

## PLANNING COMMITTEE – 4 JUNE 2019

<b>Application No:</b>	<b>19/00571/FUL</b>	
<b>Proposal:</b>	<b>Variation of condition 02 attached to planning permission 17/02149/FUL to amend the approved plans to allow changes to the boundary and location of the retaining wall</b>	
	<b>17/02149/FUL was for ‘Proposal for the erection of 2no. two storey semi-detached dwellings’</b>	
<b>Location:</b>	<b>Land at Former White Lion Public House, Main Street, Blidworth Nottinghamshire</b>	
<b>Applicant:</b>	<b>Quality New Builds</b>	
<b>Registered:</b>	<b>29<sup>th</sup> April 2019</b>	<b>Target Date: 24<sup>th</sup> June 2019</b>

**This application is before the Planning Committee for determination as the officer recommendation differs from the views of the Parish Council.**

### The Site

The application site is located on the southern edge of the village of Blidworth and forms part of the site which was formerly The White Lion public house. The site is located within the Conservation Area for Blidworth and lies immediately adjacent to the Nottingham-Derby Greenbelt which washes over the land to the south.

The White Lion public house has been subject to various planning applications for residential development over recent years, with development currently nearing completion to the west of the site. This building has windows which directly overlook the application site.

The site has been levelled and construction works on the residential development for 2 dwellings approved in February 2018 have been commenced.

To the east, at a higher level than the site, are 2 no. dwellings located on Will Scarlet Close. No. 12 directly faces the site whilst no. 11 Will Scarlet Close sides onto the site with windows to the front elevation facing south towards Main Street (there are no windows to its side gable elevation).

### Relevant Planning History

17/02149/FUL – Conditional permission was granted under delegated powers in February 2018 for the erection of 2no. two storey semi-detached dwellings.

19/00094/DISCON - Application for confirmation of discharge of conditions 3, 4, 5 and 13 of planning permission 17/02149/FUL – currently under consideration.

## The Proposal

Given that works have commenced on site this application is retrospective seeking to vary condition 2 of planning permission 17/02149/FUL noted above to enable a material amendment to the approved scheme in terms of a reduction in the width of the dwellings and realignment of boundary treatments. The proposal now reduces the overall width of the pair of semi detached dwellings from 15.7m to 14.6m.

All other dimensions and front elevational details remain as previously approved.

The previously approved retaining wall along the boundary with properties on Will Scarlet Close would be realigned and would be between 1.3m and 1.9m high taking account changes in land levels.

The boundary fence adjoining the site of the Former White Lion residential development would remain at 1.8m in height but would be realigned to take account of a change in ownership of a triangular piece of land along this boundary.

Each dwelling would remain to be served by 2 no. parking spaces.

The dwellings would remain to be set back a minimum distance of 14.2m from the back edge of the highway.

Revised plans have been deposited which reposition the ground and first floor windows on the rear gable projection so that they sit centrally within this elevation.

The applicant has also revised the site layout plan to now correspond with the red line site plan deposited with the original application 17/02149/FUL. The relevant notice on the owners of a triangular piece of land to the eastern boundary of the site has been served which would be separated from the dwellings and their curtilages by 1.8m high close boarded fencing.

The following plans have been deposited for consideration:-

- Revised Site Plan as proposed – drg. no 02B Mar/19 deposited 29.04.19
- Ground Floor Unit 2 (Unit 1 Handed) – dgr. no. 03C deposited 26.04.19
- First Floor Unit 2 (Unit 1 Handed) – drg. no. 04C deposited 26.04.19
- Elevations - drg. no. 05B deposited 26.04.19

## Departure/Public Advertisement Procedure

Occupiers of six properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.

## **Planning Policy Framework**

### **The Development Plan**

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

Spatial Policy 1 – Settlement Hierarchy

Spatial Policy 2 – Distribution of Growth  
Spatial Policy 7 – Sustainable Transport  
Core Policy 3 – Housing Mix, Type and Density  
Core Policy 9 - Sustainable Design  
Core Policy 13 – Landscape Character  
Core Policy 14 – Historic Environment

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

Policy DM1 – Developments within Settlements Central to Delivering the Spatial Strategy  
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 2014

### **Consultations**

**Blidworth Parish Council** – Objected to the proposal - voted as follows: -

0 Support 8 Object and 2 Abstentions

Councillors requested the following comments be made: -

The Council query the reason for the variation and question who owns the land.

**Nottinghamshire County Council Highway Authority** – The amendments shown on the plan now submitted, 02B, are within the site curtilage and do not affect the public highway. Therefore, the Highway Authority would not wish to raise objection.

**NSDC Conservation** – Verbally rased concern with regards to the design and appearance of the rear elevation given the position of the ground and first floor windows in the gable not being centrally aligned.

Following the submission of revised plans the following comments were received on the 23<sup>rd</sup> April 2019 :

*'The amendments to the window alignment on the rear elevations have addressed my concerns regarding the design.'*

**No other representations have been received.**

### **Comments of the Business Manager**

#### **Background**

This application has been submitted as the application site when purchased by the developer had a reduced footprint to that shown on plans approved for 2 no. dwellings on the site under 17/02149/FUL. A triangular piece of land on the eastern boundary had post decision transpired to

fall within the boundary of the adjoining site, the Former White Lion which has been converted to residential properties. This has resulted in the applicant now retrospectively seeking to reduce the width of the previously approved dwellings in order that they can be accommodated on the site and to realign the side boundary treatments.

Although the Amended Core Strategy has been adopted since the granting of the original permission 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 2 of the original permission.

### **Principle of Development**

This application seeks to vary condition 2 (the plan condition) of planning permission 17/02149/FUL to enable a reduction to the width of the proposed dwellings as noted above by overall circa 1.1m.

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.

As the principle of the development is established by the extant permission the focus of this report is on the changes to the scheme. These are discussed below.

### **Visual Impact (including Impact on the Character and Appearance of Conservation Area) Impact on Residential Amenity**

The development is located within the Conservation Area and the main defined built up settlement area of Blidworth as stated within the Allocations and Development Management DPD (ADMDDPD). The conservation area is a designated heritage asset, which is a material consideration in the planning process.

Section 72 requires the LPA to pay special attention to the desirability of preserving or enhancing the character and appearance of the CA. In this context, the objective of preservation is to cause no harm. The courts have said that these statutory requirements operate as a paramount consideration, 'the first consideration for a decision maker'.

Paragraph 193 of the NPPF, for example, advises that 'when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.'

Paragraph 194 adds 'Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

Paragraph 200 advises that 'Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favorably.

Policies CP14 and DM9 of the Council's LDF DPDs, reflect the NPPF and amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance.

In assessing the previous proposal, officers agreed with the conservation officer that the proposed dwellings would not appear unduly prominent within the streetscene given the adjoining residential development at the former White Lion Public House and the dwellings to the east which sit at a higher level. It was also considered that the design and layout sat well within the context of the site, the conservation area and the wider setting.

Being mindful that the current proposal seeks to reduce the width of the proposed dwellings in order that they sit better within the site, I am of the opinion that this reduction would be almost imperceptible and not so significant so as to result in having any greater impact on the character and appearance of the Conservation Area or its wider setting than the development originally approved in 2018. The amendments to the windows now address the initial concerns of the Conservation Officer and I agree that the fenestration details as amended are acceptable.

The realignment of the retaining wall along the boundary with Will Scarlet Close and realignment of the fencing along the boundary with the Former White Lion development is not considered to result in any significant impact on the appearance of the development within the Conservation area or the wider streetscene.

The proposed development is therefore not considered to cause undue harm to the character of the conservation area or the wider setting and is in accordance with the objective of preservation set out under sections 72, part II of the 1990 Listed Building and Conservation Areas Act, and complies with heritage policies and advice contained within the Council's LDF DPDs and the NPPF.

### **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. The NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Given the reduced width of each of the proposed dwellings they would now sit c0.5m further in from the side boundaries of the site with properties on Will Scarlet Close and the former White Lion residential development than previously approved.

The separation distances between the new dwellings and the adjoining neighbours on Will Scarlet Close and the former White Lion residential development would consequently increase by 0.5m, which is a positive to the scheme.

Being mindful of the relationship and the increased separation distances between the new dwellings and the adjacent properties together with the existing and proposed boundary treatments erected along the shared boundaries I am satisfied that there would be no undue impact on the residential amenity of the occupiers of these neighbouring dwellings.

The realignment of the window raises no new overlooking issues.

Taking the above considerations into account it is therefore considered that the proposal accords with Policy DM5 of the DPD.

### **Highway Safety**

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 and Policy DM4 seeks to ensure no detrimental impact upon highway safety.

The siting of the new dwellings in terms of relationship with the highway remains as previously approved, being set back a minimum of 14m from the back edge of the pavement. Similarly each property would be served by 2 no. off street parking spaces as previously approved. The Highway Authority has raised no objections.

As such the development would not result in any adverse impact upon highway safety in accordance with Spatial Policy 7 and Policies DM4 and DM5 of the DPD.

### **Assessment of conditions**

The NPPG 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 ~~striketrough~~ 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.

### **Conclusion**

It should be noted that only the very narrow scope of the matters of varying the conditions imposed are open for consideration. It is considered that the proposed amendments would not result in any material harm upon the character and appearance of the Conservation Area, the visual amenity of the site or wider area and would not result in any material impact on the amenities of neighbouring dwellings. As such, the proposal would accord with the relevant aims of

the NPPF as well as Policies CP14 and SP7 of the Amended Core Strategy and Policies DM5 and DM9 of the DPD.

### **RECOMMENDATION**

**That planning permission is approved subject to the conditions and reasons shown below:-**

~~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.~~

~~02~~ **01**

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

- ~~● Amended Site Plan as Proposed drawing no. 02A deposited on the 23rd January 2018~~
- ~~● Ground Floor Unit 2 (Unit 1 Handed) drawing no. 3 deposited on the 23rd November 2017~~
- ~~● First Floor Unit 2 (Unit 1 Handed) drawing no. 4 deposited on the 23rd November 2017~~
- ~~● Elevations drawing no. 4 deposited on the 23rd November 2017~~
- **Revised Site Plan as proposed – drg. no 02B Mar/19 deposited 29.04.19**
- **Ground Floor Unit 2 (Unit 1 Handed) – drg. no. 03C deposited 26.04.19**
- **First Floor Unit 2 (Unit 1 Handed) – drg. no. 04C deposited 26.04.19**
- **Elevations - drg. no. 05B deposited 26.04.19**

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission.

~~04~~ **02**

~~No development shall be commenced until samples of the materials identified below have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the local planning authority.~~

- ~~● Facing Materials~~
- ~~● Bricks~~

- ~~Roofing tiles~~
- ~~Materials in relation to the proposed retaining wall~~

The development hereby approved shall be carried out in accordance with the following external materials approved by the Local Planning Authority in correspondence dated 23rd May 2019 under application ref. 19/00094/DISCON.

### Dwellings

**Ibstock Arden weathered red bricks ok**

**Marley Eternit: Lincoln Clay pantile in Rustic red (unweathered as verbally agreed 15.05.19)**

**Cream render**

### Retaining wall

**Stone faced concrete blocks**

Reason: In the interests of visual amenity and in preserving the character and appearance of the conservation area.

~~04-03~~

~~No works shall be commenced in respect of the features identified below, until details of the design, specification, fixing and finish in the form of drawings and sections at a scale of not less than 1:10 have been submitted to and approved in writing by the local planning authority. The works shall thereafter be undertaken in accordance with the approved details unless otherwise agreed in writing by the local planning authority.~~

- ~~External windows doors and their immediate surroundings, including sills and headers~~
- ~~Verges and eaves~~
- ~~Rainwater goods~~
- ~~Flues/vents~~
- ~~Any other external accretion~~

The development hereby approved shall be carried out in accordance with the following details approved by the Local Planning Authority in correspondence dated 23<sup>rd</sup> May 2019 under application ref. 19/00094/DISCON.

**Details of verges, eaves, window/door heads and cills deposited 22nd March 2019**

**Details of rainwater goods, vents and flues deposited 12th April 2019**

**Window and door details submitted 10th May 2019**

**Correspondence dated 23<sup>rd</sup> May 2019 confirming that windows to be flush fitting**

Reason: In the interests of visual amenity and in preserving the character and appearance of the conservation area.



#### ~~05-04~~

~~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; and~~
- ~~• hard surfacing materials.~~

~~Reason: In the interests of visual amenity and biodiversity.~~

**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 23<sup>rd</sup> May 2019 under application ref. 19/00094/DISCON.**

#### ~~06 05~~

The approved landscaping shall be completed during the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority.

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

#### ~~07 06~~

~~Prior to the first occupation of the dwellings hereby approved the boundary fencing treatments shall be implemented in accordance with drawing 02A deposited on the 23rd January 2018 and shall then be retained in full for the lifetime of the development unless otherwise agreed in writing by the local planning authority.~~

**Prior to the first occupation of the dwellings hereby approved the boundary fencing treatments shall be implemented in accordance with drawing ref. Site Plan as proposed – drg. no 02B Mar/19 deposited 29<sup>th</sup> April 2019 and shall then be retained in full for the lifetime of the development unless otherwise agreed in writing by the local planning authority.**

Reason: In the interests of residential and visual amenity.

#### ~~08 07~~

No part of the development hereby permitted shall be brought into use until the parking/turning areas are provided in accordance with the approved plan (~~drawing no. 02A deposited on the 23rd January~~

~~2018~~ **(Site Plan as proposed – drg. no 02B Mar/19 deposited 29<sup>th</sup> April 2019)**. The parking/turning areas shall not be used for any purpose other than parking/turning of vehicles.

Reason: In the interests of highway safety.

#### ~~09~~ 08

No part of the development hereby permitted shall be brought into use until the visibility splays shown on ~~drawing no. 02A deposited on the 23rd January 2018~~ **the drawing ref. Site Plan as proposed – drg. no 02B Mar/19 deposited 29th April 2019** are provided. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.6m in height.

No part of the development hereby permitted shall be brought into use until the visibility splays shown on drawing ref. Revised Site Plan as proposed – drg. no 02B Mar/19 deposited 29<sup>th</sup> April 2019 are provided. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures or erections exceeding 0.6m in height.

Reason: To maintain visibility splays throughout the life of the development and in the interests of general highway safety.

#### ~~10~~ 09

The access driveway is to be constructed and surfaced in a bound material in accordance with ~~drawing 02A deposited on the 23rd January 2018~~ **the drawing ref. Site Plan as proposed – drg. no 02B Mar/19 deposited 29th April 2019** and the development shall not be occupied until the access has been completed in accordance with those plans.

Reason: In the interests of highway safety.

#### ~~11~~ 10

~~No part of the development hereby permitted shall be brought into use until the access driveway is constructed with a gradient not exceeding 1 in 20 for a distance of 5m from the rear of the highway boundary in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.~~

**The development hereby approved shall be carried out in complete accordance with the access driveway gradients as indicated on the drawing ref. Site Plan as proposed - drg. no 02B Mar/19 approved under Condition 2 of this permission.**

Reason: In the interests of highway safety.

#### ~~12~~ 11

~~No part of the development hereby permitted shall be brought into use until the access driveway is constructed with provision to prevent the unregulated discharge of surface water from the driveway to the public highway in accordance with drawing ref. Revised Site Plan as proposed – drg. no 02B Mar/19 deposited 29th April 2019. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.~~

**The development hereby approved shall be carried out in complete accordance with the drainage plans deposited on the 18<sup>th</sup> January 2019 approved by the Local Planning Authority in correspondence dated 23rd May 2019 under application ref. 19/00317/DISCON.**

Reason: To ensure surface water from the site is not deposited onto the public highway.

~~13~~ **12**

~~The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.~~

**The development hereby approved shall be carried out in complete accordance with the drainage plans deposited on the 18<sup>th</sup> January 2019 approved by the Local Planning Authority in correspondence dated 23rd May 2019 under application ref. 19/00317/DISCON.**

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.

~~14~~ **13**

No first floor windows shall be inserted in the side elevations of the dwellings hereby approved unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential amenity.

~~15~~ **14**

Notwithstanding the provisions of the Town and County Planning (General Permitted Development) (England) Order 2015, other than development expressly authorised by this permission, there shall be no development under Schedule 2, Part 1 of the Order in respect of:

Class A - enlargement, improvement or other alteration of a dwellinghouse

Class B - additions etc to the roof of a dwellinghouse

Class C - other alterations to the roof of a dwellinghouse

Class D - porches

Class E - buildings etc incidental to the enjoyment of a dwellinghouse

Or Schedule 2, Part 2 in respect of:

Class A - gates, fences, walls etc

Reason: In the interests of visual and residential amenity.

## **Note to Applicant**

01

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the development type proposed is zero rated in this location.

02

The application has been the subject of discussions during the application process to ensure that the proposal is acceptable. The District Planning Authority has accordingly worked positively and proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

## **BACKGROUND PAPERS**

Application case file.

For further information, please contact 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](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**  
**Director Growth and Regeneration**

Committee Plan - 19/00492/FUL

