

## **PLANNING COMMITTEE – 6 AUGUST 2019**

<b>Application No:</b>	<b>19/00746/FULM</b>	
<b>Proposal:</b>	<b>Residential redevelopment of former farm complex comprising 5no. self-build plots and the residential conversion of a traditional stone barn. Resubmission of 18/00071/FUL</b>	
<b>Location:</b>	<b>Bankwood Farm, Oxton Road, Thurgarton</b>	
<b>Applicant:</b>	<b>J and B Cressey and sons</b>	
<b>Registered:</b>	<b>25 April 2019</b>	<b>Target Date: 25 July 2019</b>

**This application is being presented to the Planning Committee in line with the Council’s Scheme of Delegation as Thurgarton Parish Council has supported the application which differs to the professional officer recommendation.**

### The Site

Bankwood Farm is a relatively large parcel of land in the open countryside between the settlements of Thurgarton and Oxton. The site is accessed via a long private driveway track which runs from the Southwell/Oxton Road to the north and connects to Thurgarton to the south. It sits between the two main roads of the A612 to the south and B6386 to the north from which the site is accessed via a 12.5km long private road from the B6386. This private road currently serves Hollybeck Nurseries, a garden centre, situated close to the B6386, as well as a number of isolated farms and dwellings that stretch out along the road, including, Thurgarton Quarters, Bankwood Lodge and Bankwood Farm Cottages. The private road runs through the site and then continues southwards and serves Bankwood Barn, Bankwood Farm Cottages and Dumble House. The road is tarmacked and is predominantly single track in width with a number of speed-restricting bumps along its length.

The surrounding area comprises numerous agricultural buildings as well as other residential premises of both modern and traditional character to the north. Immediately adjacent to the site to the north-west, there are residential dwellings (Bankwood Farm Cottages and Bankwood Lodge) and to the south there is Bankwood House.

The site is largely flat and surrounded by open countryside with significant long distance views, particularly to the south and south-east. The site is currently occupied by 6 large modern agricultural buildings and 1 traditional stone threshing barn. As the buildings are modern, the layout does not create any traditional crew yard with no intimate U, C or E-shaped grains. The layout is fairly arbitrary arranged either side of the central access that runs through the centre of the site. There are no boundary treatments between the buildings themselves but boundaries in the wider area around surroundings fields are hedges.

The site lies within flood zone 1 of the Environment Agency’s flood risk maps. The site is not within a Conservation Area, it does not contain any Scheduled Monuments; it is not within a SSSI, safety hazard area or a military explosives storage area. The buildings are not listed, are not within an

AONB, not within an Area specified by the SOS under Section 41(3) of the Wildlife and Countryside Act 1981, a National Park or World Heritage Site.

### Relevant Planning History

19/00541/CPRIOR - Notification of a Prior Approval for the Proposed Change of use of existing agricultural building to Use Class B1 (Business). Granted 10 May 2019.

18/02033/CPRIOR - Notification for Prior Approval for a proposed Change of Use of 3 Agricultural Buildings to 5 dwellinghouses (Class C3) and for associated operational development. Approved 28.02.2018.

18/01115/CPRIOR - Notification for Prior Approval for a Proposed Change of Use of 3 Agricultural Buildings to 5 dwellinghouses and for associated operational development, refused 07.08.2018 on the grounds that it failed the qualifying criteria under Class Q of the Town and Country Planning (General Permitted Development) Order 2015.

18/00071/FUL - Residential redevelopment of former farm complex comprising 5 No. self-build plots and the residential conversion of a traditional stone barn – withdrawn.

16/01740/CPRIOR – Notification for Prior Approval for proposed change of use of agricultural buildings to three dwellinghouses Class C3 – Approved 05.12.2016.

08/00527/AGR – Erect grain store – Approved 19.05.2008

### The Proposal

Planning permission is sought for the demolition of the farm complex and the subsequent erection of five new dwellings (each containing 5 bedrooms) and one conversion of an existing barn to form a dwelling (4-bed).

Four of the proposed dwellings would be positioned on the eastern side of the access road and are set within their own curtilage. Plots one and two would be configured to face the side of plot 3 where they are served by a feeder driveway from the access road which intersects the site. Plots 3 and 4 would front face the access road with an intervening space allowing for a garden and driveway.

Plot five would be positioned on the western side of the access track between the existing stone barn and the edge of the application site near to Bankwood Cottages to the northwest.

The demolition of the buildings attached to the existing threshing barn would expose the building and would comprise a detached dwelling set back from the access road.

#### **Plot 1 - 529.5 sqm**

This dwelling would comprise a two storey dual pitched building which measures 23 metres in width by 18.4 metres in depth. The building would project 9 metres in height to the roof ridge and would have front first floor skylights set into the roof plane and large patio doors leading onto rear balconies serving the bedrooms. The ground floor is articulated with large window openings and

an emphasised front design feature that identifies the front door. An integral garage is adjacent to the front door leading onto the driveway which also serves plot two.

#### **Plot 2 - 579 sqm**

Plot two comprises a twin dual pitched two storey building measuring 19 metres in width by 26metres in length. The roof ridge covering the habitable first floor projects 8.2 metres in height and the lower ridge sits 6.4 metres above ground level. The building is configured in a linear arrangement at first floor with three of the bedrooms leading out onto a large north-easterly facing balcony which is partly covered by the lower roof. The garden wraps around the north and south easterly side of the building and would have access to a jetty and the pond to the northeast.

#### **Plot 3 - 568 sqm**

Plot three, broadly square in plan, measures 21.6 metres in width by 19 metres (25 metres including the front ground floor garage section). The property would have a twin dual pitched roof with the gable end containing the first floor window openings facing the access road and its rear garden. This plot would have access to a separate jetty on the northeastern pond.

#### **Plot 4 - 415 sqm**

This property distinctly changes in design and style where the footprint would be arranged into a 'C' shape covering an area of 21 metres by 17.4 metres. The front of the property would face onto the access road set back by approximately 5 metres from its edge and project approximately 8 metres to the roof ridge. Two rear wings then extend to the rear of variant heights (still lower than front section) would create an enclosed immediate garden which then opens out to continue to the north-easterly boundary.

Set to the rear of the southern wing along the boundary with plot 3 is a detached open frontage garage measuring 5.6 metres in width by 7.2 metres in length. The garage would project 4.65 metres metres and is constructed with a pitched roof.

#### **Plot 5 - 322 sqm**

Plot 5 is similar to plot 4 in respect of its general design but is arranged into an 'L' shape footprint with the two principle elevations facing a northerly and easterly direction. The principle elevations measure 23 metres and 20.5 metres respectively with the depth measuring 6.5 metres. The property, again has been designed with a pitched roof of variant heights of the pitched roof with the highest projecting 8 metres from ground level.

A section of the westerly ground floor section of the property has been designed to allow vehicles to enter the rear garden where the driveway leads to a detached garage at the rear boundary. The garage measures 8.3 metres in width by 6 metre sin depth projecting 4.7 metres in height. The garage is constructed with a pitched roof.

#### **Stone barn - 357 sqm**

The removal of the existing side sections results in a linear form of accommodation based over two floors. All the existing openings would be utilised for light and outlook with a large opening on the northern elevation used for the main access into the building.

One new ground floor window would be inserted into the southern elevation with 12 roof lights inserted into the roof plane.

A new detached garage would be positioned in-between the barn and the southern boundary. The garage would be accessed from the east and measure 9.5 metres in width by 8.85 metres in overall depth. The garage constructed with a pitched roof projects 5.5 metres in height to its ridge.

The proposed development can be grouped into three types of construction. Plots one, two and the barn's detached garage comprises more traditional materials using facing brick, tiled roofs, rendered sections and window detailing. Plots three, four and five would represent a modern palette using materials comprising timber and timber cladding interspersed with aluminum framed fenestration, timber louvres and standing seam roofs. The two garages for plot's four and five are a timber construction with a tiles roof. The fronts of the garages are open sided.

The boundaries to the plots are demarcated by a combination of stone walls and post and rail fence.

The planning application has been considered against the following plans, documents and specifications:

Design and Access Statement  
Flood Risk and Runoff Assessment  
Heritage Statement  
Protected Species Report  
Structural Inspection Report  
Location Plan - Drg No. 17/238-100  
Existing Site Plan - Drg No.197-D-03  
Existing Site Photos - Drg No.197-D-01  
Aerial View - Drg No. 197-D-13  
Visualisation 1 - Drg No 197-D-14  
Visualisation 2 - Drg No. 197-D-15  
Visualisation 3 - Drg No. 197-D-16  
Visualisation 4 - Drg No. 197-D-17  
Visualisation 5 - Drg No. 197-D-18  
Bankwood Farm Evolution - Drg No. 197-D-02  
Existing Barn Plans and Elevations - Drg No.17/238-101  
Location and Block Plans - Drg No. 197-D-00 Rev A  
Proposed Site Plan - Drg No. 197-D-04 Rev A  
Proposed Floorplans - Plot 1 -Drg No. 197-D-05  
Proposed Elevations - Plot 1 -Drg No. 197-D-06  
Proposed Floorplans - Plot 2 -Drg No. 197-D-07  
Proposed Elevations - Plot 2 -Drg No. 197-D-08  
Proposed Floorplans - Plot 3 -Drg No. 197-D-09  
Proposed Elevations - Plot 3 -Drg No. 197-D-10  
Existing Barn – Proposed Plans and Elevations -Drg No. 17/238-102  
Existing Barn – Garage Plan and Elevations -Drg No. 17/238-103  
Plot 4 Proposed Plans and Elevations -Drg No. 17/238-104 Rev A  
Plot 4 Garage Plan and Elevations -Drg No. 17/238-106  
Plot 5 Proposed Plans and Elevations -Drg No. 17/238-105  
Plot 5 Garage Plan and Elevations -Drg No. 17/238-107  
Proposed Site Elevation -Drg No. 197-D-11

Proposed Site Section -Drg No. 197-D-12

### **Public Advertisement Procedure**

Occupiers of seventeen 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 - Thurgarton Neighbourhood Plan**

Policy 1: New Development

Policy 2: Residential Development

Policy 3: Transport Impact of Development

Policy 6: Historic and Natural Environment

#### **The Development Plan - Newark and Sherwood Amended Core Strategy DPD**

Spatial Policy 1 – Settlement Hierarchy

Spatial Policy 3 – Rural Areas

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 12 – Biodiversity and Green Infrastructure

Core Policy 13 – Landscape Character

Core Policy 14 – Historic Environment

#### **The Development Plan - Allocations & Development Management DPD**

DM4 – Renewable and Low Carbon Energy Generation

DM5 – Design

DM7 – Biodiversity and Green Infrastructure

DM8 – Development in the Open Countryside

DM9 – Protecting and Enhancing the Historic Environment

DM10 – Pollution and Hazardous Substances

DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

- National Planning Policy Framework 2019
- Planning Practice Guidance (on-line resource)
- Newark and Sherwood Landscape Character Assessment SPD
- Conversion of Traditional Rural Buildings Supplementary Planning Document, November 2014
- Historic Environment Good Practice Advice in Planning Note 2 – ‘Managing significance in Decision-Taking in the Historic Environment’ and Note 3 ‘The Setting of Heritage Assets’
- Historic England Advice Note 2 ‘Making Changes to Heritage Assets’ Consultations
- Natural England Guidance Note: European Protected Species and the Planning Process Natural England’s Application of the ‘Three Tests’ to Licence Applications

- The Conservation of Habitats and Species Regulations 2017
- Circular 06/2005: Biodiversity and geological conservation – Statutory obligations and their impact within the planning system

**Thurgarton Parish Council** received 07 May 2019 - Support the application on the basis of para 55/79 of the NPPF, subject to planning conditions requiring access to be via Oxton Hill only, not through to Priory Road.

**Southwell Town Council** received 3 May 2019 - No comment, deferral to the parish where to development is located.

**Ramblers association** received 09 May 2019 - There is no specific mention in the documentation of Thurgarton Footpath 4, a public right of way, which approaches this site from the south-west and joins the track linking Thurgarton to Hollybeck Nurseries. It is unclear from the site maps whether or not this footpath lies outside the development area.

**NSDC Environmental Health** received 26 April 2019 - No objection in principle and recommends a condition to require a land contamination investigation is undertaken given the existing/ previous agricultural use of the land.

**NSDC Conservation** received 20 May 2019 - Of heritage interest on this site now lies only the impressive stone threshing barn, which has itself seen modern extensions on both the front and back. While its original form has been preserved within these extensions they have greatly detracted from its legibility and aesthetic qualities. I therefore welcome a scheme which sees these elements removed and the building effectively restored. The original context of this structure, which would have once related to a period farmhouse and other historic farm buildings, has been lost. The historic farmhouse has been replaced by a large faux Georgian new build, the farm buildings are all (mostly large) modern concrete and crinkly asbestos sheeted buildings, in addition to two inter-war semi-detached houses at the site.

I note the currently proposed conversion of the stone barn is the same as previously submitted, as such I resubmit my earlier comments:

The proposed conversion of the stone barn looks pretty good, with only one new window in the facade. There are a number of new rooflights, but they seem to be acceptable to facilitate the conversion of such a large building. I am pleased to see the preservation of existing breathers and openings. I note their Heritage Statement says there is currently a first floor running all across the building, so its part removal (which is proposed) to reveal the full height of the former threshing entrance internally will be a good heritage gain.

I did look inside the building, the ground floor is all lined and divided up for animal stalls and has no apparent historic features. At the upper floor large roof trusses survive and I understand these will be retained.

Generally speaking the proposed conversion of the threshing barn will be an improvement to its appearance and will better reveal its significance.

In term of impact on its setting from the other proposed replacement structures overall I do not think there will be any harm.

The current modern agricultural buildings detract from the setting of the historic barn, having an unkempt, discordant and incongruous appearance. While I accept the new modern warehouse-like houses are in themselves large modern structures, I understand these as a modern interpretation of the later farm buildings and I think they are likely to preserve the setting at least and there will be some benefit from removing the element of neglect here.

I note the new modern warehouse houses may be taller than the threshing barn? I think given the separation distances, the strong impact the modern agricultural sheds currently have on the barn, the noticeably different built form of the old and new here, and the robust nature of a large threshing barn like this I do not think I would sustain an objection on the modern warehouse houses being marginally taller at their tallest point.

Plots 4 and 5 are designed in a more traditional fashion. I appreciate from the earlier application the revision of plot 4 to remove the faux full height threshing barn entrance, which I specifically wanted to avoid in order to retain the primacy of the historic threshing barn. While I accept these more traditional looking houses are in a faux barn style, their design is a fairly innocuous modest farmhouse and outbuildings. I accept this may cause some confusion in terms of authenticity, but I do note that the site already houses a large faux Georgian farmhouse, and that the context of this stone barn has long since been lost, so again I do not think the use of a pastiche here in this form is necessarily harmful.

**NCC LLFA** received 10 May 2019 - No comment in relation to flood risk.

**NCC Highways Authority – 22 July 2019** - This proposal is the resubmission of a previously withdrawn application (18/00071/FUL). The site is to be served from Oxton Road (B6386) by a private driveway, which is a bridleway, and also serves an existing garden centre/tea rooms and a number of residential dwellings. A previous application for this site, ref. 18/02033/CPRIOR, was approved for 5 dwellings subject to the provision of signage and two passing bays along the driveway, which alleviated previous concerns. These have now been provided. Therefore, as this is a resubmission and improvements have been carried out to the bridleway to the satisfaction of the Rights of Way Officer, the Highway Authority would not wish to raise objection to this application.

**Environment Agency** received 26 April 2019 - No formal comment as there are no environmental constraints associated with the site.

**Candent Gas** received 2 May 2019 - No objection to the application

**Natural England** received 26 April 2019 - No comments to make on this application.

**Nottinghamshire Wildlife Trust** received 30 April 2019 - You will be aware that it is your duty under the NPPF and the NERC Act to ensure that you can determine applications based on a sound understanding of the ecological implications and the adequacy of any proposed mitigation or compensation.

### Representations

As a result of the publicity one representation has been received and is summarised as the following:

- It is felt the previous comments from NCC highway Authority has not been resolved and access from Oxtan Road still poses a safety risk to pedestrians, horses, and other road users that use the private road (Bridleway);
- The provision of passing bays does not address the problem;
- Raise concerns with the cost of maintenance of the private road and there is no mention within the application of a contribution to future costs especially given the potential increase in traffic.
- If access to the proposed site was via Priory Road there would be no objection to the application.

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

#### **The Principle of Development**

The Council has a 5 year housing land supply and for the purposes of decision making the Development Plan is considered to be up-to-date.

The NPPG acknowledges that Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area, thus providing a powerful set of tools for local people to ensure that they get the right types of development for their community where the ambition of the neighbourhood is aligned with the strategic needs and priorities of the wider local area.

Following public consultation and independent examination, at its council meeting on 16 May 2017 Newark and Sherwood District Council adopted the Thurgarton Neighbourhood Plan. The Neighbourhood Plan now forms part of the development plan for the district and its policies are a material consideration alongside other policies in the development plan and carry weight in the determination of planning applications. In this instance the most relevant policies in the Neighbourhood Plan are listed above and are considered against the relevant aspects of this appraisal.

Spatial Policy 1 of the Core Strategy sets out the Settlement Hierarchy for new development within the District of Newark and Sherwood and identifies settlements that are central to new growth and development. Outside of these settlements, SP1 states that within the rest of the District, development will be considered against the sustainability criteria set out in Spatial Policy 3 Rural Areas.

SP3 states that local housing need will be addressed by focusing housing in sustainable, accessible villages. It goes on, "Development away from the main built-up areas of villages, in the open countryside, will be strictly controlled and restricted to uses which require a rural setting such as Agriculture and Forestry."

Given the remoteness of the site it would fail the locational criteria of Spatial Policy 3 in that it is not 'in' a village or settlement and therefore constitutes development in the open countryside. In this regard SP3 directs to the policies set out in Allocations & Development Management DPD, most notably Policy DM8.

Policy DM8 which relates to Development in the Open Countryside states "Planning permission will only be granted for new dwellings where they are of exceptional quality or innovative nature



of design, reflect the highest standards of architecture, significantly enhance their immediate setting and be sensitive to the defining characteristics of the local area.”

The NPPF also provides an exception criterion to be considered for development in the countryside. Paragraph 79 states:

“...Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;
- d) the development would involve the subdivision of an existing residential dwelling; or
- e) the design is of exceptional quality, in that it:
  - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
  - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

The NPPF also sets out a core planning principle that in decision-taking, Local Planning Authorities should encourage the effective use of land by re-using land that has been previously developed, provided that it is not of high environmental value. However, the glossary defines previously developed land as excluding agricultural buildings. Where proposals accord with the Development Plan they will be approved without delay unless material considerations indicate otherwise. The NPPF also refers to the presumption in favour of sustainable development being at the heart of the NPPF and sees sustainable development as a golden thread running through both plan making and decision taking. This is confirmed at the development plan level under Policy DM12 of the Allocations and Development Management DPD.

The main issue is to establish whether or not the proposed development is of truly outstanding or innovative design, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas **and** also significantly enhances its immediate setting and be sensitive to the defining characteristics of the local area (emphasis added). This forms the basis of the following assessment. It will be then necessary to assess all other material planning considerations to ascertain if there are any factors of the proposal which would balance the proposed development against the policies set out in the Development Plan and the NPPF.

*Is the design truly outstanding or innovative and represent the highest standard in architecture?*

In the absence of an independent design review the proposed development has been considered on the basis of the submitted plans and the applicant’s Design and Access Statement.

The proposed development would result in the demolition of the cluster of agricultural buildings with a replacement of a residential development that comprises a mixture of modern and traditional buildings to form a nucleus around the retained converted threshing barn. The modern buildings would combine the use of standing seams roofs, zinc cladding and timber cladding in a scale which is not too dissimilar with the existing buildings that are present on the site. The

buildings through the arrangement of overhanging roofs, emphasized fascia and soffits, recessed fenestration and material combination do have a good standard of architectural design but do not possess the highest standard of architecture to constitute the scheme being truly outstanding. The applicant's case is silent in articulating how the modern buildings are truly outstanding or innovative. There is also no persuasive evidence to say how their construction is innovative and although suggesting the dwellings will be highly insulated and utilise renewable materials/technologies does not set out the precise methodology.

By contrast Plots 4 and 5 are of a more traditional ilk and whilst occupying large footprints set within generous curtilages they are constructed with conventional materials that could be argued are similar with the vernacular of the surrounding area. Although they represent a good design, it is difficult to consider how the two houses would be truly outstanding or indeed innovative.

The massing and position of the proposed buildings and the way the existing structures have been removed from the threshing barn do improve the setting to the non-designated heritage asset and open up views of the building. There are clear benefits with placing a renewed emphasis on the threshing barn and the way the scheme has been designed to enhance its setting. However, by their own admission the applicant acknowledges that there have been examples of stone built barns conversion in the area which would conflict with their view that this scheme is particularly innovative.

The applicant's D&A Statement acknowledges the emphasis of DM8 and the NPPF and attempts to set out a case in which to demonstrate how the scheme is outstanding and innovative (rather than the either or option set out in Paragraph 79). Whilst the applicant has instructed architectural practices to develop the scheme and engaged with the Local Planning Authority there are no reasons how the scheme can be considered as truly outstanding or innovative to satisfy DM8 and Paragraph 79 of the NPPF.

*Would the design significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area?*

Notwithstanding the above the NPPF also requires designs to significantly enhance their immediate setting. The surrounding area is prominently rural and has been appraised by the Newark and Sherwood Landscape Character Assessment. The site falls in Policy Zone MN PZ 39 'Thurgarton Village Farmlands with Ancient Woodlands'.

The Landscape Character Area (LCA) identifies the area to be gently undulating with rounded topography that allows for medium distance views frequented by wooded skylines. There is a mixture of arable fields with defined headlines leading to being considered as having a high landscape sensitivity and visibility value. This then translates into a 'conserve' action where development is expected to conserve the rural character of the landscape by concentrating new development around existing settlements and respect the local architectural style and local vernacular.

The incorporation of brickwork, pan tiles, stone walls and timber cladding would be sympathetic and sensitive to the surroundings. Furthermore plots 4 and 5 are a traditional build which would have traits of the vernacular in the area. There are elements to the scheme, particularly on plots 1 – 3 which add visual interest to the local area, nevertheless this would run contrary to the conserve action recommended by the LCA.

It is noted all the existing buildings would be demolished, however, it is considered the applicant has failed to articulate how the proposed development would significantly enhance the immediate setting. As discussed above there would be an enhancement to the setting of the threshing barn but there remain significant doubts on the significance of the enhancement of the remainder of the site and on the immediate setting and whether or not the full amount of development required by this development is required to enable this enhancement to occur. Indeed, it is considered that the removal of the existing agricultural buildings which are typical to an open countryside location and setting and replacement with 5 new build dwellings, would represent a more incongruous and alien form of development in this location by its very nature (further discussed in the section below).

Whilst the proposed development is similar in height and massing to the existing agricultural buildings which are present on the site, this factor can be given very little weight. Other than the threshing barn, none of the other agricultural buildings proposed for demolition are of any heritage value or considered worthy of retention. As the buildings are not located on previously development land, it follows that their replacement is not considered essential and their replacement with new buildings can not therefore be considered to enhance the immediate setting in this respect. The development would radically change the character of the site to one of a more suburban nature and would be harmful to the rural character of the surrounding countryside.

In respect of the landscaping, the applicant advocates that the scheme would not be overly domestic but would preserve the rural feel of the site. Indicative planting has been shown on the plans and exemplified on the visuals within the site, relying on the imposition of planning condition to show the precise details. The scheme is also absent in how the development would integrate with the pond outside of the application, other than indicatively showing a jetty and post and rail fence.

Therefore given the high requirement advocated by DM8 and the NPPF and weight to the LCA the application does not demonstrate how significantly the proposed development would enhance the immediate setting. Furthermore, the development would also represent an alien and incongruous suburban development in this open countryside setting which would be harmful to the visual amenity of the surrounding rural area.

#### *Discussion of the strength of a fallback position*

Turning back to the principle policy (DM8) and Paragraph 79 in the NPPF it should be acknowledged that the site is located in the open countryside and as such there is an incredibly high bar of exceptional quality and innovative design to be satisfied to allow planning permission to be granted for residential development.

There are elements of the proposed development which are clearly beneficial and weigh in favour of the scheme and have been set out above. However, they are not at an exceptional level. It is considered the proposed development is not truly outstanding or innovative and does not significantly enhance the immediate setting or is wholly sensitive to the characteristics in the local area.

However, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, to the extent that development plan policies are material, planning decisions must be taken in

accordance with the development plan unless material considerations indicate otherwise. This requirement is reiterated in Paragraph 11 of the National Planning Policy Framework (NPPF).

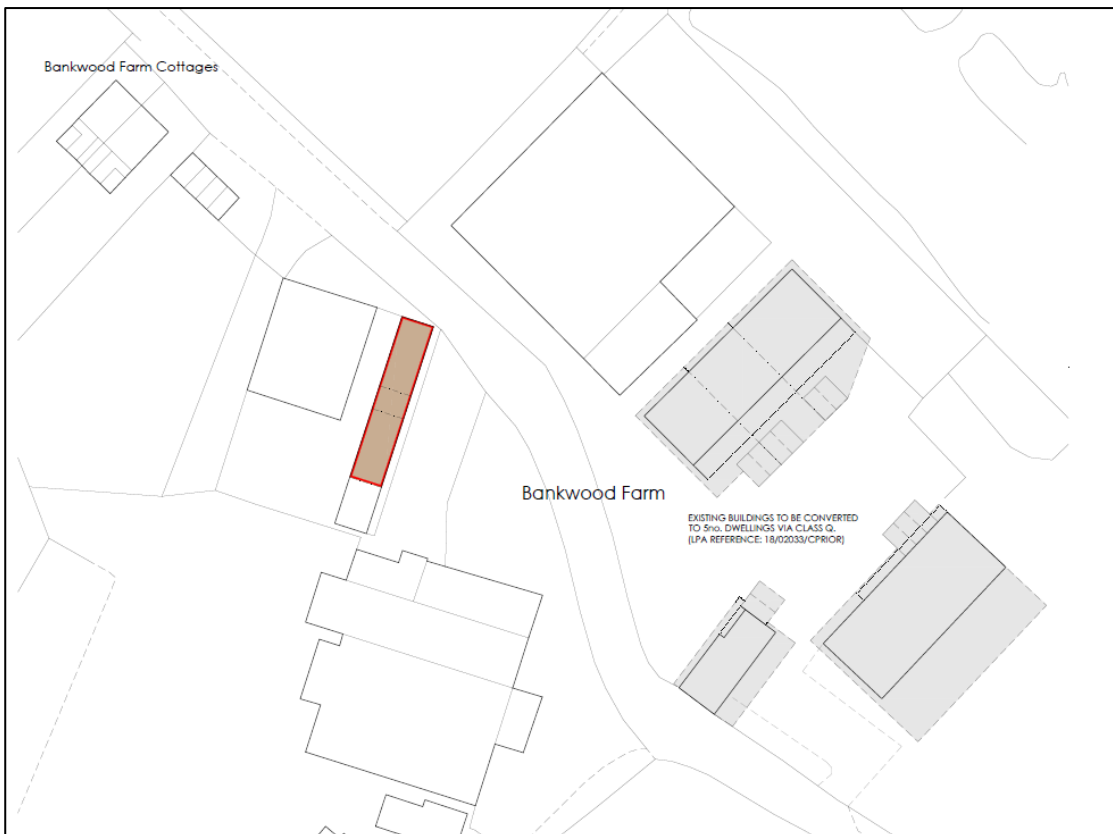
A material consideration is a judgement made in a judicial review where in *Mansell v Tonbridge And Malling Borough Council -2017 EWCA Civ 1314*, the court dismissed the appeal and thereby did not quash the Council's grant of planning permission, however three issues arose in this appeal. The first two concerned the interpretation of Class Q GPDO rights and the materiality of the fallback position. The Court also considered whether the council incorrectly applied the tilted balance towards sustainable development in paragraph 14 (now 11) of the National Planning Policy Framework, given the Development Plan was up to date.

Notwithstanding the interpretation of General Permitted Development Order (GPDO) rights the second challenge concerned whether there was a 'real prospect' of development under the Class Q GPDO rights on the lack of contemporaneous evidence that the landowner had contemplated such development.

It was held that in determining the materiality of a fallback position the basic principle is that for a prospect to be a "real prospect", it does not have to be probable or likely: a possibility will suffice.

In other words whether there is a possibility of an alternative development to the proposed development that can be carried out on the application site should planning permission be refused.

Turning back to the planning history there are two decisions under the prior approval route which set out a possible alternative development and could be implemented as permitted development should planning permission be refused. Firstly one of the existing building benefits from conversion to an office (19/00541/CPRIOR) and the second conversion of three of the agricultural buildings to form five dwellings (18/02033/CPRIOR). Figure 1 shows the office conversion in outlined in red with the residential conversion in light grey. The existing buildings would remain in situ including the extensions to the threshing barn (outline can be seen below the office conversion).



For clarification the alternative scheme would comprise:

- Five dwellings which range between 100 square metres and 330 square metres where the buildings would be refaced with vertical timber cladding on a brick base covered with corrugated roof panels. A curtilage would be closely formed around the buildings with parking located to the front/ rear and side of the buildings.
- The office building, owing to the previous use as stables would retain the blockwork appearance with windows formed in the existing openings.

The site currently comprises an accumulation of varying sized buildings that are synonymous with an isolated farmstead set into the open countryside. Given the undulating landform and the surrounding field pattern the existing farmstead is considered to be appropriate in its setting and a significant contributing factor to the prevailing character of the surrounding area. The fallback position would in this instance reinforce the prevailing character of the area by retaining the height, scale, massing and typical arrangement of agricultural buildings within the open countryside. The visual alterations to the existing buildings in their conversion and formation of modest curtilages would be still read against the backcloth and in the context of the existing farmstead.

In contrast the proposed development would result in the removal of all the buildings that contribute to the farmstead setting and the wider character of the surrounding area. Whilst this would exposed the threshing barn the proposed development would irreversibly alter the character from an agricultural setting to predominantly residential to the detriment of the wider area. The rationalisation of a new residential setting would be further reinforced by the large curtilage area associated with each dwelling, which inevitably, would introduce and encroach domestic paraphernalia into the open countryside significantly above what currently is presence around the application site.

Whilst a fallback position exists, this is in a completely different scale and layout to this proposal. This fallback relies on retaining existing building whereas this proposal demolishes these building and erects new; arguably a wholly less sustainable form of development. As such, I do not consider direct comparisons can be drawn and I do not therefore consider a there to be a real prospect of a fall back scheme similar to that currently proposed being brought forward. It is therefore considered that the potential for an alternative fall back scheme does not outweigh the harm of inappropriate residential development in the open countryside in this instance.

### **Effect on non-designated heritage asset**

In relation to the works and formation of the dwelling in the threshing stone barn the conversion of existing buildings is also covered by Policy DM8 and states that

“...In the interests of sustainability, consideration should be given to the conversion of existing buildings before proposing replacement development. Proposals should investigate and assess alternative uses for buildings in accordance with the aims of the Spatial Strategy and present a case for the most beneficial use. Planning permission will only be granted for conversion to residential use where it can be demonstrated that the architectural or historical merit of the buildings warrants their preservation, and they can be converted without significant re-building, alteration or extension...”

The threshing barn is considered to be a non-designated heritage asset and a structural report submitted by the applicant sets out the building can be converted without significant re-building. A Heritage Statement has also been submitted and duly assesses the archaeological, architectural, artistic or historic interest of the building and the implications of the proposed development.

Policies CP14 and DM9, amongst other things, seek to protect the historic environment and ensure that heritage assets are managed in a way that best sustains their significance. Key issues to consider in proposals for additions to heritage assets, including new development in conservation areas, are proportion, height, massing, bulk, use of materials, land-use, relationship with adjacent assets, alignment and treatment of setting.

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). LPAs should also look for opportunities to better reveal the significance of heritage assets when considering development in conservation areas (paragraph 137).

It is considered the proposed conversion of the threshing barn will be an improvement to its appearance and given the removal of the existing structures flanking the original building will better reveal its significance. Given the proximity to the proposed buildings it is considered they would preserve the setting and although they are modern design they would not be harmful to the threshing barn.

The resulting conversion would is relatively modest in nature with sympathetic interventions into the building. As such this aspect is acceptable and favourable weigh should be applied in respect of the effect on the historic nature of the building.

## **Highway Impact**

In respect of the location and sustainability Spatial Policy 7 seeks to encourage and support development proposals which promote an improved and integrated transport network and an emphasis on non-car modes as a means of access to services and facilities. Development proposals should seek to minimise the need for travel.

It is quite clear the site is in a remote location with a considerable distance to any local service or transport connections. Prior approval has been granted under The Town and Country Planning (General Permitted Development) (England) Order 2015 (as Amended) for the conversion of six agricultural buildings to form an office and five dwellings. Although the proposed scheme results in six substantial dwellings the amount of traffic would not be too dissimilar to what could occur should the prior approval consents be implemented, in addition to the resultant traffic from the retained buildings.

Spatial Policy 7 of the Core Strategy seeks to secure 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.

The prior approval application sought to address the highway concerns by installing two passing bays and signage along the access road on land within the applicant's control between Hollybeck Nurseries and the existing farm complex. It has been confirmed these works were completed before issue of the 2018 prior approval.

In terms of the movement within the proposed development there is sufficient space for off road parking of vehicles within each of the respective curtilages. It is considered there is sufficient visibility for vehicles to manoeuvre on and off the central access road without having a harmful effect to other users of the bridleway, such as walkers, cyclists and horse riders.

As such, taking into account the representations and the comments from the Highway Authority it is considered development would not harm the level of highway safety to recommend refusal of the application.

## **Impact on amenity**

CP9 sets out an expectation that development is of a high standard and that contributes to a compatible mix of uses. Policy DM5 requires that all proposals be assessed to ensure that the amenity is not adversely affected by surrounding land uses and where this cannot be mitigated should be resisted. The NPPF seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.

### *Existing neighbouring properties*

It is noted that Bankwood House is adjacent to the application site and shares the southern boundary. It is considered the proposed development would not have a significant effect on the level of amenity currently enjoyed. The removal of the southern section of the barn structure would remove the massing immediately on the shared boundary which would be beneficial. Although the removal of the structure would expose the existing barn given the new openings in the southern elevation are at ground floor and within the roof plane a loss of privacy afforded to

Bankwood house would be minimised. Together with the intervening degree of separation between the two buildings, any overlooking would be within an acceptable tolerance.

There is a detached garage proposed on the southern boundary, however, this structure has been positioned adjacent to Bankwood House's detached garage. As such an impact has been mitigated by the presence of the neighbouring existing garage on Bankwood House.

Turning to Bankwood Farm Cottages plot 5 has been orientated to offset a direct view of the neighbouring property. Although the windows would have a view of the neighbouring garden there is an adequate separation to avoid a significant loss of privacy. There are no windows proposed in the gable end of the house or the attached garage which would result in a loss of privacy to the neighbouring property. Taking the relationship of the two properties into account it is considered there would not be a significant loss of daylight or sunlight to the neighbouring property.

#### *Future occupiers*

The proposed dwellings have been designed and orientated to maintain a good standard of privacy and light into windows. Where side windows are proposed, these are mainly at ground floor and either face onto a blank elevation of a neighbouring property, or where windows are present they lead to non-habitable rooms.

It is noted a first floor balcony (plot one) would face towards plot two. However, there are no windows in the side of plot two which would be affected and it is considered there would not be a loss of privacy to the garden space for plot two given the offset obstructed view.

Keeping with plot two the front elevation would face the side boundary of plot three. Although the first floor front facing opening would not result in a significant loss of privacy there is a balcony which would introduce an untoward vantage point which laterally would overlook the privacy amenity space for plot three. However, this has been treated with louvre cladding to the first floor which prevents an outlook directly over plot three.

#### **Impact on Ecology**

Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM5 of the DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced.

I am mindful that the NPPF states at paragraph 175 that if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Equally I am aware that paragraph 99 of Government Circular 06/2005 states that:

*"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the*



*decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances...”*

An ecological survey has been submitted to support the application. The report identifies the following:

- Buildings 1,3, 4, 6, 8, 9 and 10 were all assessed as having negligible roosting potential for bats. However, Buildings 2, 5, and 7 were identified as having features that offered potential to support roosting. Further surveys were recommended for these buildings. These surveys conclude that Building 5 has low potential for roosting bats although Buildings 2 and 7 (the threshing barn) were found to contain roost and potentially a small maternal site for the common pipistrelle. A impact EPS licence would be required before any development takes place;
- A single barn owl was observed entering Building 8, however, the daytime assessment revealed no evidence of barn owl using the site such as urine splashing's, pellets or nesting. It is therefore considered that the barn owl recorded was opportunely using the site as a day perch and that it is not currently nesting on site.

Local Planning Authorities are required to consider the likelihood of a license (required if bats are found) being granted when determining a planning application and would need to have in mind the three tests set out in Regulation 55 of the Habitats Regulations if required, namely:

- i. The consented operation must be for “preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment”; and
- ii. There must be “no satisfactory alternative”; and
- iii. The action authorised “will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range

In so far as the first test is concerned, the public interest generated by the proposal can be of a social, environmental or economic interest. Although I have found in favour of the proposal in relation to better reveal the heritage significance of the threshing barn (Building 7) the same justification is not relevant to Building 2. Having regard to development plan policies, the development overall would not meet any of the exceptions for new build dwellings within the open countryside and the proposal would result in an adverse impact on the rural setting of the surrounding countryside.

In relation to the second test, I am not aware if the applicants have considered the retention of Building 2 as part of the development and I am not aware whether or not the building has been marketed for alternative uses that does not involve its demolition. As such, I cannot be satisfied that alternative solutions that would result in the protection of the existing bat habitat could not be achieved. The proposed development would thus fail the second test.

With regards to the third test, the appellants have submitted a Protected Species Report which includes a number of mitigation and compensation recommendations. This includes

- Before works commence on site, all site workers will be inducted by the licensed ecologist on site;

- An ecologist will check Buildings 2 and 7 before construction works commence and supervise all critical works such as roof removal etc. Where a bat is found during these works, they will be carefully removed and placed in a translocation roost box;
- Prior to any work commencing on site and during the initial construction phase, a temporary roost translocation site containing three Schwegler 2FN bat boxes will be erected on suitable nearby buildings.

I would therefore conclude in relation to the third test that the proposed development could be implemented in such a way as to ensure no harm would occur to the protected species.

Overall, the proposal fails to meet the derogation tests and I conclude that the proposal would have an adverse effect on ecology and that it would conflict with Core Policy 12, DM5 and DM7 , which aim to safeguard protected species. These policies are consistent with paragraph 175 of the Framework and carries significant weight.

### **Flood Risk**

Core Policy 10 of the Core Strategy requires development to be located in order to avoid both present and future flood risk. Core Policy 9 requires new development proposals to proactively manage surface water. The site is located within Flood Zone 1 according to the Environment Agency's flood risk maps and is therefore at low probability of flooding from river and coastal sources. However, as has already been mentioned, any scheme should carefully consider the disposal of surface water within any submission. Depending on the size of the development site, a Flood Risk Assessment may be a validation requirement in any event.

The applicant has submitted a report which identifies that there are no other residual risk that will directly affect the site and therefore residential development is suitable for this location. The development would see a reduction in the impermeable area and weighs in favour of the proposal in respect of flood risk. Whilst a SUDS drainage system is suggested given the anticipated underlying ground conditions this may not be the most sustainable course of drainage.

In this instance, given the low level of flood risk the imposition of a planning condition would provide the applicant to explore the drainage options and establish the most appropriate way of managing surface water runoff. It is therefore considered this approach would address Core Policies 9 and 10.

### **Ground conditions**

This application includes the construction of a new residential dwelling on a former farmyard. Agriculture is a potentially contaminative land-use and such land can possibly be used for a wide variety of potentially contaminative activities including: non-bunded fuel storage, repair and maintenance of agricultural machinery/vehicles, storage of silage and other feed, slurry tanks/lagoons, disposal of animal waste and disposal of asbestos.

There is clearly the potential for the site to have been contaminated from this former use. In the absence of a desktop study/preliminary risk assessment it is considered expedient in requiring an assessment by planning condition.

### **Housing Need**

Of particular note, the application does not promote the provision of market housing to suit the specific needs identified in a current Housing Needs Survey (or other subsequent evidence) in accordance with the aims of Policies 1 and 2 of the Neighbourhood Plan. Even if there was a housing need for such dwellings, this would not be the right location for them given the isolated location. The 2015 Housing Needs Survey for Thurgarton identified a market preference for one x 4 bed house, a demand that has since been met by the granting of other schemes 'within' the village.

### **Planning Balance and Conclusion**

The Local Planning Authority can robustly demonstrate a 5 year supply of housing, and therefore the Development Plan is up to date for the purposes of decision making in terms of the supply of housing.

The application proposes new housing development in the open countryside. The Development Plan and the NPPF seeks to control and avoid new isolated homes in the countryside, unless there are special circumstances. Having assessed the scheme against the Development Plan I have concluded that the scheme does not meet any of the exceptions listed within Policy DM8 as to why development away from the built settlement should be permitted. This is equally the case when assessed against the NPPF, a material consideration, albeit the Development Plan should in any event be the primary decision making tool.

The applicant has purported a case advocating, amongst other factors, that the proposed development is both exceptional and innovative to exceed the expectation set out in DM8 and Paragraph 79 of the NPPF. The key element the applicant appears to rely on is the 'fallback' position of converting the 5 modern barns to dwellings. However it is my view that this should be given little weight given this relies on converting barns whereas this scheme seeks to demolish the buildings; arguably a far less sustainable form of development and in any event the new build dwellings are visually more intrusive in this countryside location.

As set out in this report the bar of expectation is set extremely high and although there are factors in favour of the development they do not outweigh the conflict with the aforementioned Development Plan Policy DM8 and the NPPF. A comprehensive case has been submitted by the applicant; however, this does not tip the balance in favour of the proposed development. The applicant has failed to advance a true enabling argument or a convincing argument as to why 5 new build dwellings are required and why these are all 'innovative' or 'exceptional' as is required by policy. No case has been advanced that the retention of the non-designated asset/historic barn relies on the new build dwellings in order to be retained.

As a consequence of the scheme not being acceptable in principle, the proposal fails to meet the three tests set out in Regulation 55 of the Habitats Regulations and I conclude that the proposal would have an adverse effect on ecology.

Whilst there are some benefits of the scheme, the harm identified clearly outweighs this and as such it is recommended that planning permission is refused.

### **RECOMMENDATION**

That planning permission is refused for the following reason:

01

The proposed development by reason of its location would constitute an isolated residential development comprising 6 dwellings in the open countryside where development is strictly controlled by Policy SP3 (Rural Areas) of the adopted Newark and Sherwood Amended Core Strategy (2019) which states that development away from built up areas will be strictly controlled and by acting as a signpost to Policy DM8 (Development in the Open Countryside) of the adopted Allocations and Development Management Development Plan Document (2013) which mirrors this control and provides that development in the countryside is limited to a number of exceptions.

The proposal does not accord with any of the exceptions listed and does not therefore represent sustainable development contrary to the aim of promoting a sustainable pattern of development within the District. The design fails to be of exceptional quality in that it is not truly outstanding nor innovative which would not significantly enhance its immediate setting or be sensitive to the defining characteristics of the local area. The proposed development would irreversibly alter the character from an agricultural setting to a more incongruous and alien form of residential development to the detriment of the rural character of the surrounding area. It is considered that the adverse impacts of new dwellings in an open countryside location would not be outweighed by the benefits of the proposal which include the revealing of the significance of a historic barn.

Given that the development is not considered to be acceptable in principle, the proposal as a consequence fails to meet all of the three tests set out in Regulation 55 of the Habitats Regulations and it is therefore concluded that the proposal would have an adverse effect on ecology.

As such, the proposed development would fail to comply with the provisions of Spatial Policies 1 and 3 and Core Policies 12 and 13 of the Amended Core Strategy (2019), Policies DM5, DM7 and DM8 of the Allocations & Development Management DPD (2013) and Policies 1 and 2 of the Thurgarton Neighbourhood Plan (2017). In addition, the development would not comply with the aims of the Newark and Sherwood Landscape Character Assessment SPD, the National Planning Policy Framework, Circular 06/2005 and The Conservation of Habitats and Species Regulations 2017 which are material planning considerations.

### Informatives

01

You are advised that as of 1st December 2011, the Newark and Sherwood Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date. Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

02

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. Working positively and proactively with the applicants would not have afforded the opportunity to overcome these problems, giving

a false sense of hope and potentially incurring the applicants further unnecessary time and/or expense.

Background Papers

Application Case File

**For further information, please contact Richard Byrne on ext 5793.**

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 - 19/00746/FULM

