

PLANNING COMMITTEE – 3 DECEMBER 2019

Application No:	19/00131/FUL	
Proposal:	Construction of 2no. dwellings	
Location:	Land adjacent 4 Yew Tree Way, Coddington	
Applicant:	Mr & Mrs Hazzledine	Agent: Jen Leadbetter at Aspbury Planning
Registered:	31.01.2019	Target Date: 25.03.2019
	Extension of Time Agreed until 05 December 2019	

This application is being presented to the Planning Committee in line with the Council’s Scheme of Delegation as Coddington Parish Council has objected to the application which differs to the professional officer recommendation and the Local Ward Member, Cllr J Lee has requested it go before the committee for the following reasons: “Committee has had previous involvement, site is woodland and there is a TPO in place, there are parking issues, loss of habitat, it has poor design, is over-development and there are amenity concerns for residents.”

The Site

The application site lies to the northern end of Coddington and comprises part of the land associated with 4 Yew Tree Way. The site abuts Coddington Conservation Area. A 1.8m close boarded fence exists to the boundary of the garden serving the existing property with a landscaped buffer between the fencing and the boundary with the highway on Yew Tree Way. The site fronts the turning head on Yew Tree Way.

Numerous trees exist within the application site and these are protected by 3 separate Tree Preservation Orders. Given the numbers of trees and their disposition, the site takes on the appearance of a small woodland. The existing dwelling on the site is a two storey dwelling with a conservatory to the rear. Yew Tree Way is characterised by detached two storey dwellings and existing residential properties are situated opposite the application site. Beyond the site (to the west and north) is open countryside.

Relevant Planning History

There are three Tree Preservation Orders that relate to the wider site, as shown on the plan appended to this report:

- TPO 34 - -A Tree Preservation Order was made in 1982 (TPO 34) which related to a much wider site including the application site. This was missed off the land registry (13/00002/TPO).
- TPO 174 – A Tree Preservation Order was made in 1991 (TPO N174) which also related to a wider site but omitted the application site now being considered (11/00110/TPO);

- TPO 349 – A Tree Preservation Order was made in 2013 (TPO N349) which rectified the previous omission and relates to the land adjacent to 2 & 4 Yew Tree Way (and includes the application site) 12/00017/TPO

13/00226/FUL – An application was submitted in 2013 for the erection of 2no. two storey detached houses. The application was subsequently withdrawn.

13/01623/FUL – An application for the erection of two houses was submitted which was subsequently refused on 18th March 2014 under delegated powers on the grounds of:

- 1) Failure to meet an identified local need as required by SP3 and;
- 2) Failure to provide sufficient space to accommodate standing vehicle between house 2 and the highway resulting in a public safety contrary to DM5.

APP/B3030/A/14/2225664 - An appeal was lodged and was dismissed on 23rd December 2014. In dismissing the appeal the Inspector concluded that the scheme would likely affect highway safety. It was also concluded that it was not clear that the 2 houses would help enhance or maintain the vitality of the community or that there is a need for new housing in the village for the maintenance of the existing vitality of the community and that the appellant provided little evidence and no quantified analysis to confirm a local need. It was therefore not possible to conclude that the development would accord with the NPPF and the appeal failed.

16/01508/TPO - Undertake works to trees contained within G1 in schedule of TPO N349. The works were subsequently undertaken in accordance with the agreed works.

16/02158/FUL - Erection of 2 dwellings. The application was refused under delegated powers on 30.03.2017 on the grounds of:

- 1) In the opinion of the Local Planning Authority the proposed dwellings would not meet an identified proven local need for Coddington, which is not an area of focus for new housing development with the Council's settlement hierarchy. The proposal therefore does not represent a sustainable form of development and would be inappropriate. The proposal is therefore contrary to the requirements of Spatial Policy 3 (Rural Areas) of the Newark and Sherwood Core Strategy (adopted 2011) and Policy DM12 of the Allocations and Development Management DPD (adopted 2013). The proposal also fails to accord with the provisions of the National Planning Policy Framework (NPPF) 2012 which is a material planning consideration.
- 2) In the opinion of the Local Planning Authority the Tree Surveys submitted are flawed as they do not accurately show root protection areas, tree canopies or the tree shading as one would expect from a survey that complies with the British Standard 5837-2012. Notwithstanding this however Officers consider that the proposals would result in positive harm; it is considered that the proposed dwellings would have insufficient functional amenity space that would be completely dominated by surrounding trees which are not yet fully mature and there will likely to be pressure from any future occupants for pruning/felling the result would be to have adverse impacts on the trees. There would also be seasonal tree debris (from leaves, fruits, seeds etc) which could be seen as a nuisance as well as apprehension of occupants over the possible failure of trees/tree parts that are likely to be of concern to any future occupiers given the close proximity of large trees to their dwellings and this would also lead to pressure for repeat pruning and/or tree felling.

Furthermore the space that the dwellings would have access to would be severely restricted and overshadowed with occupiers having to manage their space as woodland rather than garden and the species (Yew) is not an ideal species for family houses given they are poisonous to humans, especially small children. Overall it is considered that the proposal is contrary to Policies SP3 (Rural Areas), CP9 (Sustainable Design) and CP12 (Biodiversity and Green Infrastructure) of the adopted Newark and Sherwood Core Strategy and Policies DM5 (Design) and DM7 (Biodiversity and Green Infrastructure) of the adopted Allocations and Development Management DPD which together form the Development Plan, as well as the NPPF, a material planning consideration.

17/02320/TPO – Undertake works to Oak tree protected by TPO N34 and N174 – Woodland 1 Removal of smaller lower lateral back to stem and reduction of larger lateral back to secondary growing point. Approved 21.12.2017.

The Proposal

Full planning permission was initially sought for two detached two storey 3 bedroom dwellings with detached garages. However following concerns raised by officers, the applicant has amended the scheme to a pair of semi-detached dwellings with no garages.

Both dwellings are identical in design (but handed) comprising a central front porch, kitchen, utility, living room and w.c. at ground floor whilst at first floor are three bedrooms (1 en-suite) and bathroom.

The building would measure c15m in width by 9.9m in depth (excluding the forward projection which adds a further 1.4m). The eaves height is 5.13m rising to 8m (reduced from 9.2m) to the ridge of the hipped roof.

Block paved driveways are proposed to the side of each dwelling. For House 1 the depth proposed is c14.7m whilst for House 2 it is c12m.

Plans showing part street-scenes, levels and cross sections have been provided showing that the ridge height of the proposed dwellings would sit lower than the ridge height of the existing dwelling at 4 Yew Tree Way. All windows serving the proposed dwellings (save for bathroom and landing first floor windows) would be to the front and rear elevations and materials are indicated to be red brick to complement existing dwellings with pantile roofs.

The submitted plans show lawn areas to the front and rear of the proposed dwellings and indicate the line of presence of protected trees on site.

The Submission

The application has been revised twice during its lifetime with the following documents forming the submission:

- L (03)51 Rev A – Proposed Elevations Option 10
- L(03)50 Rev D – Proposed Plans Option 10
- Agents Covering Letter
- Extended Phase 1 Habitat Survey and Tree Assessment for Bats (by Rachel Hacking Ecology, November 2016)

- Design Guide by Influence
- Planning and Design & Access Statement
- Arboricultural Method Statement by AWA Tree Consultants

Departure/Public Advertisement Procedure

Occupiers of four 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. Re-consultation has taken place on the amended scheme.

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 3 – Rural Areas
 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 14 – Historic Environment

Allocations & Development Management DPD (2013)

Policy DM5 – Design
 Policy DM7 – Biodiversity and Green Infrastructure
 Policy DM9 – Protecting & Enhancing the Historic Environment
 Policy DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

- National Planning Policy Framework 2019
- Planning Practice Guidance
- SP3 Guidance Note
- APP/B3030/A/14/2225664 – Appeal Decision
- Newark and Sherwood Housing Needs Survey 2014 by DCA
- Palm Developments Ltd v Secretary of State for Communities and Local Government, Court of Appeal - Administrative Court, February 1, 2009 and Distinctive Properties (Ascot) Ltd v Secretary of State Distinctive Properties (Ascot) Ltd v Secretary of State for Communities and Local Government, Court of Appeal - Administrative Court, March 19, 2015

Consultations

Coddington Parish Council – (15.11.2019)

“The proposed amendments to the application have done nothing to mitigate the Parish Council’s objections.

- None of the previous objections raised by the Council and local residents concerning safety and access have been addressed and residents have complained about a lack of communication by the Planning Office;
- A minor reduction of 0.7m in the height of the two houses is of no significance for preserving the character of the area. The building is still larger than all the other houses and still obliterates the public view of protected ancient woodland. The original development plan purposely left the site vacant in order to preserve the open woodland character of the estate;
- A small shed would not provide sufficient storage for a large three bedroom house and there would likely be future pressure for the addition of a garage, further encroaching on protected woodland, in direct conflict with the District Council’s policy of tree planting and preservation;
- The site currently provides a soakaway for surface water which, in view of concerns about climate change and recent flooding, is of high importance, yet there are no proposals for its relocation.”

(23.10.2019) Object on the following grounds:

- **Character** - The original plan for development at Beaconfield was for well-spaced 4-bedroomed houses with large gardens, designed around the predominant woodland setting. The design of the proposed additional semi-detached dwellings is over-development not in keeping with other properties with spacious gardens on Yew Tree Way. The semi-detached houses together are not modest in size, and in fact ignoring the garages, are larger than before. Both houses are the same width as the detached house designs previously submitted, but larger front to back with the rear of both houses closer to Yew Tree Wood. Furthermore, the division of gardens and loss of trees would set a precedent for further development, contrary to the original design conditions laid down for this area, with views over the countryside and the open space character of the area being lost.
- **Safety** - Access to the proposed houses lies at the hammer-head of the cul de sac. Additional vehicles at this point would cause congestion and inconvenience for vehicles using the turning area, and block access to the emergency services’ vehicles entry/exit route. The lack of a footpath would cause significant danger to pedestrians especially those families walking to school. Additional housing would increase road parking on the narrow Yew Tree Way, causing pedestrian hazards from emergency, utility and domestic vehicles, including reversing manoeuvres. The driveways to the proposed properties are of insufficient length for the average number of household cars and visitors. The design guide incorrectly gives the impression that there are two points of normal vehicle access to Yew Tree Way, whereas one access is for emergency vehicles only.
- **Sustainability** - The statement contains references to the Post Office and Village Shop; both these services were closed by April 2018, and planning consent has now been granted for conversion to residential use. A limited Post Office service is due to launch from the Community Centre, but this will only be open for 3 hours per week.
- **Setting of the Conservation Area** - The site lies close to the southern boundary of the Conservation Area where mature woodland provides a natural extension and setting for the Conservation Area, enhancing the environmental quality of the village. The surrounding retained trees are likely to be the subject of repeat applications for tree

felling and removal of branches, which will damage the setting of the Conservation Area and Yew Tree Way. For example, the present applicant has carried out work to significantly reduce the scale of large yew trees, so they now provide much reduced visual amenity on Yew Tree Way, and applied to fell an oak tree (01508/TPO). It is also not clear how damage to trees will be avoided during construction works due to the very limited space available for laydown and contractor vehicles / facilities.

- **Ecology** – Habitat surveys have been completed in 2016 and 2019 on behalf of the applicant, with the scope including woodland protected by TPOs. The scope of the 2019 survey covers a more restricted area than the 2016 survey, but it is clear from the report that there has been significant degradation of the mixed woodland between the two surveys, and this may extend further back towards Yew Tree Wood given the pattern of degradation. Further degradation of the woodland would be expected if permission is granted for development, both during construction and during occupation, due to the limited space for laydown and residential gardens.

20.02.2019 - Objected on the grounds of character, safety, sustainability, setting of the conservation area and ecology.

NCC Highways Authority – Standing advice applies. However given history of a refusal based on highway concerns bespoke advice was requested which is as follows:

“Yew Tree Way is a cul-de-sac and the application site is positioned near the turning head. The proposal includes the construction of two vehicular accesses which are required to be constructed in accordance with the Highway Authority’s specification.

Sufficient parking space has been proposed.

There are no highway objections subject to the following...”

They then go on to request 2 conditions and an informative which are included within the recommendation section.

Natural England – 15.10.2019: No objection. Advice that that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes. Other standing advice applies.

06.02.2019: ‘Natural England has no comments to make on this application.

Natural England has not assessed this application for impacts on protected species. Natural England has published [Standing Advice](#) which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

Natural England and the Forestry Commission have also published standing advice on [ancient woodland and veteran trees](#) which you can use to assess any impacts on ancient woodland.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice

on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on [Magic](#) and as a downloadable [dataset](#)) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at <https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice>

Nottinghamshire Wildlife Trust – 14.10.2019;

‘Thank you for consulting Nottinghamshire Wildlife Trust on the above application for Construction of 2no. dwellings at Land Adjacent 4 Yew Tree Way, Coddington, NG24 2RZ. We note the application has not significantly changed and therefore stand by our previous comments dated 3rd June 2019. We hope you find these comments helpful, please get in touch if you have any questions.’

03.06.2019: “We are pleased to see an extended Phase 1 Habitat Survey and Daytime Bat Assessment (Rachel Hackling, April 2019) has been undertaken in line with our previous comments on this application. We agree with the advice in Section 5 (page 12) of the report and recommend these are incorporated into an appropriately worded planning conditions, should the development be approved.”

12.02.2019: ‘Given that it is outside the time frame that is usually considered to be up to date and that the survey was carried out at a sub-optimum time of year, we recommend that the LPA requests an updated survey is produced prior to determination.’

Trent Valley Internal Drainage Board – Make general comments.

Consultant Tree Officer – (04.11.2019): The proposed sheds are unlikely to be detrimental to tree roots. Previous comments are still applicable--this may require a revised tree protection plan to address.

10.10.2019: “The revised scheme is likely to reduce any tree impact on future occupants which was a concern on previous layouts. The submitted tree protection scheme noted in the Arboriculture Method Statement is broadly acceptable. However, no specification details of the ground protection area have been submitted and there appears to be no provision for any on site facilities or storage of materials.”

08.02.2019: “Although the submitted revised layout just fits between retained tree RPAs I still have the following concerns:

1. There is little room for the provision of contractor facilities, materials storage or construction access to the rear of the proposed dwellings.
2. The surrounding retained trees are likely to be the subject of repeat applications from any future applicants due to issues with heavy shading, overhanging branches, seasonal nuisance and fear of the failure of tree /tree parts.
3. Garden areas still remain part of a woodland TPO and consequently understorey growth is protected which may result in issues as any future occupants may desire a "tidy" garden environment. All garden areas are likely to have reduced amenity use due to issues of shade and

again fear of failure of tree/tree parts which may increase pressure for works to trees which were previously in a woodland environment.”

Historic Environment Officer (Archaeology) – No archaeological input required.

The following objections have been received; the amended plans have not overcome the strong objections raised from 6 households:

- Planning history is material to decisions;
- Applicant should never have been given permission to remove trees for the woodland that now enable the space for 2 houses;
- Applicant should not have been allowed to benefit from a Council error;
- Protected trees removed due to errors of the District Council;
- Loss of trees from yew wood;
- Trees are vital to fight against climate change;
- Removal of mulberry tree unacceptable (only ones in the village);
- Pressure to fell yet more trees;
- Previous objections regarding highway safety still remain;
- Pedestrian safety as no pavements;
- Concerns regarding contractor vehicles during construction;
- Site slopes so would need split level garden;
- Inaccuracies and misleading comments in the Design and Access Statement;
- Driveways in close proximity to others would cause conflict;
- Comments that fences are not in the correct position;
- Claims that the village has a shop and post office is not correct;
- There is nowhere to move soakaways to;
- Design of houses does not carefully blend in with others on the street;
- Scale, width of building bigger than others on the Way;
- Concerned at lack of garages and future pressures for one;
- Shed of size proposed does not make up for lack of garage;
- Ecology concern/loss of habitat;
- Parked cars would block emergency access from farm road;
- Conflicts with location of road water soakaways;
- Properties are right up to the road with protected woodland for rear garden could play on the road;
- Boundary issues;
- Area is focal amenity for the village with protected woodland and based at the edge of the conservation area.

Comments of the Business Manager

Background

It is fair to say that there has been strong objections received in respect of this scheme. Some of these objections appear to stem from events that have happened in recent years (since 2012) whereby trees were removed because the Council had failed to take into account one of 3 TPO's relating to the site and the owner was therefore not made aware that these particular trees were subject to protection. This resulted in a complaint to the Ombudsman in 2015 against the Council for failure to enforce replanting which the Council could not take because of the fault as it would

unlikely succeed and would have been unreasonable. The Ombudsman found fault with the Council due to record keeping from 1982 but recognized that it had done all it could to prevent the problem reoccurring. The Inspector also recognized that the concern regarding future development on the site was separate from the TPO and that 'the presence of the TPO does not mean the site cannot be redeveloped' and that they 'couldn't link the fault to possible development of the site'. They did however accept that that 'removal of trees has changed the site forever and may have removed obstacles to development.' They went on to say that 'Replanting could have made development of the site more difficult but it would not have prevented development.' It is within this context that the application is assessed.

Members will note that there is a history of refusals on this site for two detached dwellings. Reasons for refusal have previously related to the lack of an identified housing need, highway safety and impacts to and from protected trees. However since the refusals there has been a shift in planning policy and the scheme, which has been amended to a pair of semi-detached dwellings, has been assessed afresh in light of all material considerations.

The Principle of Development (including a discussion on sustainability)

The Council is of the view that it has and can robustly demonstrate a 5 year housing land supply and for the purposes of decision making the Development Plan is up to date.

The starting point in assessing this application is with the Development Plan. Core Policies 1, 2 and 3 set out the settlement hierarchy in the District. Spatial Policy 1 details the settlement hierarchy to help deliver sustainable growth and development in the District. The intentions of this hierarchy are to direct new residential development to the sub-regional centre, service centres and principal villages, which are well served in terms of infrastructure and services. At the bottom of the hierarchy are 'other villages' will be considered against the sustainability criteria set out in Spatial Policy 3 (Rural Areas). These are location, scale, need, impact and character and are assessed below.

Location

SP3 states that new development should be 'in villages, which have sustainable access to Newark Urban Area, Service Centres or Principal Villages and have a range of services themselves to address day to day needs'.

I have assessed the site's location taking into account the existing situation in terms of the built form of the area. I am particularly mindful of the existing layout of development and that the site sits opposite and adjacent to existing properties on Yew Tree Way and would be served by the existing cul-de-sac in terms of vehicular access. I am satisfied that the application site is situated within the main concentration of existing development in the village.

With regards to the provision of services, whilst Coddington is defined as an 'Other Village' in the settlement hierarchy it does nevertheless contain a Primary School, two public houses, a village hall, community centre and church. There are also bus stops which provide regular half hourly bus connections to Newark. As such I consider the proposal meets the first criteria of SP3. I note the comments made by residents relating to the Design and Access Statement referring to a local shop which no longer exists but this does not alter my findings on the scheme.

Scale

SP3 provides that new development should be appropriate to the proposed location and small scale in nature. This relates to both the amount of development and its physical characteristics, the latter of which is discussed further in the Character section below.

Two additional dwellings on the site is considered small scale in numerical terms and as such is unlikely to detrimentally affect local infrastructure such as drainage and sewerage systems even when added to the development already committed to in Coddington through the granting of permissions. I also consider that two additional dwellings are highly unlikely to materially affect the capacity of the transport network in dealing with the increased volumes of traffic levels, a matter which the Highways Authority have not raised concerns on. The site is located within Flood Zone 1 of the Environment Agency flood maps and as such is at low risk of flooding from river and coastal sources. The site is also at very low risk of flooding from surface water according to the Environment Agency surface water maps and thus the additional built form is unlikely to result in adverse impacts from surface water runoff that could not be adequately mitigated against.

Character, Design/Visual Amenities

The character criterion of SP3 states that new development should not have a detrimental impact on the character of the location or its landscaped setting. This assessment overlaps with the consideration required by Policy DM5 which confirms the requirement for new development to reflect the rich local distinctiveness of the District's landscape and character through scale, form, mass, layout, design, materials and detailing. Core Policy 13 requires the landscape character of the surrounding area to be conserved. The NPPF states that good design is a key aspect of sustainable development.

The site's location adjacent to the designated conservation area is also a material consideration. The Council's conservation team raise no objection to the setting of the conservation area. I concur with this opinion.

The proposed dwellings are modern in design and very much reflect the style of the existing detached dwellings along Yew Tree Way.

The height of the dwellings has been reduced so that in context it sits lower than adjacent dwellings. The building is wider than the other buildings on the street, however I do not consider this to be fatal to the scheme. Visually this does not read as jarring with some of the larger detached dwellings in the vicinity. I am satisfied that the proposed dwellings by reason of their height, choice of materials, layout, and soft landscaping would ensure the buildings would have an acceptable relationship with the street scene and the visual character of the area. Given the properties would be seen in context with existing dwellings on Yew Tree Way and that existing trees on the site would be retained, I am satisfied that the proposals would result in no significant impact on landscape character and setting of the adjoining conservation area. Tree protection measures have been set out in the Arboricultural Methodology Statement which can be conditioned and precise details of soft landscaping would be subject to condition if approved.

I am therefore satisfied that the proposals would comply with the design guidance in the NPPF and DM5 of the DPD and the policies in the Core Strategy and DPD relating to the historic environment and landscape character.

Need for Development

Members will note that a lack of housing need was previously cited as a reason for refusal and an appeal against the Council's decision was dismissed. However planning policy has shifted since the determination of the appeal. Whereas previous housing in such an area was expected to meet an identified proven local need, the adopted policy now requires development to *"help support community facilities and local services."* It goes on to say that *"Neighbourhood Plans may set detailed policies reflecting local housing need, elsewhere housing schemes of 3 dwellings or more should meet the mix and type requirements of Core Policy 3."*

In essence the need criteria of SP3 has relaxed and only has to support community facilities and local services, which this scheme is capable of doing. There is no Neighbourhood Plan for Coddington that sets a specific housing need agenda or policy to the contrary. I also note that the Newark and Sherwood Housing Needs Survey 2014 by DCA identifies that in the Newark Sub Area (where Coddington falls) the most needed type of accommodation is for 3 bedroom dwellings (40.2%). CP3 also reinforces that family housing of 3 bedrooms or more is a general need across the district.

Therefore whilst the appeal decision is a material consideration, in this case I am on the view that given the changes to the policy in respect of need, it would now be unreasonable to resist an application on this basis.

Impacts on Trees

The starting point for all development is that Policies CP12 and DM5 seeks to protect and enhance natural features where possible. CP9 requires proposals *'to demonstrate a high standard of sustainable design that both protects and enhances the natural environment and contributes to and sustains the rich local distinctiveness of the District.'*

The trees on the site are protected by Tree Preservation Orders. In support of the application a tree survey, updated method statement and plans showing the tree protection measures has been submitted by AWA Tree Consultants.

In order to facilitate the development the proposals would require the removal of 3 semi-mature trees (2 x Mulberry and 1 Maple) and a dense group of shrubbery, all of which are graded as category C, which have low amenity value. The Council's Consultant Tree Officer has been on site and reviewed the scheme. The loss of the trees and shrubbery is considered to be acceptable given their low amenity value.

The Tree Officer notes that the Arboricultural Method Statement is broadly acceptable but that no specific ground protection areas have been submitted and there appears to be no provision for any on site facilities or storage of materials. These however are matters that could be dealt with by condition if Members were minded to approve the scheme. Confirmation has also been received that the positioning of the sheds is unlikely to be detrimental to tree roots given they would be placed on no dig footings.

The garden to House 1 would contain 5 trees comprising 3 x Yews, an Oak and Maple and be overhung by 2 other Oaks. House 2 would contain 7 trees; 2 x Yews, 3 Oaks and 2 Mulberry's with an Oak overhanging its garden.

In terms of the impact on the remaining woodland, concern was previously raised in terms of pressure to prune trees due to the shading of the garden and seasonal nuisance and fear of the trees falling in close proximity to the dwellings. Members will note that the amended plans have addressed the concerns raised by the tree officer. The scheme is considered 'likely to reduce any tree impact on future occupants which was a concern on previous layouts.' I note the presence of the Yew trees whose debris is toxic particularly for small children if consumed which isn't ideal for family housing, which these dwellings are. However I agree that the dwellings are now an adequate distance from trees and the occupiers would be well aware of the potential issues before taking possession of the houses.

Whilst the dwellings proposed would still have gardens dominated by trees, each has some external space that is clear of trees allowing for areas that aren't overshadowed, particularly House 2 having the largest curtilage. Notwithstanding this, the way in which the site would have to be managed has been clarified by case law in that a woodland TPO protects all trees and the site would essentially need to be managed as a woodland as opposed to being managed as a garden.

The key question therefore is whether the concerns that have not/cannot be addressed are sufficient to resist this development. In doing so it is important to note that the host dwelling sits within a similar woodland setting of similar species including Yews. Taking all matters into account I am of the view that the amendments made to the scheme from the previous refusal and during the life of this application, that the scheme is on balance acceptable and in line with policy.

Impact on Residential Amenity

Policy DM5 states that the layout of development within sites and separation distances from neighbouring development should be sufficient to ensure that neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy. In the context of the current application, consideration of amenity requires deliberation to the impacts of the development on the existing neighbouring properties as well as the proposed occupiers of the development proposed.

In terms of the built form of the proposed dwellings and the parking and garden areas proposed, I am satisfied that the proposal would result in no undue impacts on neighbouring residential amenity (nor with each other) given the relationships with other properties on Yew Tree Way. In reaching this conclusion I am mindful that 'House 1' is set back in relation to the existing dwelling at 4 Yew Tree Way. However, given the separation distances between this existing property, that the rear garden of no.4 includes numerous trees which already result in a degree of overshadowing to this property, and that there are no side windows (other than an obscure glazed bathroom window) on the proposed dwellings, I consider that the proposals would not result in any undue overbearing, overshadowing or overlooking impacts. The insertion of any further windows in the side elevations of the proposed dwellings could be controlled by a condition. There are no dwellings affected to the west and those to the south are located on the opposite side of the road with sufficient space and distances between them to allow for privacy.

Concern was previously expressed that the garden curtilages of the two detached dwellings would not create functional or meaningful gardens given that the presence of the trees would require the gardens to be managed as woodland rather than gardens.

The revised scheme has sought to address this concern by providing more useable garden space for each of the dwellings. The reduction in the size of the dwellings, their repositioning and the

removal of the garages from the scheme has aided this albeit the trees still would still somewhat dominate much of the external space, particularly with House 1, and would still need to be managed as woodland. Notwithstanding this I am mindful that the future occupiers of the dwellings would be aware of the limitations of the garden in advance and that not all occupiers would be concerned by this management requirement. As the land slopes, details of land contours can be clarified by condition but it would be expected that no alterations to the land levels would need to occur.

The loss of the garages from the scheme has resulted in the loss of ability to store domestic paraphernalia for residents such that the applicant was invited to consider the siting of an appropriate sized shed at this stage. This was particularly important given that I would be recommending the removal of permitted development rights in the event of an approval. The applicant has advanced a plan to show each dwelling provided with a small shed measuring 1.83m x 1.24m. No elevation details have been forthcoming albeit the height has been given as 1.83m to eaves and 2.11m to ridge. I am satisfied that this would not adversely affect residential amenity.

On balance I find that the level of amenity space and its usability has now tipped over into being acceptable.

Impact on Ecology

Core Policy 12 states that the Council will seek to conserve and enhance the biodiversity of the District and that proposals will be expected to take into account the need for the continued protection of the District's ecological and biological assets. Policy DM7 supports the requirements of Core Policy 12.

The site offers ecological value within its woodland habitat. An Extended Phase 1 Habitat Survey and Tree Assessment for Bats (November 2016) was undertaken in support of the application and this was updated in April 2019 given the passage of time.

The survey concludes that there is potential foraging, hibernating and commuting habitat suitable for Great Crested Newts which could be supported on a pond outside of the site c250m to the south-west, however given the lack of connectivity it is not considered to be a constraint to development. The site supports good foraging and commuting habitat for bats although no evidence of bat activity was found during the tree survey and likewise there was no evidence of badgers or other protected species. The trees also provide suitable bird nesting habitat.

Invasive non-native species (4 types) were also found on the site in 2019; none were previously found in 2016. It is an offence to allow these to spread. However unless these are causing a nuisance no formal action can be taken. However I consider that it would be reasonable to require these to be removed as part of a landscaping scheme in the event that the application is approved which would be a betterment that otherwise could not at this stage be obtained.

I note that Natural England raise no objections to the proposal.

Having following the Standing Advice issued by Natural England and in line with the recommendations of the Survey, given I have no evidence to the contrary I am satisfied that any harm could be mitigated through conditions and that habitat creation and enhancements could also be secured by condition. Subject to this the proposal would accord with Core Policy 12 and Policy DM7.

Impact on Highway Safety

Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision.

I note that local residents have raised concerns that there are no pavements along Yew Tree Way and that garages at many properties along this Way are used for storage and there are parking problems already. During site visits I did not encounter any obvious parking issues. The garages have now been removed from the scheme and as a consequence longer driveways have been provided for each unit which would allow for the parking of at least two cars each which is sufficient for three bedroom dwellings. I note that the Highways Authority raise no objection to the scheme in terms of highway or pedestrian safety.

It is therefore considered that the proposal does not result in any highway safety issues and complies with SP7 and Policy DM5 of the Core Strategy and DPD respectively.

Other Matters (Not already covered)

I note that local residents have raised concerns that the local schools are already oversubscribed. Whilst this may well be true, an application for just two dwellings is not required to contribute towards primary education (as the trigger for developer contributions is set at 11 units) and indeed secondary education would be covered by CIL in any event.

Concerns have also been raised regarding drainage which I am satisfied could be controlled by conditions if the application were to be recommended for approval.

Lack of communication from the planning office is cited by residents to the Parish Council as being of concern. I can confirm that appropriate public consultation has been undertaken on the application. As is pointed out in the neighbour notifications, officers are unable to respond individually to each concern raised. This report is essentially that response.

If soakaways need to be removed, this would require the consent of the relevant authority. If it is not possible to relocate them as suggested by some third party comments, then it could mean that the planning permission is unable to be implemented in the same way that one couldn't implement a scheme on land that one doesn't own.

The issue of fencing not being in the correct position appears to be a civil issue rather than a planning one.

Planning Balance and Overall Conclusion

Having regard to the criteria contained within SP3, the principle of development within Coddington village is considered acceptable. Having carefully considered the site specific impacts I conclude that there would be no demonstrable harm in terms of heritage and highway safety.

I appreciate the concerns of the Parish Council and those of the residents who raise strong objections. I also appreciate the planning history relating to the site and events that have led up to the submission of this latest submission.

With regards to the design of the new dwellings and whether they fit with the character of the area is subjective. However I have found that these would be acceptable for their context and would offer needed (in a district and national sense) 2 x 3 bedroom dwellings in a relatively sustainable settlement.

Three category C grade trees and some shrubbery would need to be removed from the site in order to facilitate the development. The Tree Officer has raised no concerns to this loss given their low amenity value. A reasonable level of useable garden space is now available to each dwelling such that the amenity space is now considered acceptable. Whilst the potential pressure for pruning would not fully disappear, I, like the Tree Officer am satisfied that due to the proximity of the dwelling and the age of the species closest to the dwelling, this pressure would not be undue. Seasonable debris is a matter for the owners to manage acknowledging that the external space would need to be managed as a woodland rather than gardens. However this is no different to the host dwelling and others in the vicinity. Not all occupiers would be put off by this prospect.

In terms of ecology no specific harm was identified. Four types of 4 invasive species found on site could be sought to be removed through a landscaping condition which would be a betterment which I give some limited positive weight to. Any other potential harm can be mitigated by condition and I consider that enhancements could also be achieved.

All relevant matters need to be weighed in the planning balance. I have considered all of the above and have come to the view that the previous refusal reasons have been adequately addressed and any harm could be mitigated by conditions. I therefore offer a recommendation of approval.

RECOMMENDATION

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

Conditions

01 (Time for Implementation)

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 (Construction Management Plan)

No development shall be commenced, including any works of demolition or site clearance, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site construction workers and visitors;
- ii. loading and unloading of plant and materials;

- iii. storage of plant and materials used in constructing the development specifically avoiding root protection areas of retained trees;
- iv. the erection and maintenance of any security fencing required including the positioning of this with specific consideration in relation to retained and protected trees.

Reason: In the interests of ensuring that protected and retained trees are protected during the construction phase and in the interests of residential amenity.

03 (Prohibited Activities near trees)

During the construction period the following activities must not be carried out under any circumstances.

- a. No fires to be lit on site within 10 metres of the nearest point of the canopy of any retained tree/hedgerow on or adjacent to the proposal site.
- b. No equipment, signage, fencing etc. shall be attached to or be supported by any retained tree on or adjacent to the application site,
- c. No temporary access within designated root protection areas without the prior written approval of the Local Planning Authority.
- d. No mixing of cement, dispensing of fuels or chemicals within 10 metres of any retained tree/hedgerow on or adjacent to the application site.
- e. No soak-aways to be routed within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- f. No stripping of top soils, excavations or changing of levels to occur within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- g. No topsoil, building materials or other to be stored within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
- h. No alterations or variations of the approved works or protection schemes shall be carried out without the prior written approval of the District Planning Authority.

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

04 (No machine digging underneath tree canopy)

Unless otherwise agreed in writing by the Local Planning Authority, no machines shall be used and only hand digging shall be undertaken when excavating beneath the crown spread of any trees on site. Any roots exposed over 25mm diameter, shall be retained, undamaged and protected i.e. from unnecessary damage and drying out. All backfilling over exposed roots shall be of top soil or washed sand, carefully tamped by hand around and over all roots before continuing to backfill with other materials required for the finished treatment.

Reason: To ensure that adequate protection is afforded to the existing vegetation and trees to remain on site, in the interests of visual amenity and biodiversity.

05 (Tree Protection)

No works or development shall take place until the trees shown to be retained have been protected in accordance with the details contained within the Arboricultural Method Statement prepared by AWA Tree Consultants as amended and submitted to the Local Planning Authority on 2nd October 2019. All works/development shall be carried out in full accordance with the approved tree/hedgerow protection scheme. The protection measures shall be retained during the construction phase of the development.

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

06 (Updated Tree Protection Plan for Sheds)

Prior to the installation of the approved timber sheds within each garden, a revised Tree Protection Plan (TPP) shall be submitted to and approved in writing by the Local Planning Authority. The approved tree protection shall then be installed on site prior to the installation of the sheds and shall only be removed once these sheds have been installed.

Reason: The TPP has not been updated to reflect the provision of the garden sheds and this condition is necessary to ensure that existing trees and hedges to be retained are protected, in the interests of visual amenity and nature conservation.

07 (Drainage)

No development shall be commenced until details of the means of foul drainage and surface water disposal have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out thereafter prior to first occupation in accordance with the approved details.

Reason: To ensure the provision of satisfactory means of foul sewage/surface water disposal.

08 (External Facing Materials)

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.

09 (Architectural Details)

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

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

Treatment of window and door heads and cills

Verges and eaves

Reason: In the interests of visual amenity.

010 (Hard and Soft Landscaping)

Prior to first occupation of the development hereby approved, full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:

full details of every tree, shrub, hedge to be planted (including its proposed location, species, size and approximate date of planting) and details of tree planting pits including associated irrigation measures, tree staking and guards, and structural cells. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species;

proposed finished ground levels or contours;

means of enclosures to each curtilage;

hard surfacing materials;

Reason: In the interests of visual amenity and biodiversity.

011 (Implementation of landscaping)

The approved soft landscaping shall be completed during the first planting season following the first occupation/use 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. All tree, shrub and hedge planting shall be carried out in accordance with BS 3936 -1992 Part 1-Nursery Stock-Specifications for Trees and Shrubs and Part 4 1984-Specifications for Forestry Trees ; BS4043-1989 Transplanting Root-balled Trees; BS4428-1989 Code of Practice for General Landscape Operations. The approved hard landscaping scheme shall be completed 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.

012 (Further Bat Survey)

No development or clearance works shall begin later than 12th April 2021 unless a further daytime bat survey has been undertaken on site by an appropriately qualified/experience ecologist and the results and proposed mitigation where required has been submitted to and approved in writing by the Local Planning Authority. The approved mitigation shall be implemented on site in accordance

with an approved timetable and shall be retained on site in perpetuity where this is deemed necessary.

Reason: To ensure that adequate protection is afforded to bats that could be on site in line with the findings of the Extended Phase 1 Habitat Survey dated April 2019 by Rachel Hacking Ecology which after this date will be considered to be out of date.

013 (Habitat Enhancement and Creation)

No dwelling on site shall be occupied until details of a habitat enhancement and creation scheme has been submitted to and approved in writing by the Local Planning Authority. This should include, but is not limited to, the provision of bird nest boxes/bricks and artificial bat roosts and should set out the type (manufacturer) the number and their precise positioning including their heights. The habitat creation and enhancement scheme shall then be implemented on site, prior to occupation, in accordance with the approved details and retained thereafter for the lifetime of the development.

Reason: In the interests of enhancing biodiversity in line with the requirements of the Development Plan, the NPPF and in line with the recommendations of the Extended Phase 1 Habitat Survey dated April 2019 by Rachel Hacking Ecology.

014 (Removal of Invasive Species)

No dwelling on site shall be occupied until a methodology for the removal of the four invasive species found on the application site has been submitted to and approved in writing by the Local Planning Authority. The invasive species should then be removed from the site as detailed within the methodology prior to first occupation of the dwellings hereby approved.

Reason: In the interests of enhancing biodiversity in line with the requirements of the Development Plan, the NPPF and in line with the recommendations of the Extended Phase 1 Habitat Survey dated April 2019 by Rachel Hacking Ecology.

015 (Protection for nesting Birds)

No hedge or tree that is to be removed as part of the development hereby permitted shall be lopped, topped, felled or otherwise removed during the bird nesting period (beginning of March to end of August inclusive) unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that adequate provision is made for the protection of nesting birds on site.

016 (External Lighting)

Prior to first occupation details of any external lighting to be used in the development shall be submitted to and approved in writing by the Local Planning Authority. The details shall include location, design, levels of brightness and beam orientation, together with measures to minimise overspill and light pollution in terms of the surrounding habitat and nocturnal wildlife. The lighting scheme shall thereafter be carried out in accordance with the approved details and the measures to reduce overspill and light pollution retained for the lifetime of the development.

Reason: In the interests of affording protection to nocturnal wildlife on the site.

017 (Provision of bound driveway)

No dwelling forming part of the development hereby permitted shall be occupied until its associated drive/parking area is surfaced in a hard bound material (not loose gravel) for a minimum of 5 metres behind the Highway boundary. The surfaced drive/parking area shall then be maintained in such hard bound material for the life of the development.

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

018 (Dropped Curb)

No dwelling forming part of the development hereby permitted shall be occupied until its associated dropped kerb vehicular crossing is available for use and constructed in accordance with the Highway Authority's specification.

Reason: In the interests of highway safety.

019 (Approved Plans)

The development hereby permitted shall not be carried out except in accordance with the following approved plans, reference

- L (03)51 Rev A – Proposed Elevations Option 10
- L(03)50 Rev D – Proposed Plans Option 10
- Site Location Plan (unreferenced but received 28.01.2019)

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.

020 (Removal of Permitted Development Rights)

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (and any order revoking, re-enacting or modifying that Order), other than development expressly authorised by this permission, there shall be no development under

Schedule 2, Part 1 of the Order in respect of:

Class A: The enlargement, improvement or other alteration of a dwellinghouse.

Class B: The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.

Class C: Any other alteration to the roof of a dwellinghouse.

Class D: The erection or construction of a porch outside any external door of a dwellinghouse.

Class E: Buildings etc incidental to the enjoyment of a dwellinghouse.

Class F: Hard surfaces incidental to the enjoyment of a dwellinghouse.

Or Schedule 2, Part 2:

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

Class B: Means of access to a highway.

Class C: The painting of the exterior of any building.

Or Schedule 2, Part 40 of the Order in respect of:

Class A: The installation, alteration or replacement of solar PV or solar thermal equipment.

Class B: The installation, alteration or replacement of standalone solar within the curtilage of a dwelling house.

Class C: The installation, alteration or replacement of a ground source heat pump within the curtilage of a dwellinghouse.

Class D: The installation, alteration or replacement of a water source heat pump within the curtilage of a dwellinghouse.

Class E: The installation, alteration or replacement of a flue, forming part of a biomass heating system, on a dwellinghouse.

Class F: The installation, alteration or replacement of a flue, forming part of a combined heat and power system, on a dwellinghouse.

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

Reason: To ensure that the Local Planning Authority retains control over the specified classes of development normally permitted under the Town and Country Planning (General Permitted Development) (England) Order 1995 or any amending legislation) given the presence of protected trees within the garden curtilages of these dwellings and in the interests of amenity.

Note to applicant

01

The development makes it necessary to construct vehicular crossings over a footway/verge of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact the County Council's Agent, Via East Midlands to arrange for these works to be carried out. Email: licences@viaem.co.uk Tel. 0300 500 8080 and further information at:

<https://www.nottinghamshire.gov.uk/transport/licences-permits/temporary-activities>”

02

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

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/ or from the Planning Portal: www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil

03

The trees on site are protected by tree preservation orders and you are advised that should you wish to lop, top or fell such a tree or trees, or their undergrowth the prior consent in writing of Newark and Sherwood District Council is likely to be required. The gardens will need to be managed as woodland and the occupiers should be aware of this.

04

The applicant's attention is drawn to those conditions on the decision notice, which should be discharged before the development is commenced. It should be noted that if they are not appropriately dealt with the development may be unauthorised.

05

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 accord Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

BACKGROUND PAPERS

Application case file.

For further information, please contact Clare Walker on ext 5834.

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

Lisa Hughes
Business Manager – Planning Development

Committee Plan - 19/00131/FUL



