:	Springfield Eco Ltd	
Registered:	23rd April 2019	Target Date: 26th July 2019

This application is before the Planning Committee for determination as the officer recommendation differs from the views of the Town Council and at the request of the Local Ward Member, Councillor Penny Rainbow on the grounds of highway and pedestrian safety, concerns that the conditions in the initial application have not been met and insufficient drainage plans are in place. Intended buffer strip does not comply with the Southwell Neighbourhood plan.

The Site

This application relates to circa 1.92 hectares of land situated on the western side of Nottingham Road at its junction with Halloughton Road on the southern approach into Southwell. It consists of a detached bungalow (Springfield Bungalow) and associated land to the rear which abuts the rear gardens of the existing dwellings on Halloughton Road to the north, open countryside to the west and the detached property, Springfield House and its associated land to the south.

The gradient of the site rises steeply by some 14m towards the western boundary.

The immediately adjoining properties to the north and North West of the site are a mix of single and two storey detached dwellings. No.s 36 and 38 Halloughton Road are detached bungalows and adjoin the proposed access.

The adjoining property located immediately to the south of Springfield Bungalow, Springfield House, is a large two storey detached dwelling.

The site lies to the west of the Conservation area boundary within the Southwell Protected Views corridor. The site is allocated in the Newark and Sherwood LDF Allocations and Development Management DPD (2013) for housing development - Southwell Housing Site So/Ho/2.

Relevant Planning History

Residential Development

92/51034/FUL- Planning permission was refused for the erection of a residential development

94/51619/FUL- Planning permission was refused in 1994 for the erection of 18 bungalows. This was dismissed on appeal.

15/01295/FULM – At a meeting in June 2016 Planning Committee resolved to grant full planning permission for residential development of 38 dwellings and conversion and extension of existing residential property to form 12 supported living units subject to conditions to be delegated to the business manager, vice chair of planning committee and the leader of the Council and to the signing and sealing of a S106 Agreement. The conditions were presented to and agreed by Planning Committee in September 2016.

Following the submission of revised site location and site layout plans this application was represented to Planning Committee on the 22nd March 2017. Members resolved to grant full conditional planning permission subject to the signing and sealing of a Section 106 Planning Agreement to secure the provision of Springfield Bungalow being gifted to the Reach Project (including relevant pay back clause(s)), on-site affordable housing (2 no. units), and developer contributions for open space, community facilities, education, and transport enhancements. The S106 was signed and sealed and the planning permission issued in December 2017.

19/00317/DISCON – an application was submitted in February 2019 seeking to discharge conditions 3, 4, 5, 6, 11, 13, 14, 17, 19, 20 and 21 attached to planning permission 15/01295/FULM – these conditions were discharged by correspondence dated May 7th 2019.

19/00456/DISCON – an application was submitted in March 2019 seeking to discharge 14, 15 and 16 attached to planning permission 15/01295/FULM – These conditions were discharged by correspondence dated May 7th 2019.

Access

16/01369/FUL – At a meeting on the 22nd March 2017 Members resolved to grant conditional planning permission for the alteration of an existing vehicular access on Halloughton Road, installation of kerb radii and provision of visibility splay. Condition 3 of this permission required details of drainage of the access. Condition 4 required the submission of precise details of the access.

19/00076/DISCON – An application was submitted in January 2019 seeking to discharge conditions 3 and 4 of planning permission 16/01639/FUL. These conditions were discharged by correspondence dated 1st March 2019.

19/00689/FUL – A retrospective application has been submitted seeking the variation of conditions 02, 03, 04 and 05 of planning permission 16/01369/FUL to allow the new access junction to be constructed wholly within highway land or that owned by the applicant. This application is also being presented to the Planning Committee as part of this agenda.

The Proposal

This application seeks retrospective permission to vary condition 11 of planning permission 15/01295/FULM. This stated:-

No part of the development shall be brought into use until visibility splays of 2.4m x 13m (minimum) are provided at the junction with Halloughton Road.

The access was approved under planning permission 16/01369/FUL and has been constructed. The dimensions of the visibility splays to the east and west of the access do not comply with condition 11 of this permission hence this application seeks to revise the wording as follows:-

No part of the development shall be brought into use until visibility splays of:-

2.3m x 43m to the right/east of the access

2.3m x 29m to the left/west of the access

are provided at the junction with Halloughton Road.

The design of the access has been revised to ensure that the access has been constructed wholly within the undisputed boundary of the public highway which has been agreed by Nottinghamshire County Council to be at least 6 feet (1.83m) from the southern carriageway kerb line.

Departure/Public Advertisement Procedure

Occupiers of 112 properties have been individually notified by letter. Site notices have 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 TA1: Cycle and Pedestrian Routes

Policy TA3: Highways Impact

Policy SS2: Land South of Halloughton Road (So/Ho/2)

Newark and Sherwood Amended Core Strategy DPD (adopted March 2019)

- Spatial Policy 1: Settlement Hierarchy
- Spatial Policy 2: Spatial Distribution of 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

Allocations and Development Plan Development Plan Document (DPD) Adopted July 2013

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

Other Material Planning Considerations

- National Planning Policy Framework (NPPF) 2012
- Planning Practice Guidance (NPPG) 2014
- Newark and Sherwood Developer Contributions and Planning Obligations SPD, 2013
- Newark and Sherwood Affordable Housing SPD, 2013
- Southwell Conservation Area Appraisal July 2005
- Newark and Sherwood Landscape Character Assessment SPD December 2013
- Nottinghamshire County Council Highway Design Guide

Consultations

Southwell Town Council – Southwell Town Council reconsidered application 19/00689/FUL Springfield Bungalow Nottingham Road and agreed unanimously to object to this application and to ask a district councillor to call in to NSDC for the following reasons:

Highway and Pedestrian Safety

STC agreed that N&SDC enforces the conditions as agreed some two years ago and opposes any alteration to the conditions imposed then.

The conditions in the initial application have not been met.

The completed visibility splays do not meet the national and local highway safety standards and the conditions of the original decision, the constructed splays are in fact only 32mtrs to the East and 26mtrs to the West. These are unsafe for the 30mph road.

The new access and pavements are in contravention of Southwell Neighbourhood Plan policy TA8.1 Pg 52 Cycle and pedestrian routes –

The pavements constructed at the access to the site are not suitable for disabled and wheelchairs users, as the camber and gradient of the pavement are too high and too close to an existing dropped kerb.

The construction of the access does not allow for larger vehicles to safely enter the site without swinging across to the other side Halloughton road, therefore causing a potential a traffic hazard.

The entrance itself is very narrow for vehicles to pass.

This site is in a high flood risk area with many natural springs. We object to the Drainage plans because the drains on the south boundary and in the north west corner will destroy the exiting hedges which form landscape barriers. These are required to be maintained in the Southwell Neighbourhood plan see Policy SS2 policy 3".

NCC Highways Authority – latest comments received 16th May 2019

Further to comments dated 2 May 2019 I wish to provide additional information that may assist the LPA consider this application.

The Highway Authority is aware that the applicant has been unable to achieve the originally conditioned standard visibility splays in land that is undisputed public highway. The applicant has therefore sought approval for a modified access arrangement. The role of the Highway Authority in advising the LPA on this variation is whether, in the opinion of the Highway Authority, it is safe for all road users. The standard local specifications relating to visibility splays are provided as guidance and as such it is within the remit of the Highway Authority to consider each case where these standard specifications cannot be achieved and make a judgement as to whether what the applicant can achieve is both safe and reasonable given the individual circumstances that are applicable. The Nottinghamshire Highway Design Guide allows flexibility to meet local circumstances.

It is recognised that the splays in the current application have been drawn slightly differently to those in the previously approved drawings i.e. to a line 1.0m offset from the kerb line, but this now matches more closely the method of measurement within this Authority's Design Guide. On the basis of the above and for the reasons pointed out in the Highway Authority's comments dated 2 May 2019 which were prepared by an experienced and senior Highways Officer in conjunction with other experienced Highway Authority colleagues, the Authority is content that the submission details will not compromise highway safety in this instance and have therefore raised no objections.

The Highway Authority, as a Statutory Consultee, provide comments to Planning Authorities throughout Nottinghamshire on the highway aspects of approximately 3500 planning applications per year (on average). It is with this experience that a revised Transport Statement is not considered necessary by the Highway Authority.

There has been some local concern raised regarding the juxtaposition of the new access with the existing vehicle dropped kerb crossing associated with No 38 Halloughton Road. This has been considered in light of local and national guidance, and; local conditions, and found to be acceptable. There are many examples of this arrangement throughout the County.

Likewise, local concern has been raised regarding the dropped kerb pedestrian crossing point outside 38 Halloughton Road in meeting the needs of those with mobility impairment in terms of camber/gradient. The applicable standards are that the gradient of a footway should not, except in exceptional circumstances, exceed 1 in 12 and where a dropped crossing is in place the gradient should not exceed 1 in 11. The Highway Authority is of the understanding that as standard kerbs have been used in the construction of the access and that the local topography is not unduly steep the above gradients have not been exceeded. It is therefore the view of the Highway Authority that the access does meet with relevant policies and guidance and is not a barrier to those with a disability.

The Planning Authority may be aware that the access itself was constructed by the County Council's highway partner organisation, Via East Midlands, who have vast experience in constructing accesses both for third parties as well as part of their normal highway related work.

In further support to the Highway Authority's stance on considering that Halloughton Road is lightly trafficked, a traffic count suggests flows are around 900 vehicles per day (2 way flow). In the

peak hour the flow is around 110 vehicles, which equates to about 1 vehicle every 33 seconds (average). The majority of pedestrians will accept a gap of 4-6 seconds at normal urban vehicle speeds to cross two lanes of traffic. Although other groups may need twice this time, it is reasonable to assume that all pedestrians should be able to cross the road safely without much delay, even at peak times. Similarly cars leaving the side road junction safely should be able to see a gap of about 3.2s or more. Again, flows are so low that there should be no difficulty in leaving the side road. I have concluded therefore that flows can be described as low.

The decision on determination of the application is within the remit of the Planning Authority. However the advice of the Highway Authority is that the application scheme is safe for all road users given the specific site constraints; is constructed such that it can be used by all road users including those with a disability, and; provides a safe access to the development.

The Planning Authority should be aware that in the judgement of the Highway Authority it would not be able to evidence a defence to a Planning Inspector should this particular application be subject of an Appeal process.

I reaffirm that no objections are raised.

Comments received 2nd May 2019

In terms of highway matters this application seeks a variation to condition 11 regarding access visibility splays.

Drawing HALL-BSP-ZZ-XX-DR-C-100-P6 is acceptable to agree the variation.

This drawing has been used to construct the access under license from the Highway Authority without prejudice to the decision of the Planning Authority.

The main changes to the details from previously approved plans are:

1. Visibility splays have been reduced:

- From 2.4m x 43m to the right/east to 2.3m x 43m

This is a marginal (almost indiscernible) change and Manual for Streets suggests that an 'x' distance as low as a 2.0m set back is can be used under certain circumstances:

"A minimum figure of 2 m may be considered in some very lightly-trafficked and slow-speed situations, but using this value will mean that the front of some vehicles will protrude slightly into the running carriageway of the major arm. The ability of drivers and cyclists to see this overhang from a reasonable distance, and to manoeuvre around it without undue difficulty, should be considered".

- From 2.4m x 43m to the left/west to 2.3m x 29m (or 2.0m x 43m).

This is measured in the less critical direction where vehicles are not expected to travel along the nearside, southern kerb line. Sight distances to vehicles travelling in the eastbound lane will be significantly more than those figures quoted above. 29m is commensurate with 20mph approach speeds, but here again a splay of 2.0m x 43m is available; commensurate with the Manual for Streets statement above. 43m is commensurate with an approach speed of 30mph.

These changes have been made to ensure that splays fall wholly within the undisputed boundary of the public highway which has been agreed to be at least 6 feet (1.83m) from the southern carriageway kerb line.

It should be emphasised that, in the opinion of the Highway Authority, the position of the highway boundary is not necessarily restricted to the 6 foot dimension mentioned above. However, the scheme submitted clearly attempts to steer clear of that argument. Should the public highway boundary be proven to extend beyond the 6 feet, increased visibility splay distances would be/are available.

It is considered that speeds and flows are not high on Halloughton Road and given all the circumstances mentioned above it is considered that the variation to condition 11 can be agreed. No objections are raised.

Representations have been received from 11 local residents/interested parties (as of 18.05.19) which raise the following concerns:-

Retrospective application and works being undertaken on the site

- This is retrospective application seeking to lower highway safety standards given that the developer has control of insufficient land to enable it to meet the pre commencement conditions.
- The access has been constructed albeit the access road is incomplete given the presence of Western Power metering equipment.
- Work has been allowed to continue even though large volumes of ground, which is known to contain springs, have been shifted.

Highway and Pedestrian Safety

- The new road doesn't have the required visibility splays resulting in shorter visibility splays which do not meet the distances required by conditions attached to the planning permission nor do they meet minimum necessary standard as laid down by National and local standards.
- The splays cannot be improved without additional frontage land.
- There is therefore a risk to life of road users and pedestrians. If this is accepted the council would become liable for damages in the event of an accident.
- The splays as constructed do not meet minimum standard on a 30mph road – given the excessive speeds many vehicles travel on this stretch of road and therefore adequate visibility is essential.
- Previous transport statements deposited on the 2015 permission related to the provision of a visibility splays of 43m being the minimum required for the development in terms of highway safety – the proposal is contrary to this and national and local highway standards and no evidence has been put forward to justify the proposed reduction in splay distances.
- A material reduction in safety standards cannot be justified on land ownership grounds.

- The highways assessment of the road is flawed and their calculations are misleading and incorrect. They claim to have made a 10cm adjustment when it's 110cm.
- The drawings provided by the developer are incorrect and don't show that there is curve in the road, which further limits viability.
- No calculations of how the new splays are acceptable have been given.
- The risk of incident has been outweighed by commercial or political incentive.
- The pedestrian access is unsafe and it discriminates against the elderly and disabled. The gradient and camber of the pedestrian access means it would throw a wheelchair user into the main road (my daughter uses a wheelchair. The proposal breaches national, local policy and the Equalities Act
- The pedestrian access cuts across a drive way before the road crossing, this is against legislation
- The access is poorly sited and immediately adjoins an existing vehicular dropped kerb which is not normally allowed (a safe distance is normally 10-15m to prevent pedestrian/vehicular conflict). This together with the configuration and width of the footpath raises serious pedestrian safety issues.
- The gradient of the footpath and significant camber does not meet the relevant standards and guidance and therefore fails to meet the relevant policies because it represents a severe barrier to the disabled.
- The access is wholly inadequate to serve 38 dwellings.
- The access is too narrow -there is insufficient for vehicles turning into or leaving the site nor passing room for two vehicles, particularly vans and lorries.
- The proposal therefore be refused on the grounds of health and safety grounds and should and previous conditions should be adhered to.
- There is already a new access road on Halloughton for no.s 37-39 Halloughton Road.
- The development exacerbates dangers to vehicles and pedestrians – some residents of the Reach site will use this access.
- The access into the junction is too narrow resulting in vehicles having to swing over into oncoming traffic to manoeuvre impeding traffic flow.
- Increased traffic would exacerbate existing highway issues.
- Existing highways restrictions are ignored.

Flooding

Existing flooding issues will be exacerbated by works that are ongoing on site and when it is developed with tarmac and buildings.

Breach of Conditions/permissions

The Council should instruct the developers to cease work immediately.

Comments of the Business Manager

Background

Application ref. 15/01295/FULM was presented to Planning Committee in June 2016 and represented in March 2017 where Members resolved to grant conditional planning permission in accordance with officer recommendation and subject to the signing and sealing of a S106. The relevant conditions have been subsequently discharged.

The principle of the development is therefore considered to have been established through the granting of the permission for the development in March 2017

With regards to the current situation given land ownership issues raised with the previous applications, together with the current advice of the Nottinghamshire County Council that the adopted highway extends at least 6 feet southwards from the current kerb line, the applicant has subsequently designed and constructed the access on Halloughton Road associated with the residential development so as to not encroach beyond land within the undisputed adopted highway. It has now not been constructed in accordance with the plans approved under planning permission 16/01369/FUL and therefore an application for retrospective permission is also before this committee seeking to regularise this – application ref 19/00689/FUL.

As a consequence of the revisions to the design of the access, it is not possible to achieve the visibility splays required by condition 11 of 15/01295/FULM and consequently this application is before committee seeking to vary the wording of the conditions to be in line with the splays that are in place with the constructed access

Although the Amended Core Strategy has been adopted since the granting of the original permission 16/01369/FUL and the NPPF has been updated in 2019, there have been no significant material changes to policy context relevant to the consideration of the amendment of the condition which is the subject of this application.

Therefore the main issue to consider is whether it is appropriate to allow the variation of the wording of condition 11.

Principle of Development

The PPG 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 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 in the policy section above and are considered against the relevant aspects of the proposal in the assessment below.

This application seeks to vary condition 11 of planning permission 15/01295/FULM to enable the retention of the reduced visibility splays now provided by the amended access constructed onto Halloughton Road.

An application under Section 73 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 development cannot be revisited as part of this application.

The NPPF is clear that any new permission should set out all conditions related to it unless they have been discharged and that it cannot be used to vary the time limit for implementation which must remain unchanged from the original permission.

The principle of development is therefore considered acceptable subject to an assessment of site specific issues with regards to the highway impacts of reduced visibility splays.

Highways Impacts

Spatial Policy 7 sets out the criteria for assessing whether a development encompasses a sustainable approach to transport. Core Policy 9 requires proposals to be accessible to all. Policy DM5 of the DPD states that provision should be made for safe and inclusive access to new development and that parking provision should be based on the scale and location of the development.

Policy TA3 of the Southwell Neighbourhood Plan seeks to ensure that new development does not adversely affect the highway network.

I acknowledge the concerns raised with regards to the acceptability of the visibility splays that have been provided at the access. Comments received have also raised strong concerns with regards to wider highway issues in terms of the physical design of the access, the impact on existing highway conditions, highway and pedestrian safety, safety issues for disabled users of the highway and footpaths, Health and Safety, drainage and impact of increased traffic.

Given that this application relates solely to the reduced visibility splays that have been provided these wider issues are discussed in detail within the report relating to retrospective application seeking to vary conditions attached to the planning permission for the redesigned access on Halloughton Road which is also on the agenda for debate at this planning committee meeting (application ref. 19/00689/FUL).

In considering this retrospective application, officers have sought the professional views of the Highway Authority whose formal consultation comments are detailed above within the consultations section of this report

Visibility Splay

Local residents have raised concerns with regards to the revised visibility splays provided at the access on Halloughton Road. To the east these now measure 2.3m x 43m and 2.3m x 29m to the west rather than 2.4m x 43m to both the east and west as required by condition 11 of 15/01295/FULM.

It is acknowledged that the visibility splays have been reduced compared to those previously approved and that these now do not comply with the dimensions required to be provided by this condition. However, the Highway Authority has confirmed that standard local specifications in relation to visibility splays are guidance and that the Highway Authority considers each individual case where such standards are not met. Indeed the Highways Design Guide does allow for flexibility in assessing individual circumstances.

It is noted that the Highway Authority have commented that the reduction in the eastern splay is 'marginal and almost discernable' and although there is a reduction in the western splay, sight distance would be greater than the distance quoted.

The Highway Authority has assessed the access and revised splays and has concluded that highway safety will not be compromised.

Given that these comments are made by experienced highway professionals it is considered that the reduced splays comply with highway technical guidance and would not result in undue impact on highway or pedestrian safety to justify refusal on these grounds.

Landownership

It is acknowledged that the developer has constructed the access to be within land within the ownership of the Nottinghamshire County Council, albeit notice has also been served without prejudice on neighbouring properties. In order to achieve this, the design of the constructed access has been revised which as detailed above consequently reduces the visibility splays such that they remain within land owned by the NCC. Given the comments of the Highway authority officers are satisfied that the revised access, including the splays which is within land owned by the County Council, does not result in a reduction in safety standards.

Other matters

Breach of Planning Conditions

I note the comments received with regards to the application being retrospective given that the access on Halloughton Road has already been constructed and reduced splays provided. It is also commented that work has commenced on the residential development site in breach of the planning permission issued in December 2017 and in breach of the pre commencement condition which the applicant is now seeking to vary.

Requests have been made that the Council should therefore take action and works on the residential site should cease.

The National Planning Policy Framework (NPPF) captures national guidance as to when a Local Planning Authority should consider enforcement action. This is supplemented by the Planning Policy Guidance (PPG) on-line tool. Both the NPPF and PPG make clear that "Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control."

Specifically Paragraph: 011 (Revision date: 06 03 2014) of the PPG states that:

"In deciding, in each case, what is the most appropriate way forward, local planning authorities should usually avoid taking formal enforcement action where:

- there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;
- development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;
- in their assessment, the local planning authority consider that an application is the appropriate way forward to regularise the situation, for example, where planning conditions may need to be imposed.”

It is clear that there has been a breach of planning control in that the visibility splays at the access that has been constructed do not comply with condition 11 of planning permission 15/01295/FULM.

However the applicant has submitted this current application seeking to vary the condition attached to the original permission to reflect the amended visibility splays which is before Members for determination.

The Highway Authority has advised the developer and the Council that the proposed revisions are acceptable in highways terms and have confirmed in their consultation comments that there are no highway objections. Being mindful of the current applications, the comments of the highway authority together with government guidance in the NPPF and PPG with respect to as to when enforcement action should be taken, it has not been considered appropriate to take any action at this time.

Notwithstanding this the developer has been advised both verbally and in writing by the Council that they currently are in breach of planning permission and that any works that have been undertaken or any continuation of works on site are entirely at their own risk pending any decision by Planning Committee.

Assessment of conditions

The PPG is clear that any new permission should set out all conditions related to it unless they have been discharged and that it cannot be used to vary the time limit for implementation which must remain unchanged from the original permission. In this case as the development has begun, the time condition does not need to be re-imposed.

For ease of reference the conditions as originally imposed are listed in full below (in the recommendation section) with strikethrough text used to represent parts of the condition no longer required and bolded text used to indicate new wording. The conditions have been reworded where details have been provided through the discharge of conditions or revised plans. Commentary is also provided where this is considered necessary.

Buffer Zone

I note the comments received from the Town Council regarding the buffer zone. This was previously assessed when permission was granted for the residential development approved in 2017 (15/01295/FULM) and does not form part of the consideration of this application as noted above.

Flooding

I note the comments received regarding flooding impact. This was also previously assessed when permission was granted for the residential development approved in 2017 (15/01295/FULM) and does not form part of the consideration of this application as noted above.

Conclusion and Planning Balance

It should be noted that only the very narrow scope of the matters of varying the conditions imposed are open for consideration. In this instance this relates to highway matters. Nottinghamshire County Council Highways Authority has been consulted as the relevant technical experts who conclude that the revised access which has been constructed by VIA East Midlands would not cause highway harm and I would accept their conclusion. .

RECOMMENDATION

That full planning permission is approved subject to:-

(a) the following conditions: and

(b) the signing and sealing of a Deed of Variation of the S106 Planning Agreement

~~01~~

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

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

01

The development hereby permitted shall not be carried out except in complete accordance with the following approved plans and documents unless otherwise agreed in writing by the local planning authority through the approval of a non material amendment to the permission.

Drawing No. 12/1889/LP Rev D Revised Site plan

Drawing No. 12/1889/101/Rev F - Revised site layout

Drawing No. 12/1889/102/Rev A - proposed roofscape

Drawing No. 12/1889/103/Rev A - proposed street elevation

Drawing No. 12/1889/120/Rev A - House type A

Drawing No. 12/1889/121/Rev A - House type B

Drawing No. 12/1889/122/Rev A - House type B

Drawing No. 12/1889/123/Rev A - House type C

Drawing No. 12/1889/124/Rev A - House type D

Drawing No. 12/1889/125/Rev A - House type E

Drawing No. 12/1889/126/Rev A - House type F

Drawing No. 12/1889/05/Rev A - Springfield Bungalow Proposed ground floor layout

Drawing No. 12/1889/06/Rev A - Springfield Bungalow Proposed first floor layout

Drawing No. 12/1889/07/Rev A - Springfield Bungalow Proposed Elevation

Reason: So as to define this permission.

02

~~No development shall be commenced until details and samples of the materials identified below have been submitted to and approved in writing by the local planning authority. The Development shall thereafter be~~ **The development hereby approved shall be carried out in accordance with the following external materials approved by the Local Planning Authority in correspondence dated 7th May 2019 under application ref. 19/00317/DISCON unless otherwise agreed in writing by the Local Planning Authority.**

Bricks--Butterley Forterra Woodside Mixture

Roof - traditional single clay pantile

Reason: In the interests of visual amenity.

03

~~No part of the development shall be commenced until details of the existing and proposed ground and finished floor levels of the site and approved building[s] and the extension to the bungalow have been submitted to and approved in writing by the local planning authority.~~

The development hereby approved shall be carried out in accordance with the ground and finished floor levels approved by the Local Planning Authority in correspondence dated 7th May 2019 under application ref. 19/00317/DISCON. unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential and visual amenity.

04

~~No development shall be commenced until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:-~~

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

- ~~• existing trees and hedgerows, which are to be retained pending approval of a detailed scheme, together with measures for protection during construction;~~
- ~~• proposed finished ground levels or contours;~~
- ~~• means of enclosure;~~
- ~~• hard surfacing materials;~~
- ~~• minor artefacts and structures for example, furniture, refuse or other storage units, signs, lighting etc.);~~
- ~~• the planting and screening along the southern boundary with Springfield House shown within the site boundary edged in red on the revised site plan ref. 12/1889/LP Rev D~~

The development hereby approved shall be carried out in complete accordance with the details of hard and soft landscaping approved by the Local Planning Authority in correspondence dated 7th May 2019 under application ref. 19/00317/DISCON unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual amenity and biodiversity.

05

~~Before the development is commenced a landscape management plan shall be submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall include time periods for implementation, including long term objectives, management responsibilities and maintenance schedule for all landscape areas, other than privately owned, domestic gardens. Once the landscape management plan is approved in writing the approved landscaping shall be completed in accordance with the approved timescales, or such longer period as may be agreed in writing by the local planning authority.~~

~~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 which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority.~~

The development hereby approved shall be carried out in accordance with the Landscape Management Plan produced by Influence Environmental Ltd ref. INF N0559 R01-RevA deposited on the 16th April 2019 and approved by the Local Planning Authority in correspondence dated 7th May 2019 under application ref. 19/00317/DISCON. 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 which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority.

Reason: To ensure the development conserves and enhances biodiversity on the site in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy (2011).

06

No part of the residential development hereby permitted shall be occupied until all associated drives and any parking or turning areas are surfaced in a hard bound material (not loose gravel) for

a minimum of 2 metres behind the Highway boundary. The surfaced drives and any parking or turning areas shall then be maintained in such hard bound material for the life of the development.

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

07

Any garage doors shall be set back from the highway boundary a minimum distance of 5 metres for sliding or roller shutter doors, 5.5 metres for up and over doors or 6 metres for doors opening outwards.

Reason: To enable a vehicle to stand clear of the highway whilst the garage doors are opened/closed and to protect the free and safe passage of traffic, including pedestrians, in the public highway.

08

The new shared private driveway serving Springfield Bungalow shall be laid out to a width of not less than 4.8 metres for at least 10 metres back from the nearside edge of carriageway and shall provide for vehicle parking and turning areas in accordance with the approved plan. The vehicle parking and turning areas shall not be used for any purpose other than the turning and parking of vehicles.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway and to ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems in the area; all in the interests of Highway safety.

09

No part of the Supported Living Units hereby permitted shall be brought into use until the new dropped vehicular verge crossing serving Springfield Bungalow is available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.

Reason: In the interests of Highway safety.

010

No part of the development shall be brought into use until visibility splays of:-

2.3m x 43m to the right/east of the access

2.3m x 29m to the left/west of the access

are provided at the junction with Halloughton Road

Reason: In the interests of Highway safety.

011

No residential unit or 'supported living unit' hereby permitted shall be occupied until its associated private access/driveway/parking area is constructed with provision to prevent the unregulated discharge of surface water from the access/driveway/parking area to the public highway in

accordance with details first submitted to and approved in writing by the LPA. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.

Reason: To ensure surface water from the site is not deposited on the public highway causing dangers to road users.

012

~~No part of the development hereby permitted shall be commenced until details of the drainage and outfall proposals for the new residential access road have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with these details to the satisfaction of the Local Planning Authority.~~

The development hereby approved shall be implemented in complete accordance and to the satisfaction of the Local Planning Authority with the details of the drainage and outfall proposals for the new residential access road as indicated on drg.no. Drawing HALL-BSP-ZZ-XX-DR-C-240-P2 approved by the Local Planning Authority in correspondence dated 7th May 2019 under application ref. 19/00317/DISCON.

Reason: To ensure the development is constructed to adoptable standards.

013

~~Before the development is commenced drainage plans for the disposal of surface water and foul sewerage drainage and precise drainage design details in accordance with the Flood Risk Assessment dated July 2015 and the Flood Risk Assessment Addendum dated 18th December 2015 and the comments of the Nottinghamshire County Council Flood Authority have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with these details to the satisfaction of the Local Planning Authority.~~

~~The development hereby approved shall be implemented in complete accordance with and to the satisfaction of the Local Planning Authority with the details of the drainage and outfall proposals for the new residential access road as indicated on drg.no. Drawing HALL-BSP-ZZ-XX-DR-C-240-P2 approved by the LPA in correspondence dated 7th May 2019.~~

~~Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Core Policies 9 and 10 of the Newark and Sherwood Core Strategy DPD 2011) and Policy So/Ho/2 of the Newark and Sherwood Allocations and Development Management DPD 2013).~~

The development hereby approved shall be implemented in complete accordance and to the satisfaction of the Local Planning Authority with the following drainage plans for the disposal of surface water and foul sewerage drainage and precise drainage design approved by the Local Planning Authority in correspondence dated 7th May 2019 under application ref. 19/00456/DISCON.

- **Drainage Strategy produced by bsp Consulting dated 01/12/19**
- **Storm Sewer Design produced by bsp Consulting dated 04.03.19**

- **Additional correspondence dated 03/04/19 from bsp Consulting**
- **Private Drainage Layout plan (bsp consulting) drg. ref. HALL-BSP-22-XX-DR-C-240 rev P2**

014

The drainage system on site shall be designed so that the positive discharge will be restricted to a maximum ~~of 5.7/s~~ **of 3.5 l/s in accordance with confirmation stated in correspondence deposited on the 8th March 2019** and connected to the public combined sewer in accordance with paragraph 3.9 of the Flood Risk Assessment Addendum produced by ACS and dated 28/10/15 revised 18/12/15.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Core Policies 9 and 10 of the Newark and Sherwood Core Strategy DPD 2011) and Policy So/Ho/2 of the Newark and Sherwood Allocations and Development Management DPD (2013).

015

There should be no surcharge of the pipes on a 1year storm. No surcharge in a 30 year storm and no flooding outside the site boundary in a 100 year +30 climate change storm.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Core Policies 9 and 10 of the Newark and Sherwood Core Strategy DPD (2011 and Policy So/Ho/2 of the Newark and Sherwood Allocations and Development Management DPD (2013).

016

~~No development shall take place within the application site until a written scheme for archaeological mitigation has been submitted to and approved in writing by the Local Planning Authority.~~

~~Thereafter, the scheme shall be implemented in full accordance with the approved details.~~

The Written Scheme of Investigation produced by Locus Consulting Ltd dated 31/01/2019 approved by the Local Planning Authority in correspondence dated 7th May 2019 shall be implemented in full accordance with the approved details under application ref. 19/00317/DISCON.

Reason: To ensure that satisfactory account is taken of the potential archaeological interest of the site.

017

Removal of vegetation (including any trees to be removed following confirmation and approval of precise details through a reserved matters application) should not take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted

to the local planning authority prior to removal of any such vegetation and once approved all works shall be in accordance with these details.

Reason: In the interests of protecting ecology on the site in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy 2011.

018

~~Before development is commenced detail of methods to protect trees and hedgerow within and adjacent to the development in accordance with 855837:2012 as well as a proposed timetable for these measures to be retained shall be submitted to and approved in writing by the Local Planning Authority. Once approved in writing the agreed protection measures shall be put in place prior to commencement of development and shall be retained in accordance with the agreed timetable.~~

Reason: To ensure that existing trees and hedges to be retained are protected, in the interests of visual amenity and nature conservation in accordance with the aims of Core Policy 12.

The tree and hedgerow protection measures including timetable for these measures to be retained shall be implemented in full accordance with the Arboriculture Method Statement produced by Influence Environmental (ref. RSE_2057-01-V2) and Tree Protection Plan (Drg, ref. RSE_2057-7PP Revision-V2 approved by the Local Planning Authority in correspondence dated 7th May 2019 under application ref. 19/00317/DISCON.

019

Before development is commenced the Poplar Tree identified as being within G3 in Appendix 1 of the Tree Survey prepared by Chris Barker and dated 11th November 2015 shall be checked for the presence of roosting bats in accordance with the recommendations of the Ecological Appraisal and letter prepared by CBE Consulting dated 9th November 2012 and 5th January 2015.

Reason: In the interests of protecting ecology on the site in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy 2011.

020

~~Before development is commenced precise details of ecological enhancement and mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. These shall include details of:-~~

- ~~• A Habitat Management Plan~~
- ~~• Proposed grassland seed mix for the proposed wildflower meadow and the Square~~
- ~~• Fencing to allow the passage of small mammals~~
- ~~• Enhancement of swales to benefit wildlife, by providing areas of continuous standing water and appropriate planting of native species of a local provenance.~~
- ~~• Installation of bird and/or bat boxes on retained trees.~~
- ~~• Native species proposed for the planting of native woodland~~

The details of ecological enhancement and mitigation measures contained within the Habitat and Ecological Management Plan produced by Influence Environmental Ltd ref. RSE_2057-02-V1 dated January 2019 and approved by the Local Planning Authority in correspondence dated 7th May 2019 shall be fully implemented in accordance with the approved details under application ref. 19/00317/DISCON.

Reason: In the interests of protecting ecology on the site in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy 2011.

021

Management of hedgerows should be undertaken in an ecologically sensitive manner. Only one third of (the total length of) hedgerows onsite should be cut each year, on a three year rotation. These should be cut in January/February, outside of the bird breeding season, and to allow wildlife to utilise the winter berry crop. Cutting hedgerows into an "A" shape will prolong the life of the hedgerow and create denser cover for wildlife.

Reason: In the interests of protecting ecology on the site in accordance with the aims of Core Policy 12 of the Newark and Sherwood Core Strategy 2011.

022

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 dwelling house, 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 .

Or Schedule 2, Part 2:

Class A: The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.

Class B: Means of access

Class C: The painting of the exterior of any building

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

Reason: To ensure that any proposed further alterations or extensions are sympathetic to the original design and layout in this sensitive location.

Note to Applicant

01

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).

02

The applicant should note that notwithstanding any planning permission that if any highway forming part of the development is to be adopted by the Highways Authority. The new roads and any highway drainage will be required to comply with the Nottinghamshire County Council's current highway design guidance and specification for road works.

03

Severn Trent Water have advised that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.

BACKGROUND PAPERS

Application case file.

For further information, please contact Bev Pearson on ext 5840

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

Matt Lamb
Director Growth and Regeneration

Committee Plan - 19/00779/FULM

