

## PLANNING COMMITTEE – 2 JULY 2019

<b>Application No:</b>	<b>19/00868/FUL</b>	
<b>Proposal:</b>	<b>Erection of 4(No.) Dwellings and Associated Garages (Re-submission of 18/00599/FUL)</b>	
<b>Location:</b>	<b>Land To The Rear Of 8 Main Street Sutton On Trent Nottinghamshire</b>	
<b>Applicant:</b>	<b>Mr &amp; Mrs C &amp; L Beeby</b>	
<b>Registered:</b>	<b>08.05.2019</b>	<b>Target Date: 03.07.2019</b>

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

### The Site

The application site is a broadly rectangular plot of approximately 0.36 hectares in extent to the west of, and accessed via, Main Street in the village of Sutton on Trent. The site is within the designated Conservation Area and is immediately adjacent to a Main Open Area as defined by the Proposals Map for the Village. Other constraints affecting the site include designation within Flood Zone 2 according to the Environment Agency maps. There is a public right of way along the southern boundary of the site and trees protected by Preservation Order on land to the west (part of the Main Open Area) but neither of these affects the site itself.

The site access from Main Street continues some 55m between residential curtilages before reaching the main portion of the site (the residential curtilage to the south of the access known as Holly House Farm is within the applicant's ownership as shown by the site location plan). The site as existing constitutes a vacant field with dispersed tree cover around the boundaries. The site is predominantly laid to grass and gated at the access. It is understood from the submitted Planning Statement that the site has served as a paddock but at the time of site visit the north eastern corner contained storage of miscellaneous materials.

### Relevant Planning History

The following applications relate to the site and are considered relevant to the determination of the current application:

**18/00599/FUL** - Erection of 4(No.) Dwellings and Associated Garages. *Application refused May 2018 on the basis of two reasons as follows:*

01

*The application site is within Flood Zone 2 according to the Environment Agency maps. The delivery of four residential units within Flood Zone 2 would necessitate the application of the Sequential*

*Test as per the advice at para. 101 of the NPPF. Despite attempts through the application submission to demonstrate that the Sequential Test has been passed, the Local Planning Authority remain of the view, as per previous refusals, that the development fails the Sequential Test and therefore should be resisted in accordance with Core Policy 10 (Climate Change); Policy DM5 (Design); Chapter 10 of the NPPF; and Planning Practice Guidance: Flood Risk and Coastal Change. There are no other material considerations that outweigh this view.*

02

*In the opinion of the Local Planning Authority this scheme of 4, five bedroom detached dwellings does not provide for an appropriate mix and does not reflect local need. The proposal is therefore considered to be an unsustainable form of development that is contrary to Core Policy 3 (Housing Mix, Type and Density) of the Newark and Sherwood Core Strategy DPD (Adopted March 2011), and Policy DM12 (Presumption in Favour of Sustainable Development) of the Newark and Sherwood Allocations and Development Management DPD (Adopted July 2013) which together form the Development Plan. It is also contrary to the National Planning Policy Framework (NPPF), a material planning considerations.*

*The application was subsequently dismissed at appeal.*

**14/01926/FUL** - Erection of Residential Development: 4(No.) Houses and Associated Garages (Resubmission of 13/00998/FUL). *Application refused December 2014 for two reasons relating to the flood risk of the site and a lack of provision for affordable housing.*

**13/01012/CAC** - Demolition of North Range of Outbuildings to Facilitate Access and Erection of Residential Development: 4(No) Houses and Associated Garages. *Application approved.*

**13/00998/FUL** - Demolition of North Range of Outbuildings to Facilitate Access and Erection of Residential Development - 4(No.) Houses and Associated Garages. *Application refused October 2013 for three reasons relating to the flood risk of the site; impacts on the designated Conservation Area and a lack of provision for affordable housing.*

**95/51681/FUL** - Erect five dwellings and demolish outbuildings. *Application refused September 1995.*

### The Proposal

The current application forms a re-submission of the aforementioned refused application in 2018 albeit with design changes. Primarily the proposed development now relates to the consideration of four single storey bungalows arranged with their principle orientations around a shared courtyard with a central vehicular access. The proposal would deliver:

- Plot 1 – 2 bed property;
- Plot 2 – 2 bed property;
- Plot 3 – 3 bed property;
- Plot 4 – 4 bed property.

The maximum pitch heights proposed would be approximately 5m with eaves of around 2.4m. The design of the dwellings is intended to follow a traditional agricultural building style with red facing brick and natural clay pantiles.

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

- Planning Statement, Design and Access Statement and Heritage Impact Assessment dated May 2019;
- Local Housing Need dated May 2019;
- Flood Risk Assessment Sequential Test dated May 2019;
- Flood Risk Assessment dated 16<sup>th</sup> March 2019 – WFR-FRA-2018/02/Q23;
- Site Location Plan;
- Topographical Survey – 11 / 61 / 2010 dated 20<sup>th</sup> August 2012;
- Site Plan – 347 P 05 dated May 2019;
- Floor Plan – 347 P 06 Rev. A dated May 2019;
- Elevations – 347 P 07 Rev. A dated May 2019;
- Landscaping Site Plan – 347 P 08 dated May 2019.

#### Departure/Public Advertisement Procedure

Occupiers of 13 properties have been individually notified by letter, a site notice has been displayed and an advert 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 - Spatial Distribution of Growth  
Spatial Policy 6 – Infrastructure for Growth  
Spatial Policy 7 - Sustainable Transport  
Core Policy 3 – Housing Mix, Type and Density  
Core Policy 9 -Sustainable Design  
Core Policy 10 – Climate Change  
Core Policy 10A – Local Drainage Designations  
Core Policy 12 – Biodiversity and Green Infrastructure  
Core Policy 13 – Landscape Character  
Core Policy 14 – Historic Environment

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

DM1 – Development within Settlements Central to Delivering the Spatial Strategy  
DM3 – Developer Contributions and Planning Obligations  
DM5 – Design  
DM7 – Biodiversity and Green Infrastructure  
DM9 – Protecting and Enhancing the Historic Environment

##### Other Material Planning Considerations

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

- Inspectors Decision on previous scheme APP/B3030/W/18/3204709 dated 10<sup>th</sup> October 2018.

### Consultations

**Sutton on Trent Parish Council** - At a meeting of the Parish Council held on Tuesday 11<sup>th</sup> June, the members voted unanimously to object to this application on the grounds as stated on previous applications for this site, namely flood risk (Flood Zone 2) and poor access onto Main Street.

### **Environment Agency** – Environment Agency Position

The proposed development will only meet the National Planning Policy Framework's requirements if the following planning condition is included (*included in recommendation below*).

**Trent Valley Internal Drainage Board** – The site is within the Trent Valley Internal Drainage Board district.

The Board maintained Cuckstool Dyke, an open watercourse, exists along the boundary of the site and to which BYELAWS and the LAND DRAINAGE ACT 1991 applies.

The Board's consent is required to erect any building or structure (including walls and fences) whether temporary or permanent, or plant any tree, shrub, willow or other similar growth within 9 metres of the top edge of any Board maintained watercourse or the edge of any Board maintained culvert.

The Board's consent is required for any works, whether temporary or permanent, in, over or under, any Board maintained watercourse or culvert.

The erection or alteration of any mill dam, weir or other like obstruction to the flow, or erection or alteration of any culvert, whether temporary or permanent, within the channel of a riparian watercourse will require the Board's prior written consent.

The Board's consent is required for any works that increase the flow or volume of water to any watercourse or culvert within the Board's district (other than directly to a main river for which the consent of the Environment Agency will be required).

The Board's consent is required irrespective of any permission gained under the Town and Country Planning Act 1990. The Board's consent will only be granted where proposals are not detrimental to the flow or stability of the watercourse/culvert or the Board's machinery access to the watercourse/culvert which is required for annual maintenance, periodic improvement and emergency works. The applicant should therefore note that the proposals described within this planning application may need to be altered to comply with the Board's requirements if the Board's consent is refused.

Surface water run-off rates to receiving watercourses must not be increased as a result of the development.

The design, operation and future maintenance of site drainage systems must be agreed with the Lead Local Flood Authority and Local Planning Authority.

## **NSDC Conservation –Original comments received 5<sup>th</sup> June 2019:**

### Legal and policy considerations

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'.

Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. The importance of considering the impact of new development on the significance of designated heritage assets, furthermore, is expressed in section 12 of the National Planning Policy Framework (NPPF).

Paragraph 132 of the NPPF, for example, advises that the significance of designated heritage assets can be harmed or lost through alterations or development within their setting. Such harm or loss to significance requires clear and convincing justification. The NPPF also makes it clear that protecting and enhancing the historic environment is sustainable development (paragraph 7).

Additional advice on considering development within the historic environment is contained within the Historic England Good Practice Advice Notes (notably GPA2 and GPA3). In addition, 'Historic England Advice Note 2: making changes to heritage assets' advises that it would not normally be good practice for new work to dominate the original asset or its setting in either scale, material or as a result of its siting. Assessment of an asset's significance and its relationship to its setting will usually suggest the forms of development that might be appropriate. The junction between new development and the historic environment needs particular attention, both for its impact on the significance of the existing asset and the impact on the contribution of its setting.

### Significance of heritage asset(s)

The land to the rear of 8 Main Street is located in the Sutton on Trent Conservation Area, first designated in 1992. The backland of Main Street of Sutton on Trent has been somewhat undermined by the development of late C20 and early C21 houses set back extensively from the street frontage. As such the application site, which once belonged to the wider arrangement of open fields and countryside, is now almost entirely enclosed by new houses, most prominently from Rose Farm Drive, accessed off Palmer Road.

### Assessment of proposal

The conservation team did not object to the previous scheme (18/00599/FUL). The proposal is similar, four units placed around a courtyard, however the design of the units has been altered.

The overall design approach is more successfully reflects an agricultural/stable courtyard development. However, it is considered that there are some fundamental elements that require amendments, which could significantly improve the overall design of the development.

There has been greater success with the courtyard side elevations compared to the external elevations. The external elevations have considerable number of patio doors that do not relate to

a traditional agricultural form. In some parts the external elevations of the courtyard are going to be more visible. For example Unit 1 & 2 the patio doors will be highly visible.

Integrated garages is not a high quality design approach. The garage openings do not reflect a traditional building form. These would be more suitable in the cartshed. In addition, the openings to the cartshed would have been to the internal elevation of the courtyard rather than the external.

Tarmac is proposed in front of the garages. Block paving as proposed for the other areas would produce a high quality finish and what is expected for a traditional agricultural courtyard.

Landscaping plan doesn't provide much information regarding areas marked as 'M', will this be grassed, hard surface? Vertical close boarded boundary between the plots is not appropriate for this type of development. It creates a domestic characteristic on a development that is following an agricultural design approach. Any boundary should be post and rail or soft landscaping.

**NSDC Strategic Housing** - The District Council's Core Strategy (2019), Core Policy 1 (CP1), seeks to secure 30% affordable housing provision as defined in national planning policy (NPPF) on all new housing development proposals on qualifying sites. The requirement on the proposed site (Main Street, Sutton on Trent) does not meet the threshold for affordable housing delivery (10 units and above) therefore there is no requirement to provide affordable housing (subject to site size).

I shall refer to the applicant's consideration of housing need for the Sutton on Trent area below.

#### Housing Need

The application site is located within the village of Sutton on Trent which is defined as a principal village allocated to deliver 5% of the district's growth in the settlement hierarchy contained within Spatial Policy 1 of the Core Strategy. These villages seek to address identified local housing need in a sustainable manner and promote and protect the roles of the service centres and principal villages as locations for local services and facilities.

In 2016 Sutton on Trent Parish Council commissioned a Parish Housing Needs Survey. The survey aimed to establish a picture of housing need and demand/preferences in the parish of Sutton on Trent. The survey identified there was a need for 4 affordable homes and 16 open market (sale) homes for local people enabling them to be suitably housed within the community. These are detailed below:-

- 4 were assessed as being in need of affordable housing for rent and shared ownership
  - 2 x 2 Bed Houses – affordable rented
  - 2 x 2 Bed Bungalows – affordable rented
  
- 16 were assessed as being in need of open market housing (for local people) to purchase
  - 2 x 1 Bed Flats
  - 7 X 2 Bed Houses – open market
  - 3 x 4 Bed Houses – open market
  - 2 x 2 Bed Bungalows – open market
  - 1 x 3 Bed Bungalow – open market
  - 1 x 4 bed Bungalow – open market

I turn to the issue of demonstrating 'proven local need'. In general local need refers to a need for affordable housing; usually where the market cannot meet the needs of people who are eligible for subsidised housing such as social /affordable rented or shared ownership. For market housing, it is usual to refer to any 'need' as a preference or demand. Where it may be possible to meet that preference or demand through existing housing stock i.e. it would be difficult to identify a proven local need for a three bedroom dwelling if the housing stock in Sutton on Trent has a good supply of this type of housing and they appear on the open market for sale. Currently there are a range of existing and new build 2, 3, 4 and 5 bedroom houses for sale that would contribute to meeting demand. I acknowledge that there are no bungalows for sale currently.

There is a requirement/preference for two units of two and three bedroom bungalows for households wishing to downsize to smaller accommodation on one level to meet the needs of residents with mobility issues. (the requirement for a four bed bungalow is a preference). Whilst, in my view a preference for market housing does not constitute need, respondents requiring property to meet the needs of disabled people could be considered as being in need if they prefer to remain in the local area for support networks. However, my main concern would be the issue of affordability. The proposed development may exceed affordability for those identified in need and therefore the issue of meeting need is irrelevant.

I note the survey is now three years old and the needs of some respondents may have changed substantially and I would perhaps consider an update to the survey to provide up to date information. For information I have attached below the sub area report (2014) from the District Wide Housing Market and Needs Assessment.

**NCC Highways** - The proposal will provide 4 new dwellings with associated garages, served by an access that, in the most part, is 5m wide. This narrows down to 4.25m at a pinch point by the corner of the existing house. The existing access already serves two homes and some land to the rear. Whilst it would be ideal to have a 5m wide access along the whole length of driveway it would appear unreasonable to insist on this when the ability for one car to pass another can still occur, albeit slowly. In the worst case scenario one car would wait for another to pass, but this can be achieved outside of the public highway boundary, and at a location that provides good inter-visibility between drivers.

It is also noted that visibility for drivers emerging from the access is less than the normally accepted standards to the north/left. However, the same access has been used by two sets of residents with no recorded accidents in the last 5 years. It is also recognised that Main Street, in the vicinity of the access, is particularly wide – there is space for parking on both sides and still allow the free passage of two-way traffic. This means that cars leaving the access can safely edge forward to the carriageway, where visibility increases, with negligible risk of collision. Visibility in the more critical direction to the south/right is adequate.

Refuse vehicles would not be expected to enter the site, and carry distances should not be greater than 25 metres. So, it is recommended that a refuse collection point be provided within the scheme to allow easy collection.

The proposal provides adequate parking provision and a turning area.

The proposal is acceptable subject to the following conditions:

The access shall be constructed and surfaced in a bound material in accordance with submitted drawing 347 P 08, and no part of the development shall be occupied until the access has been completed in accordance with that drawing.

Reason: To prevent loose material being deposited on the public highway and to provide adequate, safe access.

No part of the development shall be occupied until a refuse collection point has been provided within the site curtilage, and not within the highway, in accordance with details that have first been submitted to and approved in writing by the LPA.

Reason: To ensure waste collection bins do not obstruct the highway.

#### NOTE TO APPLICANT:

During construction please note that it is an offence under S148 and S151 of the Highways Act 1980 to deposit mud on the public highway and as such you should undertake every effort to prevent it occurring.

**Ramblers Association** – No comments received.

**Representations have been received from 6 local residents/interested parties which can be summarised as follows:**

- The proposal is over development of the site with limited access, which has been refused before;
- The potential for up to 8 vehicles accessing Main Street from the site and the loss of soakaway next to a watercourse in a flood risk areas raises environmental issues;
- There are already numerous highways accesses along this stretch of the road;
- There is an existing issue with on street parking which puts pedestrians at risk;
- The road is very busy at peak times;
- Access to the site for emergency or delivery and refuse vehicles would be difficult;
- There are building projects already taking place resulting in extra vehicles;
- Extra development would put pressure on amenities and resources and loose open space valuable to wildlife;
- The site plan encroaches onto neighbouring land on a shared access triangle such that neighbouring land forms part of the application;
- The owner of the land will object to the vehicles driving over the land;
- The access is not wide enough for the number of dwellings;
- The FRA is too difficult for a layman to understand but the disclaimer is concerning;
- Welcome a meeting with highways / planning to discuss concerns;
- The applicant has recently cut down trees to the northern boundary of the proposed site showing disregard for the conservation setting of the site.

#### Comments of the Business Manager

#### Principle of Development

The starting point for development management decision making is S.38(6) of the Planning and



Compulsory Purchase Act 2004, which states that determination of planning applications must be made in accordance with the development plan *unless* (emphasis added) material considerations indicate otherwise.

The Adopted Development Plan for the District is the Core Strategy DPD (2019) and the Allocations and Development Management Policies DPD (2013). The Council is of the view that it has and can robustly demonstrate a 5 year housing land supply. This has been rehearsed many times before and as such I do not intend to rehearse this in full other than to say that the policies of the Development Plan are considered up to date for the purposes of decision making. This has been confirmed by Inspectors through recent appeal decisions.

The application site is located within the urban boundary of Sutton on Trent which is defined by the Settlement Hierarchy as a Principal Village expected to accommodate around 5% of the overall Principal Village growth. The principle of development within the site is therefore accepted albeit it nevertheless remains that the application would need to satisfy the remainder of the Development Plan in terms of impacts etc. This includes in respect of heritage; character; and amenity impacts, but more notably given the planning history on the site, impacts on flood risk and housing mix.

#### Housing Mix and Density

Core Policy 3 outlines the expectations of the Development Plan in respect to housing mix, type and density seeking good quality housing design in line with the provisions of Core Policy 9. It states that development densities in all housing development should normally be no lower than an average 30 dwellings per hectare. Densities below this will require site specific justification. The Planning Statement submitted to accompany the application states that the proposal represents a density of just 12 dwellings per hectare (when access area is discounted). It is notable that this falls significantly below the aspirations of CP3 but in some respects I would concur with the presented position that these densities would reflect the low density character of the surrounding area. To insist on an increased density would have potentially greater character and amenity impacts given the location of the site within the Conservation Area and bounded by residential curtilages in all respects except to the west. It is also notable that the Inspector did not dispute this density on the previously refused appeal scheme.

It is necessary to draw attention to the Inspector's decision on the previously refused application noting that the second reason for refusal referred specifically to housing mix.

*24. The Sutton on Trent Housing Needs Report (HNR) was finalised in March 2016 after the determination of the previous applications at the site. The appellant has drawn my attention to appeals in other parts of the country where such evidence was afforded limited weight. Nonetheless, the Inspector conclusions were clearly influenced by the differing methodologies and age of the specific documents in each case and therefore, the HNR cannot be disregarded solely on the basis of those appeal decisions.*

*25. The HNR intends to assess the requirement for both affordable housing for rent and shared ownership, together with open market housing. However, the evidence before me indicates that the HNR does not form part of the evidence in the examination library for the Amended Core Strategy. Furthermore, the needs identified relate to only the views of a specific number of respondents to the survey, which reflects only a limited number of the overall households in Sutton on Trent and a snapshot in time where personal circumstances can change. As such I cannot find*

*that it represents robust or reliable evidence of current local needs upon which a mix of housing types should be restricted in the context of Core Policy 3 of the CS or the Framework.*

*26. The 2015 Strategic Housing Market Assessment identified a need for different sizes of homes across the Nottingham Outer Housing Market Area, including 10% of market housing to consist of 4+ bed. The 2014 Housing Needs, Market and Affordability Study also found a need for a significant proportion of dwellings of 3 bedrooms or more in the District. Whilst it is evident that the existing commitments in Sutton on Trent include a significant proportion of larger family housing, there is no evidence to suggest that there would no longer be a requirement for such housing in the wider Newark & Sherwood District. Consequently, I find no specific conflict with Core Policy 3 of the CS as the proposal falls within the definition of family housing of three bedrooms or more that would address the wider housing need of the District.*

Notwithstanding the stance of the Inspector, the applicant has presented a fundamentally different housing mix to the previous scheme which sought for two storey properties all with five bedrooms. As is detailed in the proposal section above, the proposal now seeks for a varied mix of bungalows claiming to be based on the outstanding housing needs of the village.

The results of the HNR confirms a need for 16 open market dwellings including four bungalows. The current application has directly replicated this need in the proposal and therefore would now demonstrate a scheme which meets a locally identified need. This has been reflected in the comments of the Strategic Housing Officer and therefore should weigh positively in the overall planning balance.

Despite the planning history referred to above, as with the previous application, it remains that the scheme would not be required to deliver an affordable housing contribution. This was also addressed through the Inspectors decision as below:

*23. Paragraph 63 of the Framework has subsequently altered the thresholds, by stating that provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). The definition of major development in the Framework for housing consists of development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. The site is not in a designated rural area and the proposal falls below the thresholds in the Framework. Consequently, provision of affordable housing is not required as part of the proposal.*

### Impact on Flood Risk

The site is entirely within Flood Zone 2 on the basis of the latest Environment Agency maps. The maps on which the current decision is based were provided by the Environment Agency in November 2017.

The National Policy Framework (the NPPF) provides guidance on dealing with development within Flood Zones 2 and 3. Chapter 10 of the NPPF outlines that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change, by:

- applying the Sequential Test;
- if necessary, applying the Exception Test;
- using opportunities offered by new development to reduce the causes and impacts of flooding; and
- where climate change is expected to increase flood risk so that some existing development may not be sustainable in the long-term, seeking opportunities to facilitate the relocation of development, including housing, to more sustainable locations (paragraph 100).

Paragraph 101 of the NPPF confirms that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.

The above guidance is reflected in Core Policy 10 of the Newark and Sherwood Core Strategy which states that when determining development proposals, the Council will, informed by national guidance and the District's Strategic Flood Risk Assessment, apply a sequential approach to future development and will work with partners to secure strategic flood mitigation measures as part of new development.

Policy DM5 of the Allocations and Development Management DPD contains similar provisions, confirming that the Council will aim to steer new development away from areas at highest risk of flooding. Policy DM5 confirms that proposals within Flood Zones 2 and 3 will only be considered where they constitute appropriate development and it can be demonstrated, by application of the Sequential Test, that there are no reasonably available sites in lower risk Flood Zones. Where development is necessary within areas at risk of flooding, proposals will also need to satisfy the Exception Test where applicable by demonstrating they would be safe for the intended users without increasing flood risk elsewhere. In accordance with the aims of Core Policy 9, proposals should wherever possible include measures to pro-actively manage surface water including the use of appropriate surface treatments in highway design and Sustainable Drainage Systems.

Clearly matters of flooding have been raised as an issue through assessment of previous applications on the site amounting in refusals of development on this basis. The Inspector in the latest decision commented specifically on the LPA's application of the Sequential Test:

*11. With regard to the above, the Environment Agency did not comment specifically on the sequential test as part of the application and I can afford little weight to its undated and archived guidance. Nonetheless, to my mind, a District-wide approach would be reasonable as a starting point where there is an absence of alternative up-to-date guidance relating to the area of search for the sequential test within an SFRA, unless policies of the CS or A&DM indicate otherwise. In that respect, when having regard to the settlement hierarchy in Spatial Policy 1 of the CS and its approach of subdividing settlements into Areas of the District, to my mind, there is scope to reduce the area of search upon which the sequential test should be applied.*

*15. The assessment of housing proposals relative to Spatial Policy 2 of the CS and Policy DM1 of the A&DM is necessarily subject to the requirements of Policy DM5 where flood risk is a constraint. The sequential test provided is based upon an area of search focused upon Sutton on Trent only and on that basis, identified no other land that would be suitable, available or deliverable at a lower flood risk than Flood Zone 2. However, in the particular circumstances of this case, I consider that such an area of search is unnecessarily restrictive for additional market housing that would exceed the residual housing requirement for the settlement to be met in Spatial Policy 2 of the CS.*

The case presented through the current application is that the scheme has been specifically designed to meet the unmet local need for market bungalows not secured through the allocated site development and therefore the Sequential Test area can be limited to the Parish of Sutton on Trent.

It is notable that (as acknowledged by the current submission) such restriction of area in the application of the Sequential Test has been applied elsewhere in the District, specifically a scheme in North Muskham (18/00597/FULM - Proposed development of 12 affordable homes and 4 market bungalows (Re-submission of 16/01885/FULM). The applicant referenced this application in their Appeal submission for the previous refusal prompting the Inspector to comment as follows:

*[17.] The appellant has also referred to a more recent Council decision in North Muskham where the sequential test was also applied at a settlement level. However, based on the evidence before me, the development in that case included affordable housing that met identified local needs which reflects different circumstances to the proposal before me.*

Clearly, the applicant has attempted to address the above point by ensuring that the current development would meet a local housing need and thus would better align with the circumstances of the North Muskham proposal (albeit still would not be in relation to an affordable housing scheme).

The position of the Inspector (paragraph 25 listed in full above) is clear that the HNR does not represent robust or reliable evidence of the current local housing need of the village. It is equally notable that the comments of the Strategic Housing Officer make clear that in respect of market housing, it is appropriate to refer to the results of the survey as a preference rather than an explicit need (albeit in this specific survey some of the responses referred specifically to wanting single storey properties for mobility issues which moves back towards becoming a need).

It is appreciated that this specific case is not exactly the same as the North Muskham case referred to above. However, the proposal as revised does now align with the results of the HNR which could only reasonably be delivered in Sutton on Trent. In the interests of consistency, Officers find it reasonable to apply the Sequential Test at the village level. As is commented by the Inspector at paragraph 15 (listed in full above) the applicant has confirmed that there are no other suitable, available or deliverable sites at a lesser risk of flooding within the village and therefore the Sequential Test is considered to be passed.

Buildings used for dwelling houses are classified as a more vulnerable use in flood risk terms. More vulnerable uses are considered appropriate in Flood Zone 2 without the need to pass the Exception Test. The Environment Agency have not objected to the application subject to the development being carried out in accordance with the mitigation measures outlined by the submitted Flood Risk Assessment.

#### Impact on Character (including the Heritage Context)

Policy DM5 of the Allocations and Development Management DPD considers the matter of design. Criterion 4 of this policy outlines that the character and built form of new proposals should reflect the surrounding area in terms of scale, form, mass, layout, design, materials, and detailing. Policies CP14 and DM9 of the Council's LDF DPDs, amongst other things, seek to protect the historic

environment and ensure that heritage assets are managed in a way that best sustains their significance.

As is identified by the description of the site, the built form of the proposed development would be set back a significant distance from Main Street. On this basis it is considered appropriate to consider the development as backland. Policy DM5 states that proposals creating backland development will only be approved where they would be in keeping with the general character of the area. As with the previous assessment on the site, I am mindful that there is existing development set back from Main Street and Rose Farm Drive to varying degrees both immediately north and south and of the site boundary. On this basis I do not consider that the backland nature of the development would be harmful in principle.

Noting the Conservation Area context of the site, the design has been appraised by the Council's conservation expertise. The Conservation Area is predominantly characterised by historic farmsteads and cottages laid out within historic plots perpendicular to the street. No 8 Main Street is regarded as a positive building in the Conservation Area. As a farmhouse, it would seem logical that any proposals for the rear site make reference to this. The courtyard shown on the submitted plan is suggestive of a crew yard, which is positive. The comments of the Conservation Officer (as listed in full above) raise no objection to the proposal noting that the overall design approach reflects an agricultural / stable courtyard development. However, recommendations for revisions to improve the overall design were offered including in respect to the exact detailing of patio doors and the used of integrated garages with inappropriate doors. Comments were also made in respect to indicated hard surfacing and landscaping.

The agent has responded to the comments largely referencing similarities with the previous schemes which were not resisted on design and character grounds. To be clear however, the comments of the Conservation Officer do not advance to an objection as such; merely recommendations to improve the design. Some of the changes have been taken on board in the revised plans received but not all. Specifically there remains an intention to use tarmac drives and close boarded timber fences (the latter retained by reference to the recent development on the Charles Church scheme).

Officers consider that the agent makes a valid point in respect to the use of tarmac and timber fencing in that this has not been raised as an issue in previous application determinations on the site. I agree with the stance of the agent that the use of timber fence and tarmac would not be dissimilar to the ongoing developments in the village or indeed with the boundary relationships which exist surrounding the site. On this basis Officers do not consider this to be sufficient reasoning to resist the application (again noting the Conservation Officer has not objected / identified heritage harm). Conditions in respect to materials, finish and landscaping could be attached to any approval as agreed with the agent.

### Impact on Amenity

Policy DM5 of the DPD states that development proposals should ensure there are no unacceptable reductions in amenity including overbearing impacts and loss of privacy upon neighbouring development. The NPPF seeks to secure high quality design and a high standard of amenity for all existing and future occupants of land and buildings.

The application site boundaries adjoin the residential curtilages of 5 dwellings and thus there is significant potential for the proposal to impose on neighbouring amenity. Nevertheless, given the

depth of the site, the rear elevations of Plots 1 and 2 would be at least 55m away from the rear elevations of the adjoining properties fronting Main Street (the host dwelling Holly House Farm and Pear Tree House). It is my view that the most likely affected neighbouring dwellings would be the property known as 1 The Vines to the north and 17 Rose Farm Drive to the south.

To deal firstly with the dwelling to the south, the development would be intervened by the existing public footpath. There is also an existing hedgerow and dispersed trees along this boundary. Plot 3 would share the closest relationship with 17 Rose Farm Drive with an approximate distance between the two properties of 9m at the closest point. The majority of the bulk of the dwelling at Plot 3 would be in line with the foot print of the adjacent dwelling. Notwithstanding this, the single storey nature of the development would reduce its overall impact to one which could be adequately mitigated through an appropriate boundary treatment which is shown on the landscaping plan to be the retention of an existing hedgerow. On this basis I do not consider that the proposal would amount to a detrimental amenity impact to the neighbouring property to the south.

Moving then to assess the relationship with 1 The Vines, the distance between built form of Plot 2 would be approximately 6.4m from the side elevation of the neighbouring dwelling at the closest point. The same appraisal applies in that the built form of the development would be single storey. I am however mindful that the development proposals would extend some 45m from the rear elevation of the neighbouring property into the application site. Whilst extending some distance to the rear of the neighbouring dwelling, I do not consider that there would be overbearing impacts that would be sufficiently harmful to refuse the proposal on amenity grounds. The development retains a distance of at least 3.4m from the site boundary and the built form would be single storey which would be partially screened by the existing fence boundary treatment. It is also notable that the Inspector did not raise matters of amenity as a concern in the previous assessment which was in relation to a two storey scheme.

Policy DM5 also requires assessment in respect to the amenity provision for the proposed occupiers. Owing to the low density delivery of the site each plot is afforded a generous level of amenity space with is deemed commensurate to the dwelling size.

### Impact on Highways

Spatial Policy 7 indicates that development proposals should be appropriate for the highway network in terms of the volume and nature of traffic generated and ensure the safety, convenience and free flow of traffic using the highway are not adversely affected; and that appropriate parking provision is provided. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision.

It is noted that part of the reason for the Parish Council's objection is on the basis of the site access. Indeed the comments of NCC Highways Authority do reference that the access has some compromises both in terms of its width at a pinch point but also its visibility. However, Officers are minded to agree with the pragmatic approach of the NCC Highways comments which reference that the access has already been used for residential access without cause for concern. It is equally the case that the pinch point would still allow two vehicles to pass, albeit slowly. Without an objection from the Highways Authority it would be extremely difficult to resist the application purely on a highways access basis (especially noting this has not been raised as an issue in previous refusals / Inspector decisions) and therefore the conditions as suggested by the Highways

Authority are considered sufficient mitigation to allow the proposal to be compliant with Spatial Policy 7 and the relevant aspects of Policy DM5.

### Other Matters

There are trees and hedges along the development site boundaries. Having visited the site, I do not consider that the development as proposed would unduly affect these specimens and therefore it is not considered reasonable to request a Tree Survey. Comments have been received during the consultation process stating that trees have already been removed without the necessary conservation area approvals. This was already brought to the LPA's attention through separate enforcement processes and it has been concluded that it would not be expedient to take further action in this case. If approval were to be forthcoming then exact details of proposed landscaping could be agreed by condition.

Neighbour comments were received to state that the application plans were incorrect in respect to the access arrangements encroaching on to neighbouring land. I have contacted the neighbouring party in question to clarify interpretation of their comments and it has been confirmed their view is that the red line site location plan dissects a triangle of shared ownership land. The agent has been asked to confirm that the red line is correct in respect to ownership on this basis and confirmation has been received that the entire red line site is within the applicant's ownership which is satisfactory in terms of confirmation to allow the determination of the application to proceed. Matters of permission to cross land would be a separate private legal matter. I am satisfied that the applicant has served the appropriate ownership notices and do not consider it necessary to withhold determination on this basis.

There is a public footpath immediately to the south of the site. I do not consider that the development would affect the efficient usability of this footpath. Equally I do not consider that the development would affect the trees protected by Preservation Order in the immediate site surroundings.

### Conclusion

For the purposes of decision making, the Development Plan is up to date. The site lies within the village of Sutton on Trent where development is accepted in principle. However, the site is subject to other constraints notably that it falls within Flood Zone 2 according to the Environment Agency maps. This has been a cause for concern in previous assessments of development within the site which the current re-submission has attempted to address through an entirely different housing mix.

The development as now presented would provide four bungalows which meet the requirements of Sutton on Trent HNR. On this basis, the proposal is now considered to pass the Sequential Test in flood risk terms contrary to other decisions on this site. It is fully acknowledged that the dwellings would still be for open market and would not make a contribution towards affordable housing (as the application does not meet the trigger) but the delivery of bungalow accommodation is supported particularly in the context of the nearby allocated site which does not include any single storey accommodation.

The applicant has revised the scheme during the life of the application to address some of the concerns raised by the Conservation Officer which is welcomed. No heritage harm has been identified subject to conditions which is equally the case for matters of amenity and highways

impacts. On this basis, the housing delivery of four bungalows holds determinative weight and the recommendation is one of approval as outlined below.

## **RECOMMENDATION**

**That planning permission is approved subject to the conditions and reasons 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 plans reference:

- Site Plan – 347 P 05 dated May 2019;
- Floor Plan – 347 P 06 Rev. A dated May 2019;
- Elevations – 347 P 07 Rev. A dated May 2019;

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 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. Development shall thereafter be undertaken and retained for the lifetime of the development in accordance with the approved details.

External windows and doors, and their immediate surroundings, including details of glazing and glazing bars;

Treatment of window and door heads and cills;

Reason: In order to safeguard the character and appearance of the designated Conservation Area.

04

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 and in order to safeguard the character and appearance of the designated Conservation Area.

05

Prior to the occupation of the development hereby permitted, the boundary treatments shown on the approved plans Site Plan – 347 P 05 dated May 2019 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.

06

The development shall be carried out in accordance with the submitted flood risk assessment prepared by WtFR Ltd reference WTFR-FRA-2018/02/Q23 revision A dated 08/04/2019 and the following mitigation measures it details:

- Finished floor levels shall be set no lower than 8.9 m above Ordnance Datum (AOD).
- Flood resilience techniques to be included as described on page 21, section 9.4 of the FRA.

Reason: To reduce the risk of flood risk to the proposed development and future occupants.

07

Notwithstanding the details shown on plan reference Landscaping Site Plan – 347 P 08 , 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;
- car parking layouts and materials;

Reason: In the interests of visual amenity and biodiversity.

08

The approved soft 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. The approved hard landscaping shall be implemented on site prior to first occupation.

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

09

The access shall be constructed and surfaced in a bound material in accordance with submitted drawing 347 P 08, and no part of the development shall be occupied until the access has been completed in accordance with that drawing.

Reason: To prevent loose material being deposited on the public highway and to provide adequate, safe access.

10

No part of the development shall be occupied until a refuse collection point has been provided within the site curtilage, and not within the highway, in accordance with details that have first been submitted to and approved in writing by the LPA.

Reason: To ensure waste collection bins do not obstruct the highway.

#### 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](http://www.newark-sherwooddc.gov.uk)

The proposed development has been assessed and it is the Council's view that CIL IS PAYABLE on the development hereby approved as is detailed below. Full details about the CIL Charge including, amount and process for payment will be set out in the Regulation 65 Liability Notice which will be sent to you as soon as possible after this decision notice has been issued. If the development hereby approved is for a self-build dwelling, residential extension or residential annex you may be able to apply for relief from CIL. Further details about CIL are available on the Council's website: [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/) or from the Planning Portal: [www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil](http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil)

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

During construction please note that it is an offence under S148 and S151 of the Highways Act 1980 to deposit mud on the public highway and as such you should undertake every effort to prevent it occurring.

**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](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**  
**Director Growth & Regeneration**

Committee Plan - 19/00868/FUL

