PLANNING COMMITTEE – 4 JUNE 2019

Application No:	**19/00701/FUL**	
Proposal:	**Replacement dwelling**	
Location:	**Sawmills Farm** **Rufford Lane** **Ollerton** **NG22 9DG**	
Applicant:	**Mr & Mrs D Bower**	
Registered:	**10.04.2019**	**Target Date: 05.06.2019**

This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Rufford Parish Council has objected to the application which differs to the professional officer recommendation.

The Site

The application site forms a rectangular plot and its associated vehicular access from Rufford Lane to the south. As existing the site forms the residential curtilage of a single residential unit approved through the change of use from an agricultural building (as detailed in the site history below).

The wider site within the applicants ownership includes a stable building (approved for retention as detailed in the planning history below) as well as mobile field shelters and an unauthorized residential caravan and static mobile home.

The nearest residential neighbours are a cluster of properties either side of Rufford Lane before Rufford Lane crosses the Ford adjacent to the Grade II Listed Rufford Mill Complex. The site is situated within the open countryside with the defined settlement boundary of Ollerton being approximately 1.4km north east of the site. There is a public right of way immediately to the east of the site.

Immediately surrounding the site are open fields within an undulating and sparse landscape. Rainworth water runs in a broadly north south direction to the west of the site. Beyond this the landscape is defined by the road network of the A614 and dense areas of woodland, particularly in association with the Rufford Abbey complex and Registered Park and Garden with its defined boundary on the opposite side of Rufford Lane.

Relevant Planning History

18/02364/FUL - Proposed retention of stables and change of use of land from agriculture (former poultry units) to (domestic) equestrian use ancillary to the residential dwelling approved under LPA reference 17/01026/CPRIOR (retrospective). *Application approved February 2019 albeit this application is on land within the applicants ownership rather than the site itself.*

17/01026/CPRIOR - Notification for Prior Approval for a Proposed Change of Use of Agricultural Building to dwellinghouse and for associated operational development. *Application approved July 2017 thus the conversion works approved remain extant.*

16/00041/CPRIOR - Application for prior approval for change of use of an existing agricultural building to Class C3 (dwellinghouse) including creation of domestic curtilage and vehicle parking area. *Application refused and dismissed at appeal.*

14/01843/CPRIOR - Prior Approval of Proposed Change of Use of Agricultural Building to a Dwellinghouse (Use Class C3). *Application refused and dismissed at appeal.*

11/01500/FUL - Erection of a New Stable Block with Fenced Paddock Area to Provide Part DIY Livery and Partly for Applicant's Own Use. *Application refused and dismissed at appeal.*

The Proposal

The current application seeks full planning permission for the demolition of the existing single storey dwelling (approved through the prior notification procedures) and its replacement with a single detached two storey dwelling. The dwelling would deliver four bedrooms with accommodation set across two floors with an approximate footprint of 293m². The dwelling would have a maximum pitch height of around 7.2m and eaves of approximately 2.5m. The principle elevation is designed with two storey projecting gables and large elements of glazing. Materials proposed are predominantly brick work and clay pantiles albeit with small elements of cedar cladding and an oak framed entrance porch.

The application has been assessed on the basis of the following plans and supporting documents:

- Location Plan – 19-284-01;
- Existing Layout Plan – 19-284-02;
- Proposed Layout Plan – 19-284-03 Rev. A;
- Existing Plans and Elevations – 19-284-04;
- Proposed Elevations – 19-284-05;
- Proposed Floor Plans – 19-284-06;
- Design and Access Statement (with two associated appendices).

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 3 – Rural Areas
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

DM5 – Design
DM8 – Development in the Open Countryside
DM9 – Protecting and Enhancing the Historic Environment
DM10 – Pollution and Hazardous Substances

Other Material Planning Considerations

- National Planning Policy Framework 2019
- Planning Practice Guidance (online resource)

Consultations

Ollerton Town Council - No comments received.

Rufford Parish Council – Rufford Parish Council considered this application at its meeting on 14 May 2019, The councillors unanimously decided to object to the proposal on te following grounds:

1. The design is excessively large with a footprint approximately 50% bigger than the existing building

2. The existing building is single storey. That proposed is substantially higher being two storey

3. The existing building is unobtrusive. The proposed building would be obtrusive and have a significant visual impact.

4. The councillors also question the validity of the application, bearing in mind that the site was an agricultural site for which permission was given to convert a chicken shed to a single story dwelling within the existing footprint.

NCC Highways Authority – The Local Highway Authority, (County Council) considers this proposal to be minor and there will be minimal material impact on transportation and the highway network. Therefore, the application can be dealt with by Nottinghamshire County Council's 'Standing Advice'

NSDC Environmental Health (contaminated land) –The application site has been the subject of an Enhanced Phase I Geo-Environmental Desk Study Report submitted by HSP Consulting Engineers Limited under a previous application (18/02364/FUL).

Following intrusive sampling, none of the analytical results exceeded the relevant screening criteria for the proposed residential use and the report deemed the site to be low risk.

As this application forms part of the same site as the previous application, I do not consider that any further investigation is required at this stage. However the environmental consultant commented previously that there remain further risks associated with the wider site that were not assessed as part of this earlier application. I would therefore expect that a contamination

condition will need to be attached to any planning consent for any areas of the site that did not form part of this earlier application, should they be developed in future.

Ramblers Association - The track that provides access to this property is a public right of way, Ollerton and Boughton Bridleway 1. We have no objection to the development as long as the bridleway remains safe for pedestrian use during the construction process.

3 letters of representation has been received, details of which can be summarized as follows:

- The proposed development would be above the allowances of Policy DM8 in that it would increase the pitch height from around 4m to more than 9m;
- The allowance is enable living improvements should not apply given that the building has only just been converted;
- The increased bulk and height will have a detrimental impact on visual amenity and the character of the area;
- The current building is sympathetic to its agricultural past;
- The development would lead to an increase in curtilage specified by Class Q;
- Comments from the Inspectorate on previous appeals for residential replacement of a small agricultural building are relevant as it explicitly deals with the rural impact of this type of development;
- The proposal would be contrary to Policy DM9 in that it negatively impacts on the historic environment with the replacement being more visible from Rufford Park;
- The current building is suitable for habitation;
- The application is a masterclass in planning manipulation to move a derelict shed to a grand property;
- The finished building misrepresents the status of the building as is;
- The building is significantly larger;
- The proposed dwelling would contribute to a sense of residential over development in an otherwise exposed rural location;
- The curtilage would increase above the Class Q allowances;
- The proposed replacement building is not architecturally outstanding and lacks obvious design innovations.

Comments of the Business Manager

Background

As is alluded to above, the existing dwelling on the site has been delivered through the prior approval 'Class Q' procedure which National Government introduced in order to allow provision for agricultural buildings to be converted to dwellings subject to certain conditions and restrictions. It is worthy of note however than the dwelling as built does not conform strictly with the approved plans insofar as there are not as many windows as was originally shown on the plans.

The drive behind this part of the legislation was to allow the re-use of redundant agricultural buildings to contribute towards the national housing crisis. Whilst allowances through the legislation are subject to conditions (including a requirement to complete the works within 3 years of the approval) there is no reference to whether or not it becomes appropriate for a converted agricultural building to be considered a lawful dwelling for the purposes of further planning

applications (such as this one).

Given the infancy of these types of applications (Class Q was introduced in 2015) there is little case law on the matter to assist. Clearly, the concern for Officers is that if treated as a lawful residential dwelling which ultimately may be acceptably replaced by the current Development Plan in principle, then there is a risk that the original intentions of the Government in bringing back into use vacant agricultural buildings would be lost to a housing stock of new replacement dwellings more often than not in countryside locations.

Officers are aware of an appeal example in 2018 where the Inspector granted permission for a completely new house partially because of the 'fall-back' position of a barn being converted. Whilst there were other material considerations in the appeal scheme and every application must be assessed on its own merits, Officers are minded to attach some weight to this decision given that there is a lack of advice to the contrary. Given that the building has already been converted to residential use (albeit not entirely in accordance with the approved plans) unfortunately it is considered that there would be even more of a case of a strong fall-back position at this site such that it would be difficult to resist the principle of a replacement dwelling purely because the original dwelling has arisen through the change of use prior approval process.

Principle of Development

On the basis of the above, the proposal falls to be assessed against the Development Plan as adopted. The Adopted Development Plan for the District is the Core Strategy DPD (2019) and the Allocations and Development Management Policies DPD (2013). The adopted Core Strategy details the settlement hierarchy which will help deliver sustainable growth and development in the District. The intentions of this hierarchy are to direct new residential development to the Sub-regional Centre, Service Centres and Principal Villages, which are well served in terms of infrastructure and services. Spatial Policy 1 (Settlement Hierarchy) of the Council's Core Strategy sets out the settlements where the Council will focus growth throughout the District. Applications for new development beyond Principal Villages as specified within Spatial Policy 2 will be considered against the 5 criteria within Spatial Policy 3. However, Spatial Policy 3 also confirms that, development not in villages or settlements, in the open countryside, will be strictly controlled and restricted to uses which require a rural setting. Direction is then given to the relevant Development Management policies in the Allocations and Development Management DPD.

Policy DM8 outlines a number of types of development that will be potentially accepted in an open countryside location. Policy DM8 accepts the principle of replacement dwellings subject to the following:

'Planning permission will be granted where it can be demonstrated that the existing dwelling is in lawful residential use and is not of architectural or historical merit. In the interests of minimising visual impact on the countryside and maintaining a balanced rural housing stock, replacement dwellings should normally be of a similar size, scale and siting to that being replaced.'

This has been addressed by the submitted Design and Access Statement and Officers would concur with the stance that the existing dwelling is not of any particular architectural or historical merit which would warrant its retention.

The Design and Access Statement acknowledges that the overall increase in footprint would be approximately 10m² however owing to the introduction of first floor accommodation the increase

in floor space would amount to approximately 40% larger than the existing building.

Rufford Parish Council have objected to the application (as listed in full above) partially on the basis of the scale of the proposed building quoting that the building is 50% larger in footprint. The agent has disputed this point during the life of the application with a revised plan which annotates the existing footprint.

The proposed dwelling is considered to be an acceptable level of increase in the context of the open countryside policy and therefore overall the principle of replacing the dwelling is considered acceptable subject to consideration of all other material planning considerations as undertaken below.

Impact on Character

Policy DM5 refers to the rich local distinctiveness of the District's character of built form requiring new development proposals to reflect their local surroundings. Policy DM5 also confirms that, where local distinctiveness derives from the presence of heritage assets, as in the case in the context of this proposal, development will also need to satisfy Policy DM9. The policy requires that development must promote local distinctiveness and protect heritage assets (including their setting).

Chapter 12 of the NPPF 2018 provides guidance in respect of achieving well-designed places confirming at paragraph 124 that, '*the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.'*

The heritage context of the site comes in the form of the Registered Park and Garden, the boundary of which is the opposite side of Rufford Lane to the site access. Nevertheless, the replacement dwelling would be set back approximately 150m from Rufford Lane and thus the opportunity for the dwelling to affect the setting of the Park and Garden is significantly limited. Owing to the modest overall height of around 7.2m, and indeed the context of the existing site which has previously accommodated a poultry farm and its associated agricultural buildings, the proposed development would not impose any detrimental impacts to the setting of the nearby listed assets. It therefore satisfies the requirements of Core Policy 14 and Policy DM9. This conclusion has been verbally discussed with internal conservation expertise.

Moving then to assess the overall design of the replacement dwelling, it is notable that the Design and Access Statement adopts the approach that the new dwelling offers the potential to enhance the character of the site. Whilst I appreciate the case made in terms of the consolidation of a purpose built dwelling, my view is that this would amount to having a neutral character impact as the replacement dwelling in its modern form would have a greater degree of prominence in comparison to the existing building which clearly still takes reference from its agricultural past. Nevertheless, the landscape has been interrupted through the built form of agricultural buildings for some time and more recently through the acceptance of the retention of a stable block to the south of the site on land within the applicant's ownership. When accepting that there is already a dwelling on site, the modern design presented in a replacement is not considered fatal in principle.

Core Policy 13 of the Core Strategy addresses issues of landscape character. It states that

development proposals should positively address the implications of the Landscape Policy Zones in which the proposals lie and demonstrate that such development would contribute towards meeting the Landscape Conservation and Enhancement Aims for the area.

The District Council has undertaken a Landscape Character Assessment to assist decision makers in understanding the potential impact of the proposed development on the character of the landscape. The LCA provides an objective methodology for assessing the varied landscape within the District and contains information about the character, condition and sensitivity of the landscape. The LCA has recognised a series of Policy Zones across the 5 Landscape Character types represented across the District.

The site borders two policy zones within the Sherwood Policy Zone. The first is PZ 14 (Rainworth Water Meadowlands with Plantations is identified as having a good landscape condition with few detracting features and a moderate landscape sensitivity. One of the landscape actions in terms of built features is to '*reinforce the sense of plan of the built environment by using materials and design that reflect the local character of the area around Rufford Mill*.'

The proposed material palette of red brick thereby offers the opportunity to conform to the landscape actions for built form. Officers have sought clarification on the exact use of materials during the life of the application but the agent has requested these details be agreed by condition.

It is noted that neighbor comments received during the life of the application have made reference to previous appeal decisions whereby an Inspector has considered the landscape impact of a proposed residential replacement of a small agricultural building. In this case (not in this District) it was essentially concluded that a two storey replacement dwelling would have a harmful urbanizing effect on the character and appearance of the countryside. Officers have carefully considered the referenced decision but do not consider that the parallels to the current application are strong enough to carry a refusal on landscape grounds. The landscape implications of the proposal have already been assessed above but it is worthy of note in the context of the identified appeal that the application site already has a small degree of urbanization in the acceptance of the approved stable block (discounting entirely the other unauthorized structures in the site referenced further below). Noting also the proximity to the main urban road network, it is not considered that the landscape impacts would be harmful to a degree that the scheme could be resisted in the same respects as the identified appeal decision.

Impact on Amenity

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.

Owing to its positioning with the open countryside, the site is relatively isolated in respect to residential neighbours. The nearest properties are to the south of Rufford Lane over 150m away. By virtue of this separation gap, it is not considered that there are any adverse impacts upon the amenity of nearby occupiers.

In terms of the amenity provision for the end occupiers of the dwelling, the site layout plan demonstrates a modest outdoor amenity provision. This is based on (albeit is slightly bigger than) the restrictions of the change of use prior approval process whereby the amenity space is restricted to the size of the building to be converted. Given the circumstances in which the existing

dwelling has come about, the modest amenity space is considered beneficial to limiting the impact on the open countryside (i.e. if it were bigger a wider proportion of the area would become domesticated). Officers are conscious that there are wide expanses of the adjacent land within the applicants ownership and therefore to mitigate the risk of future encroachment, further details of the boundary treatments to define the residential curtilage as presented have been requested. The agent has confirmed that these details could be agreed by a suitably worded condition.

Impact on Highways

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 seeks to ensure no detrimental impact upon highway safety.

The change of use prior approval process allows for the consideration of Highways access. The existing access from Rufford Lane has been found acceptable for the occupation of a single residential unit and given that the current application relates to a replacement dwelling, it is not envisaged that there will be any perceivable impact on the Highways network.

Impact on Contamination

The previous site use (prior to residential conversion) was a poultry farm. As is confirmed by the comments of Environmental Health listed in full above, the applicant has already done exploratory works to meet the requirements of a contaminated land condition which was imposed on the original change of use permission. On the basis that the replacement dwelling occupies the same position within the site, no further works would be required to allow for the replacement dwelling as proposed.

Other Matters

It is noted that as existing there are unauthorized residences in the form of a mobile home and a residential caravan. These have been discussed with the agent acting on behalf of the application and it has been confirmed that these are in situ during the renovation works of the existing building which whilst habitable is not yet complete. This is a reasonable justification and indeed one that is readily accepted through permitted development rights. Nevertheless, Officers will continue to monitor the status of the site through their enforcement powers regardless of the outcome of this application.

Overall Balance and Conclusion

The complex planning history which affects this site is noted. However, in the absence of any specific case law that a change of use prior approval dwelling cannot be considered as a lawful residential dwelling (and in fact the case law directs to the contrary) there is no reason to resist the replacement of the existing dwelling in principle. No other harm has been identified through the specific design of the scheme in respect to matters of character or amenity and therefore the recommendation is for one of approval subject to the conditions outlined below.

RECOMMENDATION

That planning permission is approved subject to the conditions shown below:

Conditions

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
The development hereby permitted shall not be carried out except in complete accordance with the following approved details and plans reference:

- Proposed Layout Plan – 19-284-03;
- Proposed Elevations – 19-284-05;
- Proposed Floor Plans – 19-284-06;

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.

03
No development above damp proof course shall take place until manufacturers details (and samples upon request) of the external facing materials (including colour/finish) 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.

Reason: In the interests of visual amenity.

04
Prior to the occupation of the development hereby permitted, details of all boundary treatments shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented on site and shall then be retained for a minimum of five years.

Reason: In the interests of residential and visual amenity.

Notes 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/

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
This application has been the subject of discussions during the application process to ensure that the proposal is acceptable. The District Planning Authority has accordingly worked positively and

pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

03
Should any works be required to be carried out within the public highway, they should be constructed to the satisfaction of the Highway Authority. You would, therefore, be required to contact VIA, in partnership with NCC, tel: 0300 500 8080 to arrange for these works to be carried out.

BACKGROUND PAPERS

Application case file.

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

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

Matt Lamb
Director Growth and Regeneration

Committee Plan - 19/00701/FUL