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**Our reference:**  
**Your reference:**  
**Date:** Wednesday, 1 July 2020

To all Members of the Planning Committee

Dear Councillor

A Virtual Meeting of the Planning Committee will be held via Zoom on Thursday, 9 July 2020 at 6.30 pm to consider the following items of business.

The meeting will be live streamed via YouTube for the public to listen and view via the link: <https://www.youtube.com/user/RushcliffeBC> Note: Please be aware that until the meeting starts the live stream video will not be showing on the home page. For this reason, please keep refreshing the home page until you see the video appear.

Yours sincerely



Sanjit Sull  
Monitoring Officer

### **AGENDA**

1. Apologies for Absence and Substitute Members
2. Declarations of Interest
  - a) Under the Code of Conduct
  - b) Under the Planning Code
3. Minutes of the Meeting held on 11 June 2020 (Pages 1 - 8)
4. Planning Applications (Pages 9 - 62)  
The report of the Executive Manager - Communities.
5. Planning Appeals (Pages 63 - 66)  
The report of the Executive Manager - Communities.

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9.30am - 5pm  
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8.30am - 4.30pm

**Postal address**  
Rushcliffe Borough  
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Rushcliffe Arena  
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West Bridgford  
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NG2 7YG



## Membership

Chairman: Councillor R Butler

Vice-Chairman: Councillor Mrs M Stockwood

Councillors: A Brennan, N Clarke, P Gowland, L Healy, A Major, J Murray, F Purdue-Horan, C Thomas and D Viridi

### **Meeting Room Guidance**

**Fire Alarm Evacuation:** in the event of an alarm sounding please evacuate the building using the nearest fire exit, normally through the Council Chamber. You should assemble at the far side of the plaza outside the main entrance to the building.

**Toilets:** are located to the rear of the building near the lift and stairs to the first floor.

**Mobile Phones:** For the benefit of others please ensure that your mobile phone is switched off whilst you are in the meeting.

**Microphones:** When you are invited to speak please press the button on your microphone, a red light will appear on the stem. Please ensure that you switch this off after you have spoken.

### **Recording at Meetings**

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**MINUTES**  
**OF THE MEETING OF THE**  
**PLANNING COMMITTEE**  
**THURSDAY, 11 JUNE 2020**  
Held at 2.00 pm Virtually by Zoom

**PRESENT:**

Councillors Mrs M Stockwood (Vice-Chairman), A Brennan, P Gowland, C Thomas, J Stockwood (substitute for Cllr R Butler) and D Virdi

**OFFICERS IN ATTENDANCE:**

D Mitchell	Executive Manager - Communities
A Pegram	Service Manager - Communities
S Sull	Monitoring Officer
H Tambini	Democratic Services Manager
L Webb	Democratic Services Officer

**APOLOGIES:**

Councillors R Butler

**1 Declarations of Interest**

There were no declarations of interest.

**2 Minutes of the Meeting held on 14 May 2020**

The minutes of the Planning Committee 14 May 2020 were declared a true record of the meeting.

**3 Planning Applications**

The Committee considered the written report of the Executive Manager - Communities relating to the following applications, which had been circulated previously.

**19/01206/FUL – Proposed (secondary) driveway off Stamford Road, erection of proposed detached garage and demolition of part of the boundary wall and 19/01425/RELDEM – Demolition of section of boundary wall – 151 Melton Road, West Bridgford, Nottinghamshire, NG2 6JL.**

**Updates**

A representation was received from Councillor Penny Gowland (Ward Councillor) objecting to the application after the agenda had been published and was circulated to the committee before the meeting.

A statement from Mr George Machin, (agent of applicant) was read to the

committee.

Councillor Penny Gowland (Ward Councillor) addressed the committee.

## **DECISION**

### **(i) 19/0206/FUL - GRANT PLANNING PERMISSION FOR THE REASONS SET OUT IN THE REPORT SUBJECT TO THE FOLLOWING CONDITIONS.**

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

[To comply with Section 91 of the Town and Country Planning Act 1990, as amended by the Planning & Compulsory Purchase Act 2004].

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

- Proposed Site Plan and Garage Elevations – ‘1914-060 Rev E’ Received 19/05/2020;
- Street Elevations – 1914-200 Rev C’ – Received 19/05/2020;

[For the avoidance of doubt and to comply with policy 1 (Development Requirements) of the Rushcliffe Local Plan Part 2: Land and Planning Policies].

3. The garage hereby approved shall be constructed only in materials to match the existing dwelling house.

[The condition is required to ensure the appearance of the development is satisfactory and to comply with policies 10 (Design and Enhancing Local Identity) and 11 (Historic Environment) of the Rushcliffe Local Plan part 1: Core Strategy and policies 1 (Development Requirements) and 28 (Conserving and Enhancing Heritage Assets) of the Rushcliffe Local Plan Part 2: Land and Planning Policies].

4. The new boundary and retaining walls for the driveway and access shall be constructed only from Bulwell stone to match the existing boundary wall to be partially removed. Stone should be reclaimed from the demolition of the wall, and any additional stone required should closely match the appearance of the existing and reclaimed stone to be used onsite. No other materials shall be utilised in the new boundary and retaining walls hereby approved.

[The condition is required to ensure the appearance of the development is satisfactory and to comply with policies 10 (Design and Enhancing Local Identity) and 11 (Historic Environment) of the Rushcliffe Local Plan part 1: Core Strategy and policies 1 (Development Requirements) and 28 (Conserving and Enhancing Heritage Assets) of the Rushcliffe Local Plan Part 2: Land and Planning Policies].

5. Prior to any demolition of the boundary wall taking place, a landscaping

scheme for the provision of additional planting as suggested on the approved site plan shall be submitted to and approved by the local planning authority. The approved scheme shall be carried out in the first tree planting season following the substantial completion of the development. Any trees or plants which within a period of 5 years from the completion of the development 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 the Borough Council gives written consent to any variation.

[In the interests of amenity and biodiversity and to comply with policies 10 (Design and Enhancing Local Identity); 11 (Historic Environment) and 17 (Biodiversity) of the Rushcliffe Local Plan part 1: Core Strategy and policies 1 (Development Requirements); 28 (Conserving and Enhancing Heritage Assets) and 38 (Non-Designated Biodiversity Assets and the Wider Ecological Network) of the Rushcliffe Local Plan Part 2: Land and Planning Policies].

6. The driveway hereby approved shall not be brought into use until such time as it has been surfaced in a hard bound material, and drained to prevent the discharge of surface water from the driveway to the public highway. The bound material and the provision to prevent the discharge of surface water to the public highway shall be retained for the lifetime of the development.

[In the interests of highway safety and to ensure compliance with Policy 1 (Development Requirements) of the Rushcliffe Local Plan Part 2: Land and Planning Policies].

7. The approved driveway shall not be brought into use until it is fronted by a suitably constructed footway crossing as detailed on the approved site plan. This provision shall be retained for the lifetime of the development.

[In the interests of highway safety and to ensure compliance with Policy 1 (Development Requirements) of the Rushcliffe Local Plan Part 2: Land and Planning Policies].

8. Notwithstanding the provisions of Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), prior to the installation of any gates on the driveway hereby approved, details of the design, positioning and operation of the gates shall first be submitted to and approved by the local planning authority. Any gates shall thereafter only be installed and maintained in accordance with the approved details.

[The condition is required to ensure the appearance of the development is satisfactory and in the interests of highway safety and to comply with policies 10 (Design and Enhancing Local Identity) and 11 (Historic Environment) of the Rushcliffe Local Plan part 1: Core Strategy and policies 1 (Development Requirements) and 28 (Conserving and Enhancing Heritage Assets) of the Rushcliffe Local Plan Part 2: Land and Planning Policies].

## Notes to Applicant

The development makes it necessary to construct a vehicular crossing over a footway of the public highway. These works shall be carried out to the satisfaction of the Highway Authority. You are therefore required to contact Via (in partnership with Nottinghamshire County Council) on 0300 500 8080 to arrange for these works to take place.

This permission does not give any legal right for any work on, over or under land or buildings outside the application site ownership or affecting neighbouring property, including buildings, walls, fences and vegetation within that property. If any such work is anticipated, the consent of the adjoining land owner must first be obtained. The responsibility for meeting any claims for damage to such features lies with the applicant.

This grant of planning permission does not alter the private legal situation with regard to the carrying out of any works involving land which you do not own or control. You will need the consent of the owner(s) involved before any such works are started.

You are advised to ensure disturbance to neighbours is kept to a minimum during construction by restricting working hours to Monday to Friday 7.00am to 7.00pm, Saturday 8.00am to 5.00pm and by not working on Sundays or Bank Holidays. If you intend to work outside these hours you are requested to contact the Environmental Health Officer on 0115 9148322.

This Authority is charging for the discharge of conditions in accordance with revised fee regulations which came into force on 6 April 2008. Application forms to discharge conditions can be found on the Rushcliffe Borough Council website.

You are advised that the site is within a designated Conservation Area and any trees are therefore protected. Prior to undertaking any works to any trees you should contact the Borough Councils Conservation and Design Officer on 0115 9148243 and/or the Councils Landscape Officer on 0115 914 8558.

**(ii) 19/01425/RELD - GRANT PLANNING PERMISSION FOR THE REASONS SET OUT IN THE REPORT SUBJECT TO THE FOLLOWING CONDITIONS.**

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

[To comply with Section 91 of the Town and Country Planning Act 1990, as amended by the Planning & Compulsory Purchase Act 2004].

2. This permission solely relates to the demolition of the section of boundary wall as shown as required on the following approved plans:

- Proposed Site Plan and Garage Elevations – ‘1914-060 Rev E’ Received 19/05/2020;
- Street Elevations – 1914-200 Rev C’ – Received 19/05/2020;

[For the avoidance of doubt and to comply with policy 1 (Development Requirements) of the Rushcliffe Local Plan Part 2: Land and Planning Policies].

3. No demolition of the boundary wall shall take place until such time that a contract for the construction of the new driveway and associated boundary and retaining wall structures has been secured, and condition 5 of permission 19/01206/FUL has been discharged. Evidence of these requirements being met and a schedule and timescale for works shall first be submitted to and approved by the Local Planning Authority, and works thereafter shall be completed in accordance with the approved details.

[The condition is required to ensure the appearance of the development is satisfactory and to safeguard the character and appearance of the Edwalton Conservation Area, to comply with policies 10 (Design and Enhancing Local Identity) and 11 (Historic Environment) of the Rushcliffe Local Plan part 1: Core Strategy and policies 1 (Development Requirements) and 28 (Conserving and Enhancing Heritage Assets) of the Rushcliffe Local Plan Part 2: Land and Planning Policies].

### **Notes to Applicant**

This Authority is charging for the discharge of conditions in accordance with revised fee regulations which came into force on 6 April 2008. Application forms to discharge conditions can be found on the Rushcliffe Borough Council website.

**20/00635/FUL– A single storey side extension. Extension to garage. First floor rear extension and a loft conversion with a side dormer and gable end to the rear of the property. (Resubmission) – 148 Harrow Road, West Bridgford, Nottinghamshire, NG2 7DX.**

### **Updates**

There were no updates.

Councillor Rod Jones (Ward Councillor) addressed the committee.

### **DECISION**

**GRANT PLANNING PERMISSION FOR THE REASONS SET OUT IN THE**

## REPORT SUBJECT TO THE FOLLOWING CONDITIONS.

It is RECOMMENDED that planning permission be granted subject to the following condition(s)

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

[To comply with Section 91 of the Town and Country Planning Act 1990, as amended by the Planning & Compulsory Purchase Act 2004].

2. The development hereby permitted shall be carried out in accordance with the following approved plans: STA\_034\_06\_RevG, STA\_034\_05\_RevF, STA\_034\_04\_RevG and STA\_034\_06\_RevA received on 17 March 2020.

[For the avoidance of doubt and to comply with policy 1 (Development Requirements) of the Rushcliffe Local Plan Part 2: Land and Planning Policies].

3. The extension(s) hereby permitted shall be constructed in suitable facing and roofing materials to match the elevations of the existing property.

[For the avoidance of doubt and to comply with policy 1 (Development Requirements) of the Rushcliffe Local Plan Part 2: Land and Planning Policies].

4. The window in the side dormer of the proposed development shall be fitted with glass which has been rendered permanently obscured to Group 5 level of privacy or equivalent. Thereafter, the window shall be retained to this specification unless otherwise agreed in writing by the Borough Council. No additional windows shall be inserted in this elevation without the prior written approval of the Borough Council

[To prevent overlooking and loss of privacy to neighbouring property and to comply with Policy 1 (Presumption in Favour of Sustainable Development) of the Rushcliffe Local Plan Part 1: Core Strategy and Policy 1 (Development Requirements) of the Rushcliffe Local Plan Part 2: Land & Planning Policies].

### **Notes to Applicant**

It is understood that there may be a covenant on this property which could prevent the development authorised by this permission. You are reminded that this decision relates to planning law only and does not override the terms of any covenant.

This permission does not give any legal right for any work on, over or under land or buildings outside the application site ownership or affecting neighbouring property, including buildings, walls, fences and vegetation within that property. If any such work is anticipated, the consent of the adjoining land owner must first be obtained. The responsibility for meeting any claims for damage to such features lies with the applicant.



The provisions of the Party Wall Act 1996 may apply in relation to the boundary with the neighbouring property. A Solicitor or Chartered Surveyor may be able to give advice as to whether the proposed work falls within the scope of this Act and the necessary measures to be taken.

The meeting closed at Time Not Specified.

CHAIRMAN

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## Planning Committee

9 July 2020

## Planning Applications

### Report of the Executive Manager - Communities

#### PLEASE NOTE:

1. Slides relating to the application will be shown where appropriate.
2. Plans illustrating the report are for identification only.
3. Background Papers - the application file for each application is available for public inspection at the Rushcliffe Customer Contact Centre in accordance with the Local Government Act 1972 and relevant planning legislation/Regulations. Copies of the submitted application details are available on the website <http://planningon-line.rushcliffe.gov.uk/online-applications/>. This report is available as part of the Planning Committee Agenda which can be viewed five working days before the meeting at <https://democracy.rushcliffe.gov.uk/ieListMeetings.aspx?Committeeld=140> Once a decision has been taken on a planning application the decision notice is also displayed on the website.
4. Reports to the Planning Committee take into account diversity and Crime and Disorder issues. Where such implications are material they are referred to in the reports, where they are balanced with other material planning considerations.
5. With regard to S17 of the Crime and Disorder Act 1998 the Police have advised they wish to be consulted on the following types of applications: major developments; those attracting significant numbers of the public e.g. public houses, takeaways etc.; ATM machines, new neighbourhood facilities including churches; major alterations to public buildings; significant areas of open space/landscaping or linear paths; form diversification to industrial uses in isolated locations.
6. Where the Planning Committee have power to determine an application but the decision proposed would be contrary to the recommendation of the Executive Manager - Communities, the application may be referred to the Council for decision.
7. The following notes appear on decision notices for full planning permissions:  
“When carrying out building works you are advised to use door types and locks conforming to British Standards, together with windows that are performance tested (i.e. to BS 7950 for ground floor and easily accessible windows in homes). You are also advised to consider installing a burglar alarm, as this is the most effective way of protecting against burglary.

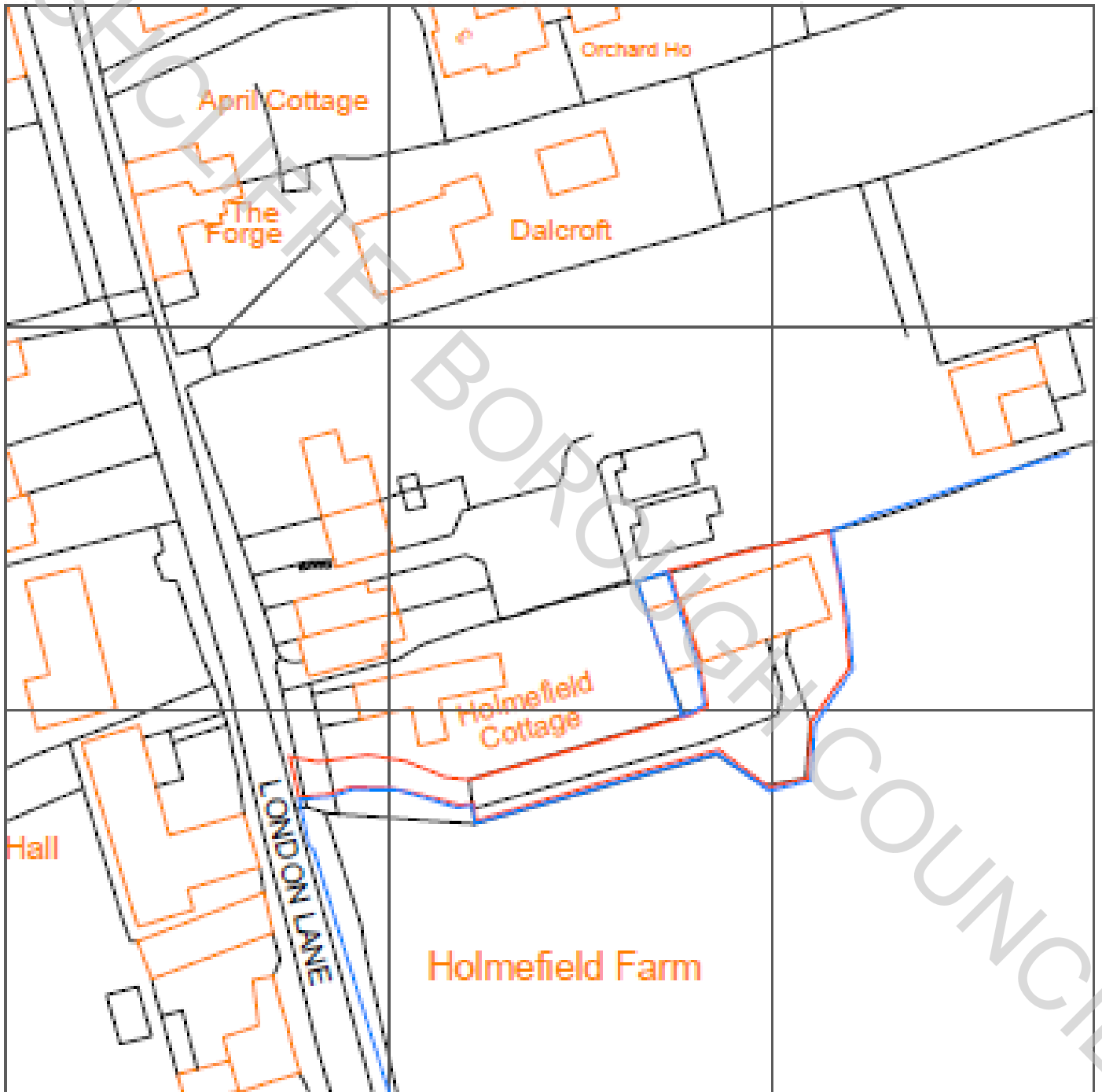
If you have not already made a Building Regulations application we would recommend that you check to see if one is required as soon as possible. Help and guidance can be obtained by ringing 0115 914 8459, or by looking at our web site at

<http://www.rushcliffe.gov.uk/planningandbuilding/buildingcontrol>

<b>Application</b>	<b>Address</b>	<b>Page</b>
<a href="#">20/00747/FUL</a>	Holmefield Cottage London Lane Willoughby On The Wolds Nottinghamshire LE12 6SX  Demolition of existing agricultural building and construction of detached dwelling	13 – 25
<b>Ward</b>	Keyworth and Wolds	
<b>Recommendation</b>	Planning permission be refused	
<hr/>		
<a href="#">20/00504/FUL</a>	Lilacs 28 Rose Grove Keyworth Nottinghamshire NG12 5HE  Erection of a two-storey detached house with parking	27 – 41
<b>Ward</b>	Keyworth and Wolds	
<b>Recommendation</b>	Planning permission be granted subject to conditions.	
<hr/>		
<a href="#">20/00910/OUT</a>	Land Between 110 And 112 Cropwell Road Radcliffe On Trent Nottinghamshire  Outline planning application for the erection of 1 no. dwelling (all matters reserved except for access)	43 – 52
<b>Ward</b>	Radcliffe on Trent	
<b>Recommendation</b>	Planning permission be refused	

<b>Application</b>	<b>Address</b>	<b>Page</b>
<a href="#"><u>20/00944/FUL</u></a>	Tollerton Hall Tollerton Lane Tollerton Nottinghamshire NG12 4FW	53 – 66
	Change of use of part of Tollerton Hall and grounds to sui generis with permanent retention of associated building	
<b>Ward</b>	Tollerton	
<b>Recommendation</b>	Planning permission be refused	

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# 20/00747/FUL

**Applicant** Mr Bradfield-Carrier

**Location** Holmefield Cottage London Lane Willoughby On The Wolds Nottinghamshire LE12 6SX

**Proposal** Demolition of existing agricultural building and construction of detached dwelling

**Ward** Keyworth And Wolds

## THE SITE AND SURROUNDINGS

1. The application site (530sq.m excluding the access drive) is located adjacent the southern edge of the built up area of Willoughby on The Wolds, directly to the south of a property known as West End. It is located directly to the east of Homefield Cottage. To the south and east is open countryside. To the north is the built up area of the village.
2. The site is currently accessed by a shared drive with the adjacent property (Homefield Cottage).
3. There is currently a large sheet metal barn to the northern boundary having a footprint of 18.7m x 9.23m with eaves of 3.4m and an overall ridge height of 4.8m. There is a lean-to with open elevations at the western side of the main barn (33 sq.m) with a footprint of 3.57m x 8.829m x 2.8m to the ridge and 1.65m to the eaves. The building is approximately 2.29m from the boundary with West End and 2.24m to the eastern boundary and a maximum of 19.5m to the southern boundary and post and rail fencing with fields beyond.
4. A public right of way (Willoughby on the WoldsFP10) runs through the access road serving the site.

## DETAILS OF THE PROPOSAL

5. The application seeks planning permission for the demolition of the existing agricultural building and construction of a 4 bedroom dwelling and associated parking with access from London Lane.
6. Plans indicate that the existing single storey lean-to element of the barn does not form part of the application. It has been confirmed with the agent, during the course of the assessment of the application, that it would be their intention to apply to incorporate this area into the boundary of Homefield Cottage should permission for this current application be successful. This would require a separate change of use application.
7. The proposed detached dwelling would be located 4.173m from the rear (northern) boundary with West End. Plans show that a gap of 3.1m would be retained between the proposed dwelling and the western boundary and to the front of the property would be a parking and turning area that follows the existing demarked boundary.

8. The proposed dwelling would have a footprint of 116sq.m (15.3m x 7.64m) with eaves of 4.59m and a ridge height of 5.99m. It is proposed to be constructed in red facing brick with elements of timber cladding with a pantile roof that incorporates PV Panels on the south elevation and roof light on the north.
9. Whist the dwelling is proposed to be located on a similar footprint as the agricultural building to be demolished, it would be located further away from the northern boundary and the ground level across the site, including the proposed building, is proposed to be lowered by 350mm compared to the existing levels. The ridge height of the proposed dwelling would be 0.83m higher than the existing building but the overall volume would be around 23% less than the current building.
10. A single highway street tree has been confirmed as having been removed.

## **SITE HISTORY**

11. 17/01267/OUT - (Demolition of redundant farm building) Erection of 3 detached houses with garages and shared drive – withdrawn.
12. 18/00504/FUL - Demolition of redundant farm building and Creation of 4no. detached dwellings with garages and shared drive – withdrawn.
13. 18/02020/FUL - Demolition of existing farm building and construction of 4no new dwellings with garages and shared drive (revised scheme) - Refused for two reasons:
  1. The proposal, if approved, would result in the erection of four dwellings, garages and associated hardstanding, on land considered to be open countryside beyond the established settlement of Willoughby On The Wolds. The development would have a significant detrimental impact on the rural character and appearance of this open countryside site and could adversely affect the amenity of the adjacent public right of way. The proposal is therefore contrary to policies EN20, HOU2, HOU4 and COM11 of the Rushcliffe Borough Non Statutory Replacement Local Plan which seek to protect the countryside from inappropriate development. The proposal would also conflict with Core Strategy Policy 10 which seeks to enhance local identity by reinforcing valued local townscape and landscape characteristics, including important views and vistas.
  2. The proposal is for unallocated residential development on a greenfield site outside of the built up area of a settlement that is not identified within Policy 3 of the Rushcliffe Core Strategy as a sustainable location suitable for further housing growth, except to meet local housing needs. It is not considered that the proposal meets an identified local housing need and in any event it does not comprise a small scale infill site, as required in paragraph 3.3.17 of the Rushcliffe Core Strategy. Any benefits arising from the provision of housing would be outweighed by the harm to the natural, rural environment in this location. The proposal would therefore be contrary to the Council's sustainable development strategy set out in Policy 3. This is also contrary to Policy EN20 (protection of open countryside) of the Non Statutory Replacement

Local Plan 2006 and contrary to one of the core principles in the National Planning Policy Framework, which is that planning should recognise the intrinsic character and beauty of the countryside including designated landscapes and also the wider countryside.

14. The subsequent appeal (APP/P3040/W/19/3222298 for planning ref 18/02020/FUL) Demolition of existing farm building and construction of 4no new dwellings with garages and shared drive (revised scheme) was dismissed.
15. The Inspector considered that the main issues to be:
  - *whether the proposed residential development is in accordance with policies and national guidance with regard to location, and*
  - *the effect of the proposed development on the character and appearance of the rural area.*
16. The Inspector considered that the site, which included the farm building subject to this current planning application, to be greenfield being accessed form the driveway that is shared with Homefield Cottage “*the last property on this side of London Lane.*” In particular, he described the location of the site as; “*... a greenfield site1, beyond the southern edge of the village of Willoughby on the Wolds (Willoughby) in countryside.*”
17. The Inspector noted that the application was for four 3 and 4 bedroom detached dwellings and garages with a new access being created off London Lane.
18. In dismissing the appeal they commented that “*Whilst four dwellings would, in my view, constitute small-scale development, the appeal site would not be ‘infill’ development, which is a requirement of Core Strategy Policy 3 and its paragraph 3.3.17. There is no definition in the policy as to what constitutes infill development. The Council has not stated any definition it uses, and the Framework does not provide a definition. Therefore, I have used the definition from the Planning Portal glossary as ‘development of a relatively small gap between existing buildings’. Whilst the site is adjacent to Holmeffield Cottage and some new dwellings on one side, there are no buildings on the other side of the site, only open fields that extend to the roadside with Back Lane. Furthermore, despite the Village Hall and the other dwellings on the opposite side of London Lane and other permissions granted nearby for housing, the proposed development would not ‘square off’ the village, as the appellant suggests. Instead, the proposal would extend development beyond the existing built up part of the village further into the countryside towards Back Lane.*
19. *I find that the proposed development would be in a countryside location beyond the built up limits of the village, which is not identified as a key settlement for growth. The proposal would not represent small-scale infill development to meet local needs. Therefore, I conclude that allowing four dwellings in an unsuitable location would undermine the Council’s spatial strategy and settlement hierarchy, and not promote sustainable patterns of development.*
20. *The erection of four dwellings, effectively 2 storeys in height even with some shed style dormer windows, would extend the built form of the village into the*

*adjacent fields and hence closer to Back Lane, making the development unduly prominent in the surrounding landscape.*

21. *The proposed development in this countryside location beyond the edge of the of the village would harm the character and appearance of the rural area and adversely affect the setting and enjoyment of the adjacent PROW.”*

## **REPRESENTATIONS**

### **Ward Councillor(s)**

22. One Ward Councillor (Cllr Edyvean) comments that he supports the application as it is directly behind an existing building and adjacent to a number of newly built houses or plots where planning permission has been given. The Cllr. does not consider it to be outside of the existing village boundary.
23. Cllr. Edyvean also comments that he continues to have concerns that Severn Trent are still failing to fulfil their obligations and that the drainage and sewage system within the village are inadequate but acknowledges that his is not a planning issue. This is a development of an existing brownfield site and it should be allowed.
24. One Ward Councillor (Cllr Inglis) supports the application as a suitable and viable proposal. It is redeveloping an unsightly building with a well designed and complimentary dwelling to its surroundings. This can only enhance the locus.
25. The development is contained within an existing clear and defined fenced boundary with an existing access driveway so it must fit into the existing village ribbon. He also notes and supports Cllr Edyvean’s comment in relation to the current state of the sewage system and the issues it is causing in the village.

### **Town/Parish Council**

26. No comments received.

### **Statutory and Other Consultees**

27. Rushcliffe Borough Council’s Landscape Officer has raised no objection to the application. He advises that a condition would be required to ensure tree protection measures that accord with BS5837 is adhered to. The landscape plan is almost sufficient, although the size of trees to be planted would need to be known, then he thinks it would be acceptable.
28. Rushcliffe Borough Council’s Environmental Health Officer has raised no objections subject to conditions regarding contaminated land and construction noise and dust.
29. Rushcliffe Borough Council’s Refuse Officer has commented that:
- “1. *This proposed property sits a fair distance from the highway and as such would present some difficulties to move a refused wheeled container to the highway on collection days, if the surface of the drive was not constructed to a firm level material.*

2. *There may also be issues over where to place bins on collection days due to the new property access over the area which may belong to Holmefield Cottage. If this is not deemed a shared area to service properties, I can see this potential conflict would need be resolved at planning stage so bins can be presented closest to the highway.”*
30. Nottinghamshire Wildlife Trust has reviewed the supporting information with particular reference to photographs of the agricultural building. They commented; *“We note that no ecological information has been provided with the application, however the Design and Access Statement makes reference to a report associated with a previous application on the same site. The Preliminary Ecological Appraisal (Chase Ecology and Conservation Consultants, March 2018) associated with application ref 18/00504/FUL contains information pertaining to the building impacted by this current application. Whilst this information is considered out of date (being over 24 months old), the description of the building and assessment of very limited suitability for bats is considered still relevant. We consider it unlikely, given the type and construction of the building, that there would have been any significant change with respect to bats. With this being the case, and with no tree removal proposed, we are satisfied that no further ecology survey is required at this time.*
31. *The building does appear to hold some limited suitability for nesting birds, therefore we recommend a condition that any demolition works should be undertaken outside of the bird breeding (i.e. avoiding March to August inclusive) season unless a suitably qualified ecologist has surveyed for nesting birds immediately prior to works. If any active nests are found, demolition work should cease until all young have fledged.*
32. *All development should seek to provide net gain in biodiversity. We are pleased to see that native hedging species are proposed and that post and rail fence is planned on the whole, rather than close boarded fencing, maintaining permeability. Other biodiversity enhancements could include installation of bird nest boxes and bat boxes on the new building and/or retained trees.”*
33. Nottinghamshire County Council as Highways Authority originally commented that *“although the application utilises the existing access for the proposed dwelling, the applicant did not provide any evidence of the visibility splays at the access, which should have been a part of the submission due to intensification of the use of the access. However, from planning application ref. 18/02020/FUL a highway traffic survey ref. 10587/KS/001 made by Sanderson Associates dated 4th September 2018 can be used as an evidence of the visibility provisions as they both use the same access proposal. In the report it is stated that the visibility splays of 2.4m x 42m (northbound) and 2.4m x 37.59m (southbound) can be achieved according to the speed survey carried out outside the access. However, in order to provide the southbound visibility of 37.59m there is a requirement to remove a highway tree. The removal of a highway tree requires a written confirmation from the Highway Authority and should be sought by the applicant as part of the planning submission and no decision should be made before this issue is resolved. Alternatively, the applicant can provide a new traffic survey with updated records and the highway authority will provide updated comments.”*
34. The officer confirmed that the width of the existing access shown on the

submitted plans at 4.3m is adequate for the proposed use by 2 dwellings (i.e. existing and the proposed one). The application *“does not affect the Public Footpath and no changes to the footpath are proposed and that subject to the Service Director agreeing to the removal of the highway tree with any separate conditions relating to this, the highway authority would not wish to raise an objection subject to conditions.”*

35. Further comments were received as a result of information being provided by the agent in respect of the street tree. The Highways officer advised that *“The photos provided by the applicant prove that the “offending” tree has already been removed, which I was not aware of. Therefore, I am happy for you to use the conditions provided in our response as part of the approval notice, if you are minded to consent this application. As the tree has been removed already, there is no need for the applicant to go through the process of applying for the tree removal”*.
36. Nottinghamshire County Council Rights of Way Officer (VIA) has advised that *“Willoughby on the Wolds - Public footpath no 10 is within the vicinity of the application. This recent application does not appear to require any changes or diversions to the walked line of the footpath and therefore, as it will remain available to the public in its current condition, we have no objections. The applicant will be aware of our previous comments relating to 18/00504/FUL in respect to the anomaly that exists around the definitive line of footpath no 10, and this situation remains unaddressed.”*

#### **Local Residents and the General Public**

37. Four Representations have been received in support of the application:
- a. Does not appear to increase the footprint of the village, in so far as there are adjacent homes lying further back than the proposed dwelling. It appears to take into consideration the aesthetics in terms of trees and bushes etc.
  - b. It is relatively low cost compared with many houses in the village, which would give an entry home into the village for a young family.
  - c. The new building is on a brownfield site and does not encroach a greenfield area.
  - d. No trees need to be cut down.
  - e. Approach to the new property is already in existence.
  - f. Will add to the sustainability of our village as it is suitable for a low income family.
  - g. Should enhance the aesthetic value of the building being replaced.
  - h. This application makes very good use of an old agricultural building with existing access to London Lane.
  - i. The design of this property has been well thought out. It is very much in keeping with the rural nature of the site.

- j. There are no overlooking issues and there is no loss of privacy for neighbouring properties.

## PLANNING POLICY

38. The application falls to be considered against the development plan for Rushcliffe (unless material considerations indicate otherwise) which now comprises of Local Plan Part 1: Rushcliffe Core Strategy (Core Strategy) and Local Plan Part 2: Land and Planning Policies. Other material considerations include the National Planning Policy Framework 2019 (NPPF) and the Rushcliffe Residential Design Guide.

### Relevant National Planning Policies and Guidance

39. Relevant sections of The National Planning Policy Framework are:

Chapter 2 - Achieving sustainable development  
Chapter 5 - Delivering a sufficient supply of homes  
Chapter 9 - Promoting sustainable transport  
Chapter 12 - Achieving well-designed places  
Chapter 15 - Conserving and enhancing the natural environment

40. Annex 2: Glossary: **Previously developed land:** Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. **This excludes: land that is or was last occupied by agricultural or forestry buildings;** land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.

### Relevant Local Planning Policies and Guidance

41. Relevant policies of the Rushcliffe Local Plan Part 1: Core Strategy are:

Policy 1 - Presumption in Favour of Sustainable Development  
Policy 2 - Climate Change  
Policy 3 - Spatial Strategy  
Policy 8 - Housing Size, Mix and Choice  
Policy 10 - Design and Enhancing Local Identity  
Policy 17 - Biodiversity

42. Relevant text and policies of Rushcliffe Local Plan Part 2: Land and Planning Policies are:

Paragraph 3.10 regarding infill  
Paragraph 3.122 regarding settlement boundaries  
Paragraph 6.11 regarding settlement edge  
Policy 1 - Development Requirements  
Policy 11 - Housing Development on Unallocated Sites within Settlements

Policy 13 - Self-Build and Custom Housing Provision  
Policy 22 - Development within the Countryside  
Policy 38 - Non-Designated Biodiversity Assets and the Wider Ecological Network

43. The 2009 Rushcliffe Residential Design Guide implies that infill development should respect the existing massing, building form and heights of buildings within their immediate locality. Front and rear building lines should be continued where these are well established and clearly defined as part of the existing settlement pattern. The side spacing to neighbouring properties should also be maintained where a consistent and regular arrangement exists.

## APPRAISAL

44. The Local Plan Part 1 and Part 2 identify areas which are considered suitable for growth and sites are allocated in these settlements. Willoughby is not considered to be a sustainable location that has been identified for growth. It is a small village with limited facilities. It has limited access to public transport. The closest settlement with such facilities is Keyworth, around 4.2 miles away, which has been identified for growth in both the LPP1 and LPP2. Therefore, occupants of the proposed dwelling would be reliant on the private car to access basic facilities.
45. Policy 3 'Spatial Strategy' of The Rushcliffe Local Plan Part 1: Core Strategy (the Plan) identifies a settlement hierarchy for Rushcliffe. Willoughby is not one of the settlements identified for housing growth. Policy 3 goes on to state that in such settlements new housing will be for small scale infill for local needs only.
46. Policy 8 'Housing Size, Mix and Choice' of the Plan states that where there is robust evidence of local need, such as an up to date Housing Needs Survey, rural exception sites or sites allocated purely for affordable housing will be permitted within or adjacent to rural settlements. No justification has been provided that the proposed dwelling is required on the basis of local needs.
47. The supporting Design and Access Statement submitted with the application suggests that the building to be demolished forms the physical boundary to the village and, therefore, its replacement with a dwelling would not result in development in the countryside. As it does not extend the built up limits, they consider that it must be classed as "infill" development in a sustainable and appropriate location and that it could be classed as "previously developed". This is a view that is not shared by officers as agricultural buildings are excluded for the definition of previously developed land in the NPPF (see paragraph 40 above) and the planning portal definition of infill is "*The development of a relatively small gap between existing buildings*" which this is not (as relied upon by the Planning Inspector at a previous appeal at this site – see paragraph 18 above).
48. The appeal decision in respect of the previously refused application is regarded as very recent (April 2019) and since this decision, the Local Plan Part 2 has been adopted which, provides further guidance/clarification as to the meaning of 'infill' development. Therefore, it is considered that the appeal decision and comments of the Inspector in respect of the location of the site within the



countryside, beyond the built up limits of the village, should be given significant weight in the determination of the current application.

49. The Design and Access statement also suggests that the house has been designed to be suitable for self building, however, no evidence has been submitted to demonstrate how this will be achieved and there is no mechanism in place to secure this.
50. On the basis of the above, consideration has to be given as to whether the dwelling would be provided on the basis of local need. In this regard it is not considered that the provision of a four bedroom detached house would assist the entry level housing market in this area. No evidence of local need has been provided. It is therefore not considered that the proposal would meet an identified local need and fails to satisfy Policy 3 or 8 of the Core Strategy and paragraph 77 of the NPPF which seek to support housing in rural locations that meet an identified local need.
51. The application site is located adjacent to the edge of the settlement and in open countryside. Notwithstanding the agricultural building which currently occupies the site, it is considered to be greenfield. The village is largely comprised of a pattern of ribbon development with views of the open countryside beyond. The site forms part of the transition between the built up area of the village and the countryside beyond. Agriculture is not defined as brownfield land and, therefore, the site is not considered to be previously developed land.
52. It is considered that, notwithstanding the replacement of an existing agricultural building with a single dwelling, the development would erode a well-defined boundary to the settlement. Whilst it is noted that the land level is proposed to be lowered, the rise in site levels from the road and, the open nature of the site together with the lack of any established screening to the south would result in a visible form of development to the detriment of the rural character of the area.
53. The proposal indicates a 1.8m close boarded fence to the rear boundary with West End with 1.2m high post and rail fencing and hedgerow to all other boundaries. The main garden to the property would be to the south of the property, emphasised by the large glazed openings serving the sitting room and kitchen/living/dining space on the floor plan. As a result, it would be reasonable to assume that most garden paraphernalia (washing line, patio furniture, parasols, childrens play equipment etc would be located in the larger southern area of garden that would only be screened from the adjacent field and PROW by a 1.2m post and rail fence and hedgerow.
54. As a consequence, not only would the proposal constitute an expansion of the built up area of the village and lead to the loss of a currently well-defined village boundary, but it would also detract from the recreational enjoyment of the public right of way that runs near to the site, across the adjacent open field, due to the visual impact on its setting.
55. Given the above, it is considered that the proposal would cause significant harm to the character and appearance of the local area and that it would, therefore, be contrary to local planning policy.

56. Paragraph 11 of the framework makes it clear that housing applications should be considered in the context of the presumption in favour of sustainable development and that, where the council cannot demonstrate a five year supply of deliverable housing sites, the relevant policy for the supply of housing should not be considered up to date. However, the Council is able to demonstrate a 5 year supply of deliverable housing sites (currently standing at approximately 8.5 years). The harm arising through the unsustainable location and the character of the countryside would outweigh the benefits of the scheme in delivering additional housing and as the Council can demonstrate a 5 year housing supply the development would not accord with the NPPF or the Development Plan and is recommended for refusal.
57. In terms of the impact of the proposal on residential amenity of the adjacent properties, it is considered that the proposal would not have unacceptable adverse impacts by way of overlooking or loss of light by virtue of its location and design.
58. With regard to ecology, the advice from the consultee expert is that presence of bats is unlikely due to the nature of the building. They are satisfied that no further ecology survey is required at this time (since one was provided on the previous planning application despite it now being considered out of date).
59. It is considered that the Council's duty to consider wildlife implications have been met and therefore the lack of survey is not a reason for refusal.
60. To conclude, the proposed development is considered to result in a development in a countryside location, beyond the built up limits of the village, which is not identified as a key settlement for growth. These were also the views of the Inspector in determining the appeal against the previous refusal of planning permission, which should be given significant weight in the determination of the current application. The proposal would not represent small-scale infill development or meet local needs, would be contrary to Policy 3 of the Core Strategy and would fail to accord with the provisions set out in Paragraphs 78 and 79 of the Framework with regard to rural housing, which seek to limit new housing to locations where it would enhance or maintain the vitality of rural communities, or where it would comply with given exceptions.
61. In order to avoid further abortive costs to the applicant, the application is recommended for refusal without further negotiation.

## **RECOMMENDATION**

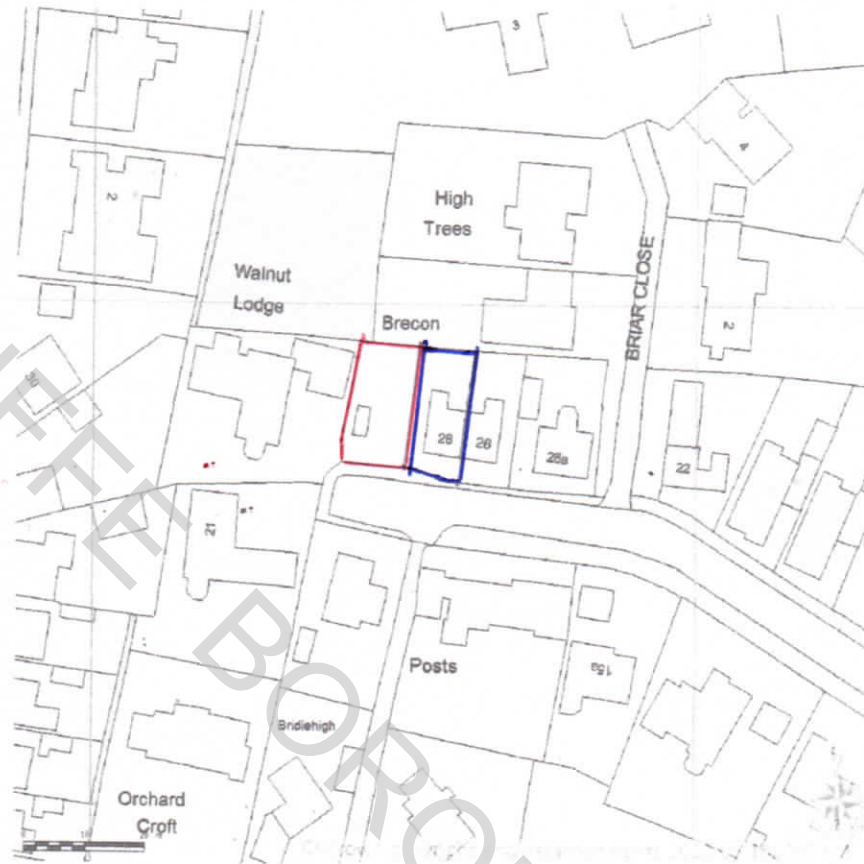
It is RECOMMENDED that planning permission be refused for the following reason(s)

1. The proposal, if approved, would result in the erection of a dwelling, associated hardstanding, and garden paraphernalia on land considered to be open countryside beyond the built up limits of the established settlement of Willoughby on the Wolds. The development would have a detrimental impact on the rural character and appearance of this open countryside site and could adversely affect the amenity of the adjacent public right of way. The proposal would also conflict with Core Strategy Policy 10 which seeks to enhance local identity by reinforcing valued local townscape and landscape characteristics, including important views and vistas.

2. The proposal is for unallocated residential development on a greenfield site outside of the built up area of a settlement that is not identified within Policy 3 of the Rushcliffe Core Strategy as a sustainable location suitable for further housing growth, except to meet local housing needs. It is not considered that the proposal meets an identified local housing need and in any event it does not comprise a small scale infill site, as required in paragraph 3.3.17 of the Rushcliffe Core Strategy. Any benefits arising from the provision of housing would be outweighed by the harm to the natural, rural environment in this location. The proposal would therefore be contrary to the Council's sustainable development strategy set out in Policy 3 and 8 of Rushcliffe Borough Council Local Plan Part: Core Strategy and paragraphs 3.10, 3.122 ad 6.11 of the Local Plan Part 2 regarding infill development, settlement boundaries and settlements edges. It is also considered to be contrary to the National Planning Policy Framework (paragraphs 77 and 170 b), which seeks to ensure that sustainable development is supported for local needs and that decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

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**SITE LOCATION PLAN**  
**AREA 2 HA**  
**SCALE 1:1250 on A4**  
**CENTRE COORDINATES: 461558, 331778**



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# 20/00504/FUL

**Applicant** Mr Norman Davill

**Location** Lilacs 28 Rose Grove Keyworth Nottinghamshire NG12 5HE

**Proposal** Erection of a two-storey detached house with parking

**Ward** Keyworth And Wolds

## THE SITE AND SURROUNDINGS

1. The application site comprises part of the residential amenity/garden space to No. 28 Rose Grove, a two storey semi-detached property in the built-up part of Keyworth. The amenity space in question is located to the west of the dwellinghouse and is bounded by a mixture of hedgerow and close-boarded fencing. A detached single storey garage is located close to the western boundary of the site.
2. The application site lies at the end of a cul-de-sac and is bounded by existing residential properties on all sides. Pedestrian and vehicular access is directly off Rose Grove.

## DETAILS OF THE PROPOSAL

3. The site has the benefit of outline planning permission granted in July 2019 for the demolition of the existing garage and the construction of a two storey detached dwelling with new dropped kerb access to 28 Rose Grove. The outline application included approval of all matters apart from 'appearance' (i.e. matters of access, landscaping, layout and scale).
4. The application subject of this report was originally submitted as a reserved matters application, seeking approval of matters relating to appearance, layout and scale. During the course of determination, it came to light that the application had been submitted in the incorrect format (i.e. a reserved matters rather than a full application) as there is no mechanism to approve matters through a reserved matters application that were previously approved at outline stage. The application was subsequently converted to an application for full planning permission and was subject to further consultation.
5. The proposed three-bedroom dwelling is roughly L-shaped with a footprint of circa 82m<sup>2</sup>. At its deepest and widest points, the dwelling would measure approximately 10.3m deep and approximately 8.65m in width. The dwelling would be two-storey at the front, dropping to single storey at the rear.
6. The dwelling would be of traditional design with a double-height front bay and a pitched roof. At its highest point, the ridge of the roof would measure circa 7.7m, with an eaves height of circa 4.8m.
7. The proposed materials are facing brick and grey roof tiles.

8. Off-street parking is proposed to the front of the dwellinghouse, adjacent to the front entrance and adjacent to the protruding two-storey wing.

## **SITE HISTORY**

9. 19/01359/OUT - Demolition of existing garage and construction of two storey detached dwelling with new dropped kerb access to 28 Rose Grove (Outline application for approval of access, landscaping, layout, and scale) – Planning permission granted 30<sup>th</sup> July 2019.

## **REPRESENTATIONS**

### **Ward Councillor(s)**

10. One Ward Councillor (Cllr Inglis) objects to the proposal on grounds which can be summarised as follows:
- Support comments made by neighbours in relation to it being over intensive to the size of the plot and an over development in relation to existing properties.
  - There are concerns regarding loss of privacy, loss of light and to possible overshadowing of solar panels.
  - This is a just a summary to representations made to Ward Councillor and in relation to valid reasons already published in public comments.
  - On the previous outline planning application 19/01359/OUT the Parish Councils decision was not published or referred to in the delegated report:

*Keyworth Planning minutes 01/07/19*

*“19/01359/OUT Lilacs, 28 Rose Grove, Keyworth, Nottingham, NG12 5HE Demolition of existing garage and construction of two storey detached dwelling with new dropped kerb access to 28 Rose Grove (outline application for approval of access, landscaping, layout and scale)*

*Resolved: OBJECT DRAFT Page 2 of 2 Comments: Over intensive development of a single plot – garden grabbing. Insufficient parking, the addition of an extra dwelling as proposed will not leave space for parking for the existing dwelling”*

### **Town/Parish Council**

11. Keyworth Parish Council object to the proposal. The following concerns are cited:
- Over-intense development of a single plot.
  - Insufficient car parking for new proposed dwelling.



## Statutory and Other Consultees

12. The Nottinghamshire County Council as Highway Authority have not provided comments on the proposal, instead referring to their standing advice.

## Local Residents and the General Public

13. Five representations have been received from local residents objecting to the proposal. The concerns raised are summarised as follows:
- a. Overdevelopment of the site – The proposed dwelling has a width of 8.7m, compared to 6.3m on the original submission. Thus the revised dwelling is significantly larger than that originally proposed with a footprint of 89.61sqm compared to 65.31sqm, representing a 37% increase in footprint. Does this not constitute over-development of the site by the Council's criteria?
  - b. Overlooking and loss of privacy to neighbouring property to the rear (Brecon, 1 Briar Close) – the increased width of the proposed dwelling worsens the overlooking issue. Having a wider footprint by 2.4m means that the dwelling will extend further west, this extends the scale of the building and increases the angles of overlooking into the ground floor bedrooms of 1 Briar Close and the adjacent patio to the side. This significantly increases the loss of privacy created by the proposed development.
  - c. The proposed development is not in keeping with the character of the community of existing buildings at the top of Rose Grove as well as those adjacent to the back of the proposed build.
  - d. The build, which according to the revised plans is somewhat larger than those originally submitted, will be 'squeezed' into a relatively small garden space, affecting the density of the properties at the top of Rose Grove, unacceptably changing its character and the nature of the area. It is essentially an exercise in 'garden grabbing'.
  - e. It will negatively affect the value of the existing properties.
  - f. The build can also be objected to on grounds related to its positioning: restriction of light and invasion of privacy for a number of adjacent homes.
  - g. The proposed build will restrict light to solar panels on neighbouring property – it is therefore not consistent with the Borough Council encouraging its residents to adopt a green energy strategy. It will also cause financial loss.
  - h. In terms of privacy, windows to the left side of the proposed build will directly look into neighbouring property and front living areas although the revised plan somewhat mitigates this issue (especially if those windows are of frosted glass). However, this particular invasion of privacy will be small compared to that effecting the properties to rear of and across from the proposed build.

- i. Traffic access to the top of Rose Grove is already difficult due to the number of vehicles owned by existing properties and by the number of service/emergency vehicles visiting these properties. It is also used as a turning area for vehicles visiting properties lower down Rose Grove. The proposed build will unacceptably increase traffic density at the top of Rose Grove not only to the inconvenience and health and safety of existing residents but also those of the emergency services.
- j. The water supply to the top of Rose Grove and drainage provision, as well as electricity and gas supplies, have long been problematic. Another property would add to the strain on these services.
- k. This proposal conflicts with the Keyworth Parish Neighbourhood Development Plan in several respects relating to the protection of existing environmental assets (Policy E1 & E2). The proposal does nothing to 'protect and enhance the landscape' (Policy E2, p57).
- l. A counter to objections raised might be the need to increase housing build in Keyworth. However, in the context of (at least) three substantive developments on the periphery of the 'village', the addition of one house in the centre of the 'village' squeezed onto a modest garden area against local opposition would seem an indefensible proposition.
- m. The maximum distance of the first floor bedroom windows to rear bedroom windows in neighbouring property will be approximately 20 metres, at an angle of approximately 45 degrees. The line of sight from the nearer windows will be shorter, but at a slightly reduced angle. So still a clear view in either direction. This will result in unacceptable level of overlooking/ loss of privacy.
- n. The upper floor windows will look down on most of the garden to the neighbouring property to the rear and part of the patio, which runs alongside the bungalow. Unfortunately, the part of the patio that will be most visible is that which is enjoyed most in the summer as it is a sheltered and sunny spot.
- o. The plans for the development have increased the size of the new property significantly. The garden will be much smaller than recommended by the Rushcliffe Residential Design Guide, as quoted in the initial report, and appears to constitute overdevelopment of the site.
- p. The proposed building will be directly opposite property on Rose Grove and the upstairs windows will directly look down into the whole of the front bedrooms.
- q. Would like to add the Parish Council Report comments of "garden grabbing" and their objection to the application and wonder why this was completely ignored when the original outline application was approved by Rushcliffe planning.
- r. Building work is already underway on the original house.

- s. Laying the foundations for a two-storey house so close to the boundary will undoubtedly cause damage to the fence, trees adjacent to it and shade borders going forward.
- t. The new build will overlook and dominate the front of neighbouring property.
- u. The application lodged recognises that there has been no consultation with neighbours over the plans.

## **PLANNING POLICY**

- 14. The Development Plan for Rushcliffe consists of The Rushcliffe Local Plan Part 1: Core Strategy (referred to herein as the 'Core Strategy') and The Rushcliffe Local Plan Part 2: Land & Planning Policies (referred to herein as the 'LPP2'). The Keyworth Neighbourhood Plan form part of the Development Plan and is a material consideration in the determination of the application.
- 15. The National Planning Policy Framework (NPPF) and the Rushcliffe Residential Design Guide are material considerations in the determination of applications.

### **Relevant National Planning Policies and Guidance**

- 16. The relevant national policy considerations for this proposal are those contained within the National Planning Policy Framework (NPPF) and the proposal should be considered within the context of a presumption in favour of sustainable development as a core principle of the NPPF.
- 17. Section 5 (Delivering a sufficient supply of homes) is relevant to this application. Paragraph 68 states that Local Planning Authorities should *"...support the development of windfall sites through their policies and decisions, giving great weight to the benefits of using suitable sites within existing settlements for homes..."*
- 18. The proposal should also be considered under section 12 of the NPPF in terms of achieving well-designed places. In line with NPPF paragraph 130, permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

### **Relevant Local Planning Policies and Guidance**

- 19. Policy 1 of the Core Strategy reinforces a positive and proactive approach to planning decision making that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.
- 20. Policy 3 of the Core Strategy outlines the distribution of development in the Borough during the plan period. The policy promotes urban concentration by directing the majority of future development towards the built-up area of Nottingham and the Key Settlements identified for growth of Bingham, Cotgrave, East Leake, Keyworth, Radcliffe on Trent and Ruddington.

21. Core Strategy Policy 10 (Design and Enhancing Local Identity) seeks to ensure that new development makes a positive contribution to the public realm and sense of place, and has regard to the local context and local characteristics.
22. Policy 1 (Development Requirements) of the LPP2, in particular criteria 4, relating to scale, density, height, massing, design, layout and materials, is relevant to the determination of this application.
23. Policy H1 (Housing Strategy) of the Keyworth Neighbourhood Plan states that applications for infill development within the settlement boundary will be supported subject to compliance with other Development Plan policies and provision of suitable vehicular access and sustainable links to shops and services.
24. Policy TA2 (Highways and Access) of the Keyworth Neighbourhood Plan states that all new development should ensure that it includes suitable measures to accommodate traffic entering and leaving the development.
25. The 2009 Rushcliffe Residential Design Guide provides guidance on issues associated with layout of new dwellings, including suggested garden sizes and relationship/distances to neighbouring properties.

## **APPRAISAL**

26. Outline planning permission was granted in July 2019 for the demolition of the existing garage and the construction of a two storey detached dwelling with new dropped kerb access to 28 Rose Grove (ref. 19/01359/OUT). This permission remains extant.
27. The current application seeks full planning permission for the erection of a two-storey detached house with parking.
28. In light of the above, the main issues of relevance to the determination of this application are considered to be as follows, the principle of development; impact on the character and appearance of the area; impact on residential amenity; and parking/highways matters.

### Principle of development

29. The application site is located within the built-up part of Keyworth, a key settlement identified for growth in the Local Plan. The village centre and a wide range of facilities are located approx. 1km away. As such, it is considered that the application site occupies a sustainable location, accessible to a range of services other than by use of the private car.
30. The principle of the erection of a two-storey dwelling, along with a dropped kerb access, has been established through the granting of the outline application in 2019. This is a material consideration in the determination of this application.
31. Overall, the principle of residential development on the site is considered to accord with the spatial strategy contained within Policy 3 of the Core Strategy and the NPPF.

### Impact on the character and appearance of the area

32. There are a variety of properties and plot sizes along Rose Grove. The top of Rose Grove (where the application site is located) is typified by one and one and a half storey properties set in larger plots. There are also a small number of two storey properties in the immediate vicinity. The previous planning permission for a two storey dwelling on this site remains extant and represents a fallback position.
33. The proposed dwelling would be set slightly back from the frontage, close to the centre of the plot, occupying a similar build-line to the neighbouring properties to the east (i.e. No. 28, 26, 26A and 22 Rose Grove). Although the dwelling would have a total depth of 10.3m, the rear section, with a depth of 3.2m, would be single storey, across the full width of the dwelling. Furthermore, the two storey element would be 'L' shaped with the western elevation, closest to the boundary with the neighbouring property, having a depth of 5 metres. The single storey element of the proposed dwelling would extend circa 3m behind the rear wall of the two storey element of 28 Rose Grove. To the rear of this property was a single storey element, which has recently been demolished and a new extension is in the process of being constructed. The rear elevation of the proposed dwelling (single storey element) would be roughly level with the rear elevation of the extension at No. 28.
34. Whilst the proposed dwelling would have a larger footprint than that previously approved in respect of the outline application, the scale of the property would not be out-of-keeping with surrounding properties or the general character of the area.
35. The property would have a private (rear) amenity space amounting to approximately 64sqm. Whilst this would be below the level recommended in the Residential Design Guide, it would only be slightly smaller (approximately 3sqm) than that proposed in the layout on the previously approved outline planning permission, and would be similar to the amount of amenity space to be retained for No. 28 and that available at No.26.
36. As stated previously, there are a variety of plot sizes along this part of Rose Grove. Whilst smaller than some, the plot size of the proposed dwelling is not considered to be at odds with the character of the locality. Bearing in mind the amount of amenity space that would remain and the distance to boundaries, it is not considered to constitute an over-intensive form of development.
37. Due to the size of the plot and the layout proposed, the enlargement of the dwelling, through subsequent extensions to the property that could potentially be constructed under permitted development, could result in the overdevelopment of the plot. As such, it is recommended that a condition be imposed on grant of permission removing permitted development rights for such additions.

### Impact on residential amenity

38. The application site is bounded on all sides by existing residential dwellings. Concerns have been raised that the proposed dwelling would be overbearing in respect of neighbouring properties and would result in unacceptable loss of light/overshadowing and overlooking/loss of privacy.

39. The submitted plans show the proposed dwelling would be located between 6.6m and 7m from the rear (northern) boundary i.e. the boundary with 'Brecon' (No.1 Briar Close). The rearmost part of the proposed dwelling would be single storey only with a depth of 3.2m. Therefore, the two-storey part of the dwelling would be located between 9.8m and 10.2m from the rear (northern) boundary. Brecon is a single storey dwelling with bedrooms located at the rear (west) end of the property. Whilst the development proposal would result in additional built-development, given the intervening separation distance (approx. 13m at closest point) it is not considered that the proposed dwelling would appear unacceptably overbearing nor result in unacceptable overshadowing or loss of light.
40. In terms of potential for overlooking/loss of privacy, the closest first floor window of the proposed dwelling would be located circa 17m from the rear facing bedroom windows of Brecon. Whilst there would be some increased potential for overlooking, the views would be from bedroom accommodation and angled, and relatively distanced. Increased potential for overlooking would also be afforded of the rear garden of Brecon, though views towards the part of the garden closest to the bungalow would again be angled and relatively distanced. Due to the intervening boundary treatment (a mature hedgerow) additional overlooking would not be afforded from the single storey part of the proposed dwelling. Overall, whilst there would be some increase in overlooking as a result of the proposal, it is not considered to be so significant as to justify refusal. In particular, it is not considered that the level of overlooking would be significantly different to the already approved proposal, which remains extant.
41. In terms of the neighbouring property to the west (Walnut Lodge), at the closest point, the proposed dwelling would be located circa 1m from the western boundary. The facing elevation of Walnut Lodge's garage would be approximately 2.5 to 3m from the new dwellinghouse (which would be predominantly single-storey at this point). The facing elevation of the main part of Walnut Lodge would be circa 11m from the new dwellinghouse. In light of the separation distance and the orientation of the dwellings in their respective plots, it is not considered that the proposed dwelling would appear unacceptably overbearing, nor result in unacceptable overshadowing or loss of light to the amenity area of the neighbouring property or main habitable room windows. The only first floor window proposed in side (west) elevation, facing Walnut Lodge, would serve a bathroom. A condition is recommended requiring that this be obscured glazed and top-opening only. The first floor bay window (serving a bedroom) may also be afforded views towards Walnut Lodge – however, these would be angled and distanced. Overall, there would be no unacceptable overlooking or loss of privacy in respect of the property to the west.
42. Whilst the proposed dwelling would be located on the eastern boundary (i.e. the boundary with No. 28 Rose Grove) and circa 3m from the facing elevation, given the orientation/siting of the respective properties and bearing in mind that no windows are proposed in the side (eastern) elevation of the proposed dwelling, the proposal would not appear unacceptably overbearing nor resulting in unacceptable overlooking/loss of privacy.
43. The proposed dwelling would be afforded a rear garden of approximately 64sqm. In terms of the distance to the rear boundary, the new dwelling would

be sited between approximately 6.6m and 7m from the rear boundary. The Rushcliffe Residential Design Guide recommends that detached properties are afforded gardens of 110sqm. It has been accepted under previously established guidelines that rear gardens should have a depth of 10m to the boundary.

44. Notwithstanding the above, the Design Guide recognises that, in line with government guidance, a variety of garden sizes are required. The garden size and distance to boundary would be comparable with nearby properties including No. 28 and No. 26 Rose Grove (and to a lesser extent 26A Rose Grove). It would therefore not be out-of-keeping with the character of the immediate locality. As the plot is not enclosed and there are no buildings directly to the rear, it is not considered that the residential amenity space associated with the new dwelling would appear overly cramped or would be unacceptably overlooked.
45. Overall, the impact of the proposal on residential amenity is not considered to be such that it would justify refusal of the development proposal.

#### Parking/highways matters

46. Off-street parking is proposed to the front of the dwellinghouse, adjacent to the front entrance and adjacent to the protruding two-storey wing.
47. Concerns have been raised by local residents on the grounds of highway safety and increased traffic/on-road parking as a result of the proposal. The NPPF (para 109) makes clear that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts would be severe.
48. The Highway Authority have not provided comments on the proposal, instead referring to their standing advice. It is noted that they did not object to the outline application and that their response stated that *"it is not envisaged that this proposal will severely compromise highway safety"*. They recommended that the outline permission be subject to a number of conditions regarding provision/surfacing of the proposed driveway, provision of a dropped kerb etc. It is recommended that these conditions are imposed on the grant of permission for the full application.
49. Given the scale of the proposal (i.e. the erection of a single three-bedroom house with off-street parking) and, bearing in mind the comments from the Highway Authority, it is considered that a robust reason for refusal could not be sustained on highways grounds.

#### Other Matters

50. Concerns have been raised by a Ward Councillor and local residents that the Parish Council's objections in respect of the outline application (Ref. 19/01359/OUT) were not taken into consideration in the granting of outline planning permission in July 2019. The Borough Council has no record of comments being submitted by the Parish Council. Nevertheless, as there was no objection from a Ward Councillor, the outline application would have remained a delegated decision. The application was granted as it was considered to accord with local and national planning policy.

51. In terms of the issues raised in respect of the water/electricity/gas supplies, these are matters to be addressed with the utility providers and are not material planning considerations.
52. Concerns have been raised regarding the impact of the proposal on neighbouring house prices. This is not a material planning consideration and is not, therefore, relevant to the determination of the proposal.
53. Concerns have been raised that the proposal would conflict with Neighbourhood Plan Policies E1 and E2 regarding blue/green infrastructure and landscape/biodiversity. The main thrust of Policy E1 is to ensure that larger scale developments provide appropriate green and blue infrastructure, although the policy also seeks to protect existing infrastructure. Furthermore, it is clear from the wording of Policy E2 that this relates to landscape “...surrounding the settlement of Keyworth...” As the site forms part of an existing residential curtilage in a built-up part of Keyworth, it is not considered that its development would result in a significant adverse effect on landscape or biodiversity assets, or conflict with these policies.
54. Concerns have been raised regarding the impact of the proposal on the solar panels installed on the garage to the neighbouring property to the west. Government policy seeks to address the impacts of society’s activities on climate change and to reduce carbon emissions by, amongst other things, encouraging the generation of energy from renewable sources. Therefore, the environmental benefit of the solar panels and any impact on them needs to be balanced with other material planning consideration, including the provision of additional housing in a sustainable location, albeit limited to a single dwelling in this instance, and the fact that there is already an extant permission for a detached dwelling on the site.
55. The solar panels cover a significant proportion of the south facing plane of the garage roof, stretching beyond the two storey element of the proposed dwelling. The part of the proposed dwelling immediately to the east of the garage would be located some 2.5 to 3m away and would be predominantly confined to single-storey (approximately 0.5m of the two-storey section would be located opposite the garage). It is considered that there would be unobstructed sunlight to the panels during early part of the day and possibly some impact when the sun moves round to the south, although the impact would vary depending on the time of year. Overall, the potential for impact on the solar panels is not considered to be so significant as to justify refusal of the application and that any impact is outweighed by the provision of additional housing in a sustainable location, on a site which benefits from extant permission.

## Conclusion

56. This application is seeking full planning permission for the erection of a two-storey detached house with parking. The application site is located within the built-up part of Keyworth, a key settlement identified for growth in the Local Plan. The principle of the erection of a two-storey dwelling, along with a dropped kerb access, has been established through the granting of the outline application in 2019. This is a material consideration in the determination of this application.



57. The scale, siting and appearance of the proposed dwellinghouse is considered to be broadly in-keeping with the locality. Bearing in mind the size of the plot and the distances to the boundaries, it is not considered to represent over-intensive development.
58. In terms of residential amenity, whilst it is acknowledged that there would be some increase in potential for overlooking to the neighbouring properties (particularly parts of neighbouring gardens), the impacts are not considered to be so significant as to justify refusal.
59. In terms of access/parking, the Highway Authority have not raised any objections to the proposal. Conditions are recommended to ensure that the access driveway and parking areas are provided to an acceptable standard.
60. Overall, the development proposal is considered to accord with local and national planning policy. It is, therefore, recommended for approval.
61. The application was not the subject of pre-application discussions, however after careful consideration, the scheme is considered acceptable and no negotiations with the applicant or agent were considered necessary.

## **RECOMMENDATION**

It is **RECOMMENDED** that planning permission be granted subject to the following condition(s)

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.  
  
[To comply with Section 91 of the Town and Country Planning Act 1990, as amended by the Planning & Compulsory Purchase Act 2004].
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan (No date/ reference); Proposed Dwelling – Elevations (Ref. Drawing No. 2); Proposed Dwelling – Site Layout & Floor Plans (Ref. Drawing No.1).  
  
[For the avoidance of doubt and to comply with Policy 10 of the Core Strategy and Policy 1 of the Local Plan Part 2: Land and Planning Policies].
3. The materials specified in the application shall be used for the external walls and roof of the development hereby approved and no additional or alternative materials shall be used.  
  
[To ensure the appearance of the development is satisfactory and to comply with Policy 10 of the Core Strategy and Policy 1 of the Local Plan Part 2: Land and Planning Policies].
4. The first floor window in the side (west) elevation shall be permanently obscured to Group 5 level of privacy or equivalent and non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. The windows shall be retained to this specification.

[To prevent overlooking and loss of privacy to neighbouring property and to comply with Policy 1 of the Local Plan Part 2: Land and Planning Policies].

5. Notwithstanding the provisions of Schedule 2, Part 1 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any Order revoking or re-enacting that Order with or without modification) there shall be no enlargement or alteration of the proposed dwelling without the prior written approval of the Borough Council.

[The development is of a nature whereby future development of this type should be closely controlled to comply with Policy 1 of the Local Plan Part 2: Land and Planning Policies].

6. Notwithstanding the provisions of Schedule 2, Part 1 Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) no sheds, buildings or structures shall be erected on the site without the prior written approval of the Borough Council.

[The development is of a nature whereby future development of this type should be closely controlled to comply with Policy 1 of the Local Plan Part 2: Land and Planning Policies].

7. No part of the development hereby permitted shall be brought into use until a dropped vehicular footway crossing is available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.

[In the interest of highway safety and to comply with Policy 1 of the Local Plan Part 2: Land and Planning Policies].

8. No part of the development hereby permitted shall be brought into use until the access driveway is constructed with provision to prevent the discharge of surface water from the driveway to the public highway. The provision to prevent the discharge of surface water to the public highway shall then be retained for the life of the development.

[To ensure surface water from the site is not deposited on the public highway causing dangers to road users and to comply with Policy 1 of the Local Plan Part 2: Land and Planning Policies].

9. No part of the development hereby permitted shall be brought into use until the driveway and parking areas are surfaced in a hard-bound material (not loose gravel) for a minimum of 5.0 metres behind the Highway boundary. The surfaced driveway and any parking or turning areas shall then be maintained in such hard-bound material for the life of the development.

[To reduce the possibility of deleterious material being deposited on the public highway (loose stones etc.) and to comply with Policy 1 of the Local Plan Part 2: Land and Planning Policies].

10. No part of the development hereby permitted shall be brought into use until pedestrian visibility splays of 1.0 meters x 1.0 meters are provided on each

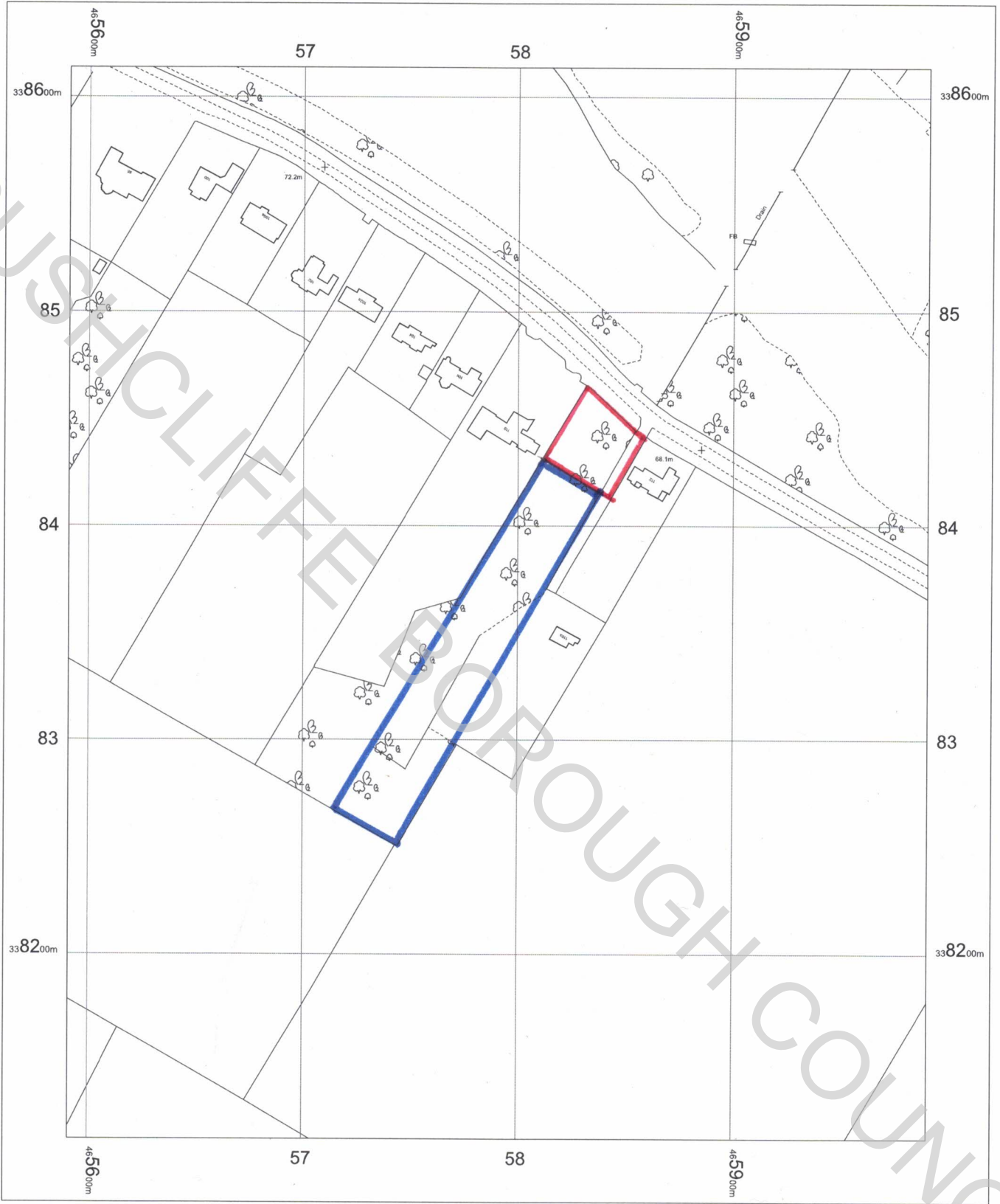
side the vehicle access. These measurements are taken from and along the highway boundary. The area of land within these splays shall be maintained free from all obstruction over 0.6 meters above the carriageway level at all times.

[In the interest of pedestrian safety and to comply with Policy 1 of the Local Plan Part 2: Land and Planning Policies].

11. No part of the development hereby permitted shall be brought into use until the parking areas are provided in accordance with the submitted plans. The parking areas shall be maintained in the bound material for the life of the development and shall not be used for any purpose other than the parking of vehicles.

[To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking in the area and to comply with Policy 1 of the Local Plan Part 2: Land and Planning Policies].

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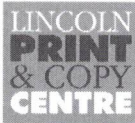


**SITE PLAN**  
**110a CROPWELL RD**  
**RADCLIFFE ON TRENT**  
**NOTTINGHAMSHIRE**  
**NG12 2JG**

OS MasterMap 1250/2500/10000 scale  
 19 September 2014, ID: JEW-00361839  
 maps.johnwright.com

1:2500 scale print at A4, Centre: 465791 E, 338364 N

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# 20/00910/OUT

**Applicant** Mr Ross Whiting

**Location** Land Between 110 And 112 Cropwell Road Radcliffe On Trent  
Nottinghamshire

**Proposal** Outline planning application for the erection of 1 no. dwelling (all matters reserved except for access)

**Ward** Radcliffe On Trent

## THE SITE AND SURROUNDINGS

1. The application relates to an area of scrub type grassland with deciduous trees between two houses towards the end of an area of ribbon development of predominantly interwar & mid to late 20th century suburban houses and bungalows within substantial plots to the south east of the built up part of Radcliffe on Trent, within the Green Belt.
2. There is a single width vehicular access from Cropwell Road which runs along the south eastern boundary with no. 112 to a dwelling (no. 110A) in a backland position to the rear of no. 112. There is a brick wall along the Cropwell Road boundary and part of the vehicular access and this part of the site was formerly a walled garden of no. 110. The land slopes downwards gradually from the road, and land to the south west is also within the applicant's ownership. There is a golf course on the opposite (north east) side of Cropwell Road.

## DETAILS OF THE PROPOSAL

3. The application seeks outline planning permission with approval being sought for access, i.e. the existing vehicular access which also serves 110A Cropwell Road. All other matters are reserved for subsequent approval. However, an indicative layout plan has been submitted showing the footprint of a dwelling sited roughly central within the site.
4. A preliminary ecological survey has also been submitted.

## SITE HISTORY

5. Outline permission for the erection of a dwelling was refused and an appeal was subsequently dismissed in 1994 (ref. 94/00341/OUT).
6. An application for the use of land for keeping of horses and construction of a stable building with surfacing around it was withdrawn in 2014 (ref. 14/02043/FUL), and permission was subsequently granted for a similar development in 2015 (ref. 14/02534/FUL).
7. Outline permission was refused for the erection of 1 no. dwelling (outline application with all matters reserved except for access) in January 2019, and an appeal was subsequently dismissed on 28 August 2019 (ref. 18/02721/OUT). The reasons for refusal included reference to the location of

the site within the Green Belt, giving rise to a fundamental policy objection to the proposal on the grounds that it represented inappropriate development causing harm to the Green Belt which was not outweighed by any 'very special circumstances'.

## REPRESENTATIONS

### Ward Councillor(s)

8. Three Ward Councillors (Cllr Brennan, Cllr Clarke and Cllr Upton) do not object.
9. Cllr Clarke comments; *'I am aware that this is located within the Green Belt which washes over this area. However, this site is clearly an "infill" site between 2 existing dwellings, one of which is at present being substantially extended. I do not believe the Green Belt was established to protect this type of site which, in my view, is an extremely logical use of an infill plot. As a result of non-development, it has been scrubland for decades and a single dwelling would represent a considerable improvement to the street scene. For these reasons I believe this is a perfectly acceptable exception to the presumption of no new development in the Green Belt.'*
10. Cllr Upton comments; *'in my opinion this is an "infill site" between two existing dwellings which has been scrubland for many years. I believe the proposed development would actually improve the street scene.'*

### Town/Parish Council

11. Radcliffe on Trent Parish Council do not object.

### Statutory and Other Consultees

12. The Environmental Sustainability Officer commented that the Ecological Appraisal was carried out in April 2019 and is, therefore, in date, although it was carried out outside the optimal time for species surveys, but appears to have been carried out in according to best practice. He also notes that this site was subject to planning application 18/02721/OUT, for which an ecological appraisal was provided which varies in conclusion from the latest appraisal.
13. He comments that wild birds are highly likely to be present within and adjacent to the site, and that records exist for Great Crested Newts (GCN) on adjacent land, including on a site 280m west and on the same side of Cropwell Road. The appraisal dismisses the likelihood of GCNs on the site due to the distance and suitable ponds being across Cropwell Road, but does not appear to have considered the site 280m to the west. However, that record dates from 1993 and does not appear to have been recorded since. Therefore, on balance, it is probably acceptable to regard GCN's as being unlikely to be found, although reasonable avoidance measures should be adopted. Bats are likely to be using the site for foraging and potentially roosting, and 3 trees on the site and 3 trees on adjacent land, within the applicant's ownership are identified with potential to support bat roosts, and there is the possibility of other protected and priority species.



14. He considers that the proposed development should not have a material impact on the favourable conservation status of a European protected species, provided appropriate mitigation is put in place, and that the development could provide a net gain for biodiversity. Recommendations in the appraisal should be subject of conditions on any permission.
15. The Environmental Health Officer has no objection but recommends a condition to prevent burning or waste on the site during construction, and a 'note to applicant' relating to construction times to ensure the minimum amount of disturbance to neighbouring residents:
16. The Nottinghamshire County Council as Highway Authority comment that the proposed development would increase vehicular flows along the private drive which has a single lane width, and that the applicant has sufficient control of the land to widen the access for two-way traffic to take place. They do not, therefore, wish to raise an objection subject to conditions to ensure occupation of the proposed dwelling does not take place until the access driveway has been widened to no less than 5.0 metres in width for a minimum distance of 5.0 metres behind the highway boundary and surfaced in a bound material, and the full width of the access driveway has been fronted by a vehicle crossing.

## **PLANNING POLICY**

17. The Development Plan for Rushcliffe consists of the Rushcliffe Local Plan Part 1: Core Strategy (2014) and the Rushcliffe Local Plan Part 2: Land and Planning Policies (2019). Also of relevance to this application is the Radcliffe on Trent Neighbourhood Plan, which is also part of the Development Plan.
18. Other material considerations include the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG).

## **Relevant National Planning Policies and Guidance**

19. The National Planning Policy Framework 2019 (NPPF) which includes a presumption in favour of sustainable development.
20. Of relevance to the current proposal are Paragraphs 2 (Introduction) and 12 (Presumption in favour of sustainable development), and Chapters 13 (Protecting Green Belt land) and 15 (Conserving and enhancing the natural environment) of the NPPF.

## **Relevant Local Planning Policies and Guidance**

21. Rushcliffe Local Plan Part 1: Core Strategy - Policy 1 (Presumption in favour of sustainable development) and Policy 4 (Nottingham-Derby Green Belt).
22. Rushcliffe Local Plan Part 2: Land and Planning Policies - Policy 1 (Development Requirements) and policy 38 (Non-designated biodiversity assets and the wider ecological network). Local Plan Part 2 also provides clarification on the definition of 'small scale infill development', and identifies the boundary of the settlement which is inset (excluded) from the Green Belt.
23. Policy 11 (Infill development) of the Radcliffe on Trent Neighbourhood Plan.

24. The Rushcliffe Green Belt review for Radcliffe on Trent (September 2017) is also relevant.
25. The appeal decision on 18/02721/OUT is an important material consideration in the determination of the current application.

## APPRAISAL

26. Chapter 13 (Protecting Green Belt land) of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that the essential characteristics of Green Belts are their openness and their permanence.
27. It also states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in 'very special circumstances'. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
28. It goes on to state at paragraph 145 that a local planning authority should regard the construction of new buildings as inappropriate in Green Belt. A list of exceptions to this includes 'limited infilling in villages'.
29. Policy 4 (Nottingham-Derby Green Belt) of the Core Strategy states that the principle of the Green Belt within Rushcliffe will be retained and it will only be altered where it is demonstrated that exceptional circumstances exist.
30. Local Plan Part 2 provides clarification on the definition of 'small scale infill development' stating that '*small scale infilling is considered to be the development of small gaps **within the existing built fabric of the village**, or previously developed sites, whose development would not have a harmful impact on the pattern or character of the area*' (emphasis on 'within the existing built fabric of the village'). It also identifies the boundary of the area inset from the Green Belt and effectively defines the extent of the settlement for Radcliffe on Trent. The southern boundary is the A52/Grantham Road with land to the south, including the application site, within the Green Belt.
31. Policy 11 (Infill development) of the Radcliffe on Trent Neighbourhood Plan states '*The Neighbourhood Plan considers that infill development within the settlement boundary may be appropriate. A site constitutes infill development when it is bounded by existing development on two or more sides and is within the existing settlement boundary (as defined by the Local Plan: Part 1).*' The Local Plan Part 1: Core Strategy does not define the settlement boundary but Policy 4 refers to the review of the Green Belt boundary and '*establishing a permanent boundary which allows for development in line with the settlement hierarchy and/or to meet local needs*'.
32. Under the Rushcliffe Green Belt review for Radcliffe on Trent it was noted that the properties along Cropwell Road to the north west of the application site are set back in substantial grounds, especially those closer to the junction with the A52, which contributes to the openness of the Green Belt. It was therefore

concluded that, given the contribution the grounds of the properties make to the openness of the Green Belt, the properties along Cropwell Road should remain in the Green Belt.

33. The site is located towards the south eastern end of an area of ribbon development within the Green Belt, around 870m from the inset boundary, which follows the line of the A52. The proposed development would not, therefore, represent limited infilling 'within' a settlement as envisaged by the NPPF. It would also not be in accordance with the Local Plan Part 2 definition of small scale infill development, and would be contrary to policy 11 of the Neighbourhood Plan.
34. Consequently, the proposed development would represent inappropriate development in the Green Belt and there are no very special circumstances to outweigh the harm.
35. It is considered that the site makes some contribution to the openness of the Green Belt and that a dwelling in this location, together with widening of the vehicular access recommended by County Highways, would have an adverse impact on openness and would consolidate an area of ribbon development.
36. Application ref. 18/02721/OUT was refused on grounds that the development would represent inappropriate development in the Green Belt, and would materially harm the openness of the Green Belt and the rural character and appearance of the site and surroundings.
37. The inspector who determined the appeal agreed with the Borough Council that the development would represent inappropriate development in the Green Belt, and would materially harm openness. In particular, he made the following comments:
38. *'The appeal site is situated towards the end of built development as open countryside is beyond No 112 and the presence of the golf course opposite the built development adds to the rural character as the road extends towards Cropwell Butler.'*
39. *'I do find that the A52 Grantham Road which is the settlement boundary does physically define the extent of the village. In my view, the appeal site is therefore beyond the village. For these reasons, I do not consider that the appeal site is within the village despite being close to the centre and its facilities. Accordingly, the proposal would be inappropriate development as it does not represent limited infilling in a village.'*
40. With respect to openness he commented; *'The openness of the Green Belt is clearly evident from the appeal site with the golf course across the road and the open countryside beyond No 112. The dwellings on this section of the road are set in spacious plots and set back from the road which adds to the openness. Whilst there is an existing single track access, the Council has requested that the access be widened for a minimum of 5 metres behind the highway boundary and surfaced in a bound material that would impact further upon the openness. The appellant refers to the limited landscape impact to the proposal and the fact that there are no rights of way close to the site. Nonetheless, the proposal would introduce development where none currently exists and would thus lead to a materially greater impact on the openness of*

*the Green Belt. On the basis that I have characterised the site as open countryside rather than part of the village, the development would impact on the Green Belt purpose of safeguarding the countryside from encroachment.'*

41. This is a very recent appeal decision, determined in August 2019. Since the appeal decision, the Local Plan Part 2 has been adopted which, through Policy 21, reinforces that applications will be determined in accordance with the National Planning Policy Framework. Therefore, the appeal decision and comments of the Inspector should be given significant weight in the determination of the current application.
42. Whilst the site area has been reduced and a detached garage indicated on 18/02721/OUT is not now indicated, it should be noted that matters of layout, scale and appearance are reserved for subsequent approval and the development would be fundamentally the same as the proposal dismissed at appeal. It should also be noted that the list of exceptions in the NPPF (paragraph 145) referred to in paragraph 28 represent a 'closed list' and are clear and not open to interpretation, and that the development would clearly not represent limited infilling in a village.
43. Paragraph 2 of the NPPF states that planning law (Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990) requires that applications for planning permission be determined in accordance with the development plan, including Neighbourhood Plans, unless material considerations indicate otherwise, and that the NPPF is a material consideration in planning decisions.
44. Paragraph 12 of the NPPF states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
45. In this case, the proposed development is contrary to the objectives of policy 4 (Nottingham-Derby Green Belt) of the Core Strategy and contrary to policy 11 of the Neighbourhood Plan, both of which are part of an up-to-date development plan. It would also not comply with the Local Plan Part 2 definition of small scale infilling, and is contrary to policy 21 (Green Belt) which requires applications to be determined in accordance with the NPPF. The presumption in favour of sustainable development does not, therefore, apply in this case.
46. In view of the above, the Borough Council's decision on 18/02721/OUT and the very recent appeal decision for the same development proposed now, and as there are no material considerations to indicate a decision other than in accordance with the development plan, planning permission should be refused on grounds that the development would represent inappropriate development in the Green Belt, and would materially harm openness.
47. Chapter 5 (Conserving and enhancing the natural environment) of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by (amongst others) minimising impacts on and

providing net gains for biodiversity.

48. Policy 38 of Local Plan Part 2 requires, where appropriate, to seek to achieve net gains in biodiversity and improvements to the ecological network through the creation, protection and enhancement of habitats, and the incorporation of features that benefit biodiversity.
49. The Borough Council has a legal duty when determining a planning application for a development which may have an impact on protected species. The species protection provisions of the Habitats Directive, as implemented by the Conservation (Natural Habitats Etc) Regulations 1994, contain three tests which Natural England must apply when determining a licence application. This licence is normally obtained after planning permission has been obtained. However, notwithstanding the licensing regime, the Planning Authority must also consider these tests when determining a planning application. A Planning Authority failing to do so would be in breach of Regulation 3(4) of the 1994 Regulations. The three tests are:
  - a. the activity to be licensed must be for imperative reasons of overriding public interest or for public health and safety;
  - b. there must be no satisfactory alternative; and
  - c. favourable conservation status of the species must be maintained.
50. The ecology survey submitted with 18/02721/OUT was carried out outside the optimal time for species surveys and it was considered that the development could have a material impact on the conservation status of European protected species. Consequently, permission was also refused on grounds that it had not been demonstrated that proposed development would not result in an unacceptable impact on biodiversity. A further survey, carried out in April 2019 at a more optimal time, was submitted during the course of the appeal and the inspector considered that recommendations in the survey could have been dealt with by way of condition.
51. The ecology survey submitted with the appeal has been submitted again with the current application. In view of the comments of the appeal inspector and the Environmental Sustainability Officer who considers that the proposed development should not have a material impact on the favourable conservation status of a European protected species, provided appropriate mitigation is put in place, it is considered that it is not necessary to apply the tests in this instance.
52. Policy 1 (Development Requirements) of Local Plan Part 2 states permission for new development will be granted provided that (amongst others) the scale, density, height, massing, design, layout and materials of the proposal are sympathetic to the character and appearance of the neighbouring buildings and the surrounding area, and would not lead to an over intensive form of development, or be overbearing in relation to neighbouring properties, nor lead to undue overshadowing or loss of privacy.
53. It is considered that the proposed development including widening of the vehicular access would have some adverse impact on the rural character of the site and surroundings. However, it is likely that a dwelling could be designed which would be sympathetic to neighbouring dwellings, and which

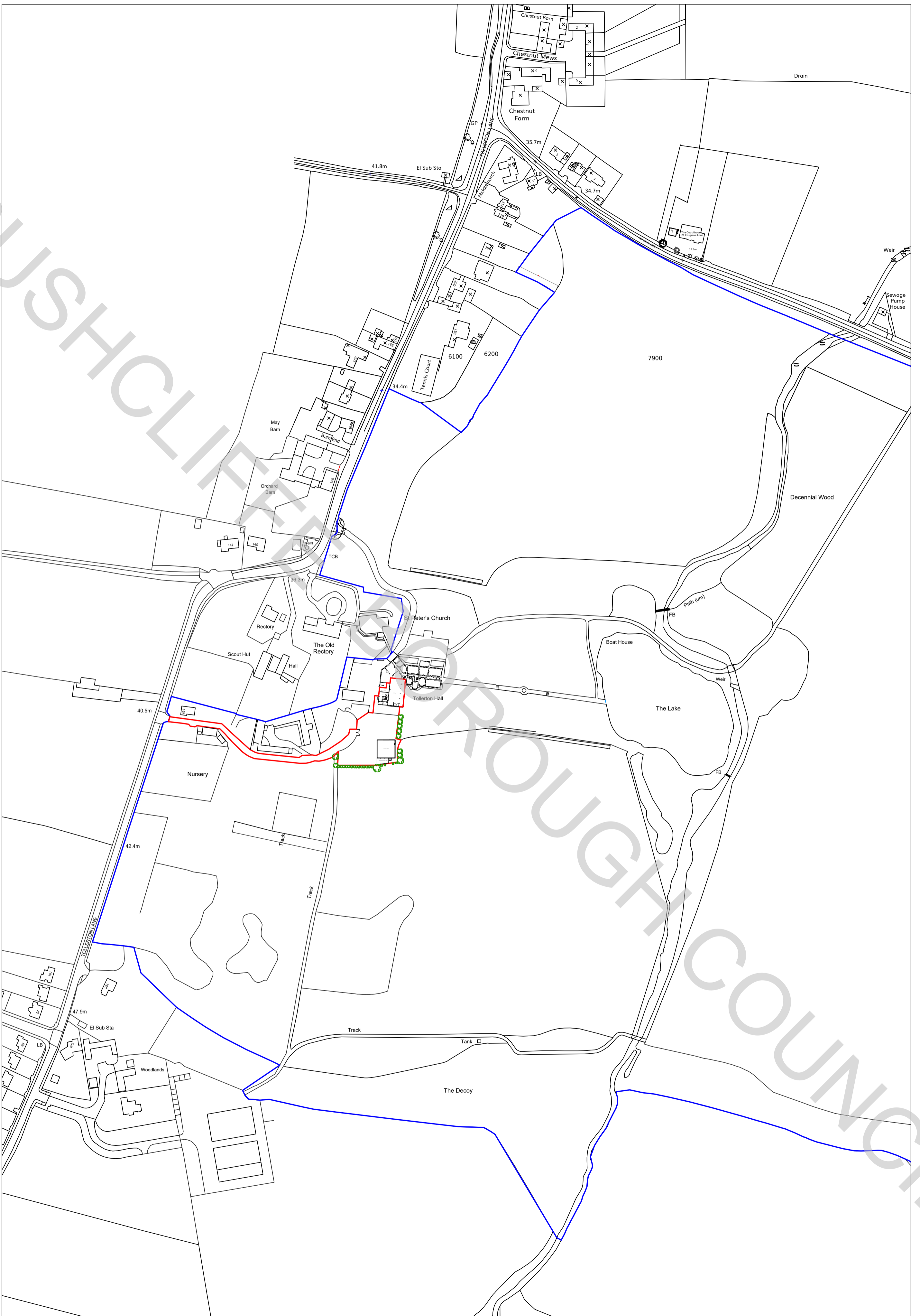
would ensure an acceptable level of amenity for future occupants and occupants of neighbouring properties.

54. Notwithstanding the comments in paragraphs 49-53 relating to ecology character and amenity, the Committee's attention is drawn to the fundamental policy objection relating to development within the Green Belt, discussed above, and it is, therefore, recommended that permission is refused.
55. The application was not subject to pre-application negotiations. There is a fundamental objection to the development which, it is considered, cannot be overcome and negotiations with the applicant have not, therefore, taken place.

## **RECOMMENDATION**

It is RECOMMENDED that planning permission be refused for the following reason(s)

1. The site is located in an area of ribbon development in the Green Belt outside the built up part of the settlement of Radcliffe on Trent, and it is considered that the proposed development would not represent limited infilling in a village. Consequently, the proposed development would represent inappropriate development in the Green Belt and would, therefore, by definition, be harmful to the Green Belt, and there are no very special circumstances to outweigh the harm to the Green Belt by reason of inappropriateness and through harm to its openness and character. The development is, therefore, contrary to the objectives of Chapter 13 (Protecting Green Belt land) of the National Planning Policy Framework, the objectives of Policy 4: (Nottingham-Derby Green Belt) of the Rushcliffe Local Plan Part 1: Core Strategy, and contrary to Policy 21 (Green Belt) of the Rushcliffe Local Plan Part 2: Land and Planning Policies and Policy 11 (Infill development) of the Radcliffe on Trent Neighbourhood Plan.
2. Due to its likely siting and scale, it is considered that the proposed development would consolidate an area of ribbon development which would materially harm the openness of the Green Belt and the rural character and appearance of the site and surroundings. The development is, therefore, contrary to the objectives of Chapter 13: (Protecting Green Belt land) of the National Planning Policy Framework and Policy 4: (Nottingham-Derby Green Belt) of the Rushcliffe Local Plan Part 1: Core Strategy.



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**Applicant** Mr Ian Kershaw

**Location** Tollerton Hall Tollerton Lane Tollerton Nottinghamshire NG12 4FW

**Proposal** Change of use of part of Tollerton Hall and grounds to sui generis with permanent retention of associated building

**Ward** Tollerton

## THE SITE AND SURROUNDINGS

1. Tollerton Hall (Roclaveston Manor (St Hugh's College)) is a Grade II Listed Building whose grounds include a number of outbuildings and open spaces. This high-status dwelling was constructed as a manor house set in substantial grounds in the late 17th century although it has been described as being improved in the 18th century and 'largely rebuilt' in the 19th century. Today it appears as a Gothic style hall. The building has been through several institutional uses as a private members club with an emphasis on hunting, occupied by Forces units during WWII and used after as a Prisoner of War camp, a school (St Hugh's College) in the 1950s-60s during which a large extension was added to the rear, and most recently it was used in business use as offices.
2. The property is now in private ownership and is largely in use as a private dwelling. There are two accesses to Tollerton Hall, the northern access is onto the Hall as a residential dwelling and is not included within the red line of this planning application. The part of the Hall and its grounds to which the current application relates is accessed via the driveway to the west of the site that enters past 166 Tollerton Lane and proceeds past 162 Tollerton Lane and several office buildings and associated parking areas which are housed in buildings referred to as units within 'The Coach House'. The driveway then opens out onto a large area of hardstanding which it is understood was previously a playground area for the college.
3. Part of this area of hardstanding provides parking for the offices housed within the Coach House and part is enclosed by metal railings and gates and is used in connection with the business forming the subject of this application. On this area of hardstanding is a wood effect dark brown clad building with metal profile roof and attached timber lean-to.

## DETAILS OF THE PROPOSAL

4. The current application is retrospective and seeks to regularise the change of use of part of Tollerton Hall and its grounds to sui generis (car showroom) with permanent retention of an associated building in the grounds.
5. The area of the hall to be changed is the ground floor southern section of the hall which is formed by a 1960s extension. The outbuilding is currently unauthorised and measures 15m x 15m, it is 2.6m to the eaves and 5.9m to

the ridge. The building is clad in a dark brown wood effect material with a metal profiled roof. There is a timber lean to one side.

6. The application is supported by a Heritage Statement, Design and Access Statement and a Landscape and Visual Impact Assessment.

## **SITE HISTORY**

7. Tollerton Hall was originally constructed in the 17<sup>th</sup> century and is Grade II Listed. It was originally constructed for use as a residential dwelling, but has also been used as a hospital during the second world war and college. In 1985 planning permission was granted to change the use of the building from college to offices. It is now used primarily as a residential property, with some areas used commercially. This application seeks to regularise those areas of the site that are associated with the commercial car showroom use.
8. In the early 1990s several planning applications were approved for the conversion and extension of the stable blocks to the south of Tollerton Hall (and access via the western driveway) to be used as offices. These buildings remain in this use.
9. In 2017 the current applicant applied to change the use of the Hall back to C3 dwelling house and also applied for repairs and alterations. Planning permission and Listed Building Consent were granted under 17/02548/FUL and 17/02549/LBC.
10. In addition, applications 17/02059/FUL and 17/02060/LBC were granted to demolish part of the existing boundary wall, rebuild boundary wall in reclaimed bricks, new gate pillars, new iron gates, new post and rail timber fencing. This relates to the main entrance to the north of Tollerton Hall.

## **REPRESENTATIONS**

### **Ward Councillor(s)**

11. The Ward Councillor (Cllr. Mason) does not object to the application.

### **Town/Parish Council**

12. Tollerton Parish Council does not object

### **Statutory and Other Consultees**

13. The Borough Council's Environmental Health Officer has no comments or conditions to add.
14. The Borough Council's Conservation Officer does not object to the change of use of part of the Hall to a car showroom, as the area has previously been used as offices and the area is entirely modern and includes a substantial open-plan area that would require little adaptation. It is considered that the proposed change of use would serve to preserve the listed building, a goal considered to be desirable within Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and this aspect of the proposal is therefore considered positively in relation to the duty under this section of The 1990 Act.

15. However, it is considered that the retention of the freestanding building constitutes less than substantial harm to the setting and significance of Tollerton Hall. The Officer states that *“In such circumstances as those considered above, and weighing the planning balance, it is considered that the proposal for the retention of building in association with this use would cause harm to the listed building, thus failing to preserve as is considered to be a ‘desirable’ objective within Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This conflict gives rise to a statutory presumption against granting planning permission.”*
16. *The statutory duties under Section 66 of “The Planning (Listed Buildings and Conservation Areas) Act 1990” carry great weight and conflicts with their requirements to preserve or enhance the special interest of heritage assets give rise to a potential reason for refusal of this application. Such a conflict can be outweighed by material benefits, however these must be powerful enough to overcome the statutory presumption in favour of preservation.*
17. *I would also stress that the NPPF, at paragraph 194, requires a clear and convincing justification for any harm to be provided by an applicant. No such case has been made. In the absence of a justification for the harm it is arguable as to whether or not it is legitimate to apply the test under paragraph 196, as it would seem to be illogical to conclude that harm can be accepted owing to wider public benefits despite having no justification for why the harm need be endured at all.”*
18. The Borough Council’s Design and Landscape Officer states that *“The LVIA is in accordance with best practice. I don’t take issue with their findings and it makes a strong case that public views from outside the site are not affected by the new building and it is such small scale it doesn’t impact on wider landscape character.*
19. *Within the site the building can be seen within some views, but as it sits within a large pre-existing tarmacked area of parking and is partially screened by a conifer hedge to one site and a line of trees to the south I don’t object.*
20. *I also note that a hedge and some tree planting has taken place on the eastern edge of the parking area, Laurel hedging wouldn’t have been my first choice, but it does help soften the building on the approach.”*
21. The Nottinghamshire County Council as Highways Authority have no objection, they comment that *“...the car sales business employs five members of staff (two of which reside at Tollerton Hall). It is stated that the nature of the business does not generate ‘passing trade’ or ‘window shopping’ customers. The site is very infrequently visited by customers, with pre-arranged appointments only. The vast majority of business is conducted over the phone or via the internet [...] The existing access arrangement serving the car showroom use falls below the standards required for access in accordance with the Nottinghamshire Highway Design Guide. That said, it is acknowledged that the access already serves a number of commercial uses, and the proposed change of use will remove permitted office use, which itself could have generated vehicle movements. Furthermore, we are not aware of any issues with the current operation of the access.”*

## **Local Residents and the General Public**

22. None

## **PLANNING POLICY**

23. The application falls to be considered against the development plan for Rushcliffe (unless material considerations indicate otherwise) which now comprises of Local Plan Part 1: Rushcliffe Core Strategy (Core Strategy) and Local Plan Part 2: Land and Planning Policies. Other material considerations include the National Planning Policy Framework 2019 (NPPF).

## **Relevant National Planning Policies and Guidance**

24. Relevant sections of the NPPF are:

Chapter 2 - Achieving sustainable development;  
Chapter 13 - Protecting Green Belt Land; and  
Chapter 16 - Conserving and enhancing the historic environment”

25. Also of relevance is Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990

## **Relevant Local Planning Policies and Guidance**

26. Relevant policies of the Rushcliffe Local Plan Part 1: Core Strategy:

Policy 1 - Presumption in Favour of Sustainable Development;  
Policy 4 - Nottingham-Derby Green Belt; and  
Policy 11 - Historic Environment.

27. Relevant policies of the Rushcliffe Local Plan Part 2: Land and Planning Policies:

Policy 1 - Development Requirements;  
Policy 21 - Green Belt; and  
Policy 28 - Conserving and Enhancing Heritage Assets.

## **APPRAISAL**

28. The key considerations are the principle of development in terms of Green Belt Policy, Heritage Conservation in terms of impact on the Listed Building and its setting, and also any associated highways or amenity issues associated with the proposed change of use.

### Green Belt

29. The NPPF makes clear at paragraph 145 that the construction of new buildings in the Green Belt is inappropriate development, with some exceptions. paragraph 146 states certain other forms of development that are not inappropriate. The proposed change of use of part of the existing building would fall under paragraph 146 and as such is not inappropriate and is acceptable in terms of Green Belt policy.

30. It therefore first falls to consider whether the proposed retention of the currently unauthorised building in connection with the car showroom use would fall to be considered as an exception under paragraph 145 or 146.
31. Paragraph 145 part g) states that one of these exceptions is the; *“limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings) which would:*
- *Not have a greater impact on the openness of the Green Belt than the existing development*
  - *Not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.”*
32. The Landscape and Visual Impact Assessment submitted with the application states that; *“The footprint of the building has been incorporated into the wider Hall’s uses for many decades, including as part of the site’s historical uses for military purposes and educational uses. Historically the area of the overall site in which the building is currently located has been used as a playground but has also previously housed a sizeable refectory, pre-fabricated classroom building and agricultural-style barn which was still present until shortly prior to the purchase of the Hall by the Applicant. The hardstanding on which the storage building sits has been established for decades.”*
33. The proposal would not constitute limited infilling, and as the previous building was demolished some time ago (before the applicant bought the Hall), the storage building that currently forms the subject of this application cannot be considered a replacement. Previously developed land is defined within the NPPF and specifically excludes *“land that was previously developed but where the remains of the permanent structure or fixed structure have blended into the landscape.”*
34. The building is therefore considered to be inappropriate development in the Green Belt. The submitted Design and Access Statement sets out that the proposal contributes to the Hall’s ongoing vitality, it would maintain employment for a small number of staff and would also ensure the ongoing care, maintenance and active use of an otherwise under-used area of a designated heritage asset. The statement also states that; *“The Applicant’s collection of vehicles are of such significance that they could appropriately be housed and generate interest if kept in a museum.”*
35. These benefits have been carefully considered and they do carry some weight as Very Special Circumstances.
36. The Design and Access Statement also sets out as a Very Special Circumstance that the building does not impact on the openness of the immediate or wider area when compared to the established built development, and also that the area is enclosed by significant vegetation and fencing.
37. The application has been supported by a Landscape and Visual Impact Assessment which assesses the impact of the building on the openness of the

Green Belt. It concludes that the impact on public views from outside the site are not affected and that the building is small scale, *“the built elements are small and insignificant when set within and against the backdrop of Tollerton Hall and its surrounding built and vegetated context”*. Whilst the conclusions of this report are accepted, nonetheless the building is inappropriate development and, by definition, harmful to the Green Belt.

38. On balance, the Very Special Circumstances put forward by the applicant do not outweigh the harm to the Green Belt.

### Heritage

39. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, when considering whether to grant planning permission for development which affects a listed building or its setting, it will be necessary to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Furthermore, the NPPF requires that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation, irrespective of whether the degree of harm.
40. In terms of the heritage impacts on the Listed Building and its setting arising from the current proposals, the proposed change of use is considered acceptable. The proposed retention of the building is, however, found to cause harm, albeit less than substantial harm. In these circumstances, the NPPF advises at paragraph 196 that such harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
41. As set out above, the Design and Access Statement states that the proposal contributes to the Hall’s ongoing vitality and ensures on-going care and maintenance of the Hall and grounds. However, what is not clear is why this particular building and its location have been chosen. Arguably there are more suitable designs, styles and sizes of buildings that could be constructed that would either, potentially, not harm the setting of the Listed Building or that would provide greater benefits to outweigh the harm.

### Amenity/Highways

42. The proposed change of use of part of the building would be unlikely to have a significant impact on the occupiers of the Hall. The applicant is the owner and the application states that two employees live at the Hall, the scale and nature of the business is considered unlikely to impact on their amenity or that of occupiers of neighbouring properties. The Highways Officer concludes that the overall number of visitors would be likely to be less than the previous office use and overall has no objections to make.
43. The proposal is presented for planning permission on a retrospective basis, the need for planning permission has been highlighted to the applicant and that the work would be unlikely to be considered favourably. The application submitted has not proposed ways of mitigating the concerns relating to the works already undertaken and there is a fundamental objection to their retention. The applicant has been made aware of the situation in writing and in

order to avoid the applicant incurring further abortive costs, consideration has not been delayed by discussions which cannot resolve the reasons for refusal and a decision has been issued in a timely fashion.

## RECOMMENDATION

It is RECOMMENDED that planning permission be refused for the following reason(s)

1. The currently unauthorised building which the application seeks to retain would constitute an inappropriate form of development in the Green Belt for which the Very Special Circumstances do not outweigh the resultant harm. Refusing planning permission would, therefore, be in accordance with the NPPF paragraphs 143 to 145 and Policy 21 (Green Belt) of the Rushcliffe Local Plan Part 2: Land and Planning Policies.
2. The currently unauthorised building which the application seeks to retain would harm the setting of the Listed Building, and the benefits that have been proposed do not outweigh the harm. Therefore, the proposal fails to preserve the setting of the Listed Building, an objective described as desirable in Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The proposal does not therefore accord with the guidance contained in paragraph 194 and 196 of the National Planning Policy Framework and are contrary to Policy 28 (Historic Environment) of the Rushcliffe Local Plan Part 2: Land and Planning Policies which states that;

*“Proposals that affect heritage assets will be required to demonstrate an understanding of the significance of the assets and their settings, identify the impact of the development upon them and provide a clear justification for the development in order that a decision can be made as to whether the merits of the proposals for the site bring public benefits which decisively outweigh the harm arising from the proposals”*

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## Planning Committee

9 July 2020

## Planning Appeals

<b>LOCATION</b>	Land On Wilford Lane West Bridgford Nottinghamshire		
<b>APPLICATION REFERENCE</b>	18/02920/HYBRID		
<b>APPEAL REFERENCE</b>	APP/P3040/W/19/3238073		
<b>PROPOSAL</b>	Hybrid application comprising full planning permission for construction of retail units (Class A1), café / restaurant (Class A3), and drinking establishment (Class A4), along with associated highway works including new access off Wilford Lane, servicing, landscaping and boundary treatments, and outline planning permission (with all matters reserved except for access) for residential uses (Class C3)		
<b>APPEAL DECISION</b>	Appeal Allowed	<b>DATE</b>	19th May 2020

### PLANNING OFFICERS OBSERVATIONS

This application was reported to the Planning Committee on the 18 July 2019 with an Officer recommendation to support the grant of conditional planning permission subject to the applicant entering into a S106 for the provision of appropriate infrastructure including highway and bus stop improvements, as well as education and health contributions. The Committee resolved to refuse planning permission on the three following grounds:

- 1. The proposal would result in the loss of a substantial protected Lime Tree which occupies a prominent position close to the frontage of the site, and makes a significant contribution to the amenities and character of the area. The proposal is therefore contrary to Policy GP2 (Design and Amenity Criteria) of the Rushcliffe Borough Non-Statutory Replacement Local Plan and Policy 10 (Design and Enhancing Local Identity) of the Rushcliffe Local Plan Part 1: Core Strategy.*
- 2. Whilst the application sought outline planning permission for the residential element of the scheme, with all matters except access reserved for subsequent approval, it has not been adequately demonstrated that the quantum of development referred to in the supporting documents and on the application form, and indicated on the illustrative plans can be accommodated on the site without detriment to the amenities of residential properties on Bede Ling. The proposal is therefore contrary to Policy GP2 (Design and Amenity Criteria) of the Rushcliffe Borough Non-Statutory Replacement Local Plan and Policy 10 (Design and Enhancing Local Identity) of the Rushcliffe Local Plan Part 1: Core Strategy.*
- 3. The Borough Council is not satisfied that the submission adequately demonstrates that the cumulative effect of traffic generated by the development in combination with*

*committed development in the area can be accommodated on the highway network without causing unacceptable impacts on traffic flows, thereby causing congestion and adverse impacts on highway safety, contrary to Policy GP2 (Design and Amenity Criteria) of the Rushcliffe Borough Non-Statutory Replacement Local Plan.*

A subsequent appeal has been allowed and planning permission has been granted subject to planning conditions and the section 106 agreement. In addition, a partial award of costs was granted against the Council for its failure to substantiate the second and third reasons for refusal. A summary of the Inspectors report is set out below.

### Reason 1, the Lime Tree

The Inspector commented that Councillors are entitled to not accept the professional advice of Officers, however if a different decision is reached the Council has to clearly demonstrate why the proposal is unacceptable. In relation to this matter, the landscape contribution of the tree to the surrounding area is a matter of judgement and is to a degree subjective. The Council have not disputed the findings or categorisation of the tree, however, the Committee placed greater weight on the visual contribution it makes to the area.

The Inspector states that *“Whilst it is a large specimen and makes some contribution to the visual character of the surroundings it is relatively solitary within the wider site, which is relatively poor in terms of visual amenity.”* The Inspector also acknowledged the arboricultural report refers to the cavity in the tree and the resulting potential loss of the tree in the future. She also commented that the tree is not fundamental to the visual character of the surrounding area and the loss of the lime tree would not render the development unacceptable. The Inspector noted that officers had explored the potential to redesign the layout of the scheme, but that the end use of the site sufficiently demonstrates the reasons for the layout, and that loss of the tree is not judged to be so significant so as to make the scheme unacceptable. The proposed development is considered to bring a number of benefits, including: the sites access to services and facilities, the use of previously developed land, the provision of affordable homes and retirement apartments, economic benefits, a sustainable pattern of shopping, local investment, job creation and financial contributions secured by legal agreements. Those benefits were balanced against the loss of the Lime Tree, with The Inspector concluding that the benefits outweigh any harm to the character and appearance of the area as a result of the loss of the tree.

### Reason 2: The lack of Information

The Inspector noted that the submission of layouts, indicative or otherwise, are commonly utilised to demonstrate to the decision maker that the level of proposed development can likely be accommodated within the site with final designs requiring submission at reserved matters stage. The decision states that it is clear that the Council have treated the plans as indicative and that the committee report refers to the indicative nature of the plans.

The Inspector commented that the appeal site is separated from Bede Ling by a small watercourse and existing trees and landscaping, and although indicative only at this stage the submitted details suggest that the residential development would take the form of apartment blocks. In addition, the retirement living apartments are shown on the indicative

plans as potentially being located to the west of Bede Ling, towards the front part of the appeal site.

The Council's concerns specifically related to the impact of blocks C, D and E on the living conditions of the residents of Bede Ling. Based on the indicative plans, these blocks could potentially be 4 storeys or more in height and have substantial footprints. However, The Inspector commented that, having regard to the submitted information identifying the separation distances between the proposed blocks and the properties on Bede Ling, as well as the level of intervening mature landscaping, she considered that it has been adequately demonstrated that the proposed residential development could be located a sufficient distance from the existing dwellings to avoid an unacceptable overbearing impact on the occupiers of Bede Ling. It was noted that, based on the indicative scale and size of the proposed residential blocks, it is likely that in the suggested form they would be visible from a number of surrounding areas and whilst the existing properties along Bede Ling are reasonably modest, the surrounding area is mixed in scale and character. As a result of the varied buildings in the locality, and the existing screening resulting in a distinct visual separation between the properties on Bede Ling and the appeal site, the Inspector concluded that the introduction of larger and taller residential buildings in this location would not be visually harmful to the surroundings. The Inspector was therefore satisfied that a form of residential development set within the areas indicated on the indicative plans could be accommodated within the site without resulting in undue harm to the living conditions of nearby occupiers or in terms of visual prominence.

In this case, the matters before the Council related to access alone. All other matters were reserved for determination at a later date, a point officers sought to emphasise to the Committee. Whilst the Committee is not duty bound to follow the advice of its professional officers, in this instance the Committee report made it clear that access only was committed at this stage. It is not unusual for a scheme to identify how the number of units could be accommodated, however the matters relating to the final layout, scale and appearance would be determined through the submission of a further application relating directly to those reserved matters. Consequently, the Inspector found that concerns over the scale, appearance and layout, which were largely made on the basis of plans only to be used for illustrative purposes, lead to the conclusion that the Council had not (*and could not*) substantiated its reason for refusal on this matter with any clear evidence.

### Reason 3: Cumulative Highway Impacts

The Appellant provided a substantial amount of information in terms of highway impacts which include assessments of the existing traffic, potential traffic growth, impacts of construction traffic and the likely traffic effects arising as a result of the proposed development.

The Inspector carefully considered all of the information submitted and found that the analysis and predictions to be based on reasonable data and assumptions and comply with the relevant standards and guidance in respect of this matter. She also had regard to the comments of the County Council Highways Team and Highways England. The conclusions of the Transport Assessments demonstrate that the impacts of the proposed development on the highway network would be acceptable and would not give rise to severe impacts.

The proximity of the appeal site to the tram stop and the relationship between the proposed access for the residential properties and the existing access serving the Roko Health Club were also noted. However, the Council have put forward limited evidence (*in light of the lack of objections from the County Council as Highway Authority and Highways England*) to support their views that the cumulative impacts of these nearby facilities and the proximity to the junction would be significantly harmful to the safety of the users of the highway and capacity of the surrounding highway network.

The decision notice confirms that the Council engaged with the Appellant in a proactive manner to discuss and address the initial highway comments. The Council Officers provided detailed information to the Planning Committee, however, whilst it is not uncommon for Councillors to conclude differently in some cases, in this instance the appellant had carried out and provided a substantial amount of work and information to support their proposal and to ensure the impacts to the highway network are acceptable. Based on the information before them, limited technical evidence has been provided to support the view of the Council in their reason for refusal on these grounds. Consequently, in respect of this matter, the Inspector found that the Council had failed to substantiate and provide evidence to support this reason for refusal.

#### Residents other concerns

In relation to other issues raised by residents, specifically the sale of fast food close to the school, the Inspector states this is not something that could be reasonably controlled by condition, nor have they been presented with evidence that would demonstrate that this would be against the Council's policies or that it would be significantly harmful enough to render the proposed development unacceptable. In relation to noise and air pollution, conditions relating to these matters can be imposed requiring details and limits on noise and odours from the commercial elements of the development. The points relating to the loss of countryside were noted however the site is fenced off and vacant and is not categorised as countryside or formal open space. The development would include areas of landscaping and would also make the necessary contributions to open space.

The Inspector had been provided with little evidence that would indicate that the proposed development would be detrimental to other businesses in the wider area or that there is a lack of need for the proposed commercial units. Whilst they acknowledge the suggestion that the site could be used for a nature area or for the school to use, they must consider the scheme that is put before them rather than suggested alternatives.

Planning permission has therefore be granted subject to planning conditions, and a partial award of costs granted against the Council in respect of reasons 2 and 3.