

20/03289/FUL

Applicant Mr & Mrs McBallantine

Location Tacet House,, Hickling Lane Upper Broughton, Nottinghamshire
LE14 3AZ

Proposal Extension and alteration of host dwelling; to include two-storey side extension, two-storey rear extension, first-floor front extension, single-storey front porch extension, single-storey rear extension, single-storey link extension to annexe, and roof and fenestration alterations. Erection of detached garage and workshop. Conversion and extension of single-storey garage into annexe; to include a roof raise, single-storey side extension and fenestration alterations. Associated landscaping works.

Ward Nevile And Langar

Full Details of the proposal can be found [here](#)

THE SITE AND SURROUNDINGS

1. The application property is a detached dwelling of mid-to-late twentieth century construction. It is finished in a red/brown brick with a predominantly dual-pitched roof with front and rear facing gables, of which are finished in a dark brown roof tile. The dwelling is split across three levels due to the topography of the site, of which slopes down towards the North-East. The rear facing two-storey gable is set on lower ground than the bulk of the dwelling.
2. The application site is residential land consisting of the original dwelling, a rear conservatory and detached garage, in addition to a sizeable driveway and front, side and rear gardens whilst further residential curtilage and non-residential curtilage adjoins the site within the applicants ownership.
3. The site is located to the North of the village of Upper Broughton, and is on the North boundary of the Upper Broughton Conservation Area. The property is accessed via large, timber and metal inward opening gates between two brick piers on Hickling Lane, a single-track lane linking Melton Road to Green Lane. It is located on the East side of Hickling Lane behind a row of hedges and mature trees.

DETAILS OF THE PROPOSAL

4. The proposal include multiple elements which are described as follows.
Changes to the house.
Single-storey side/rear extension – this element would project to the rear of the bulk of the dwelling by a maximum of c.7.48m and c.11.51m from the side elevation of the existing rear projecting two-storey element at lower ground floor level. It would consist of a lean-to roof, flat roof and 1no rear facing and

1no side facing gable. The flat roof element would facilitate a roof terrace accessible from the master bedroom.

5. Two storey side extension - this would project from the North-East elevation by c.3.36m. It would have a width to match, of c.5.87m, and have a gable end with a pitch to match the host dwelling but be set down the from ridge by c.0.40m. At first-floor, the extension would facilitate a covered balcony that would adjoin the flat roof of the single-storey side/rear extension, whilst at ground-floor extend the kitchen area.
6. First-floor front extension above the single-storey gabled front element - This would effectively be a roof raise, by c.2.00m, such that it would have an eaves and ridge height to match the host dwelling, maintaining the same footprint, with a gable end with the same roof pitch.
7. Two-storey gabled side/rear extension - this would project c.5.78m from the rear elevation and c.5.76m from the side elevation of the existing rear projecting two-storey element. It would have a ridge height to match the host dwelling. The extension would partly include a covered roof terrace at first-floor.
8. It is also proposed to remove the existing lean-to covered front porch and for the erection of a single storey stepped front extension located between the two front gables. It would have a lean-to roof that would follow the roof plane of the host dwelling and a central gable. It is also proposed for the erection of an open front porch forward of the front extension, with a gable end to match the gable of the front extension.
9. Single-storey link extension between the host dwelling and the garage – This is proposed to be converted and extended to facilitate an annexe, facilitated through the removal of the existing conservatory. It would have a part dual-pitched roof and part flat roof.
10. The existing garage is proposed to be extended through a first-floor extension/roof lift. The pitch would be maintained, and the eaves and ridge height would be increased by c.1.35m.
11. A series of fenestration and detail alterations are also proposed as a result of the extensions and alterations, including to the existing garage and dwelling, whilst the insertion of 2no front and rear facing rooflights are proposed on the host dwelling.
12. New garage. It is proposed to erect a single-storey detached garage and workshop in the south west corner parcel of the site, with Hickling Lane adjacent to the North-west and the neighbour, Brotone, to the South-East. It would measure c.16.43m in width and c.8.63m in length. It would predominantly have a hipped roof with an eaves height of c.2.78m and a ridge height of c.5.39m. The detached structure would have a central gabled end projecting forward by c.1.30m, with an eaves height to match and a ridge height of c.5.39m. The detached building would be 'sunken' into the existing ground of which slopes towards the North-East, facilitated through significant excavation works. The building would facilitate a 3-bay garage and workshop, with a storage area in the roofspace.

13. The proposal would include multiple areas of new/extended patio areas, a new pedestrian path, and an enlarged driveway leading to the proposed garage.
14. Negotiations have taken part throughout the course of the application as a result of concerns raised by planning officers, the Borough Council's Conservation Officer and several other consultees. The current proposal is of a reduced scale in comparison to the original submission, through the extensions to the host dwelling and garage being reduced, in addition to the proposed detached garage/workshop, and has removed several Juliet balconies and overhanging canopies, amended fenestration size/type, added a variety of brick detailing and no longer proposes the application of render to the front elevation.

SITE HISTORY

15. 01/00743/FUL – Conservatory – PERMITTED.

REPRESENTATIONS – Response to Original Submission (January to February 2021)

Ward Councillor(s)

16. Ward Councillor, Cllr T Combellack, objects to the proposal due to the domestication of an agricultural field, scale of resultant dwelling not in keeping with the location, and the garage and domestic uses being capable of being a dwelling.

Town/Parish Council

17. Upper Broughton Parish Council object, due to the impact on the street scene and Conservation Area.

Statutory and Other Consultee

Nottinghamshire County Council

18. The Highway Authority does not object.

Rushcliffe Borough Council

19. The Environmental Sustainability Officer objects.

Local Residents and the General Public

20. Four representations have been received from neighbouring occupiers/local residents objecting to the proposal. The concerns raised are summarised as follows:
 - Siting and scale of the proposed garage/workshop.
 - Effect on protected views.
 - Effect on Conservation Area.
 - Scale of the proposal in comparison to the existing dwelling.
 - Overdevelopment of the site.

- Removal of hedge separating residential and agricultural land and unclear as to what is residential curtilage.

REPRESENTATIONS – Upon receipt of Tree Report and Protected Species Report (September to November 2021)

Statutory and Other Consultees

Rushcliffe Borough Council

21. The Environmental Sustainability Officer does not object and provides recommendations for conditions and informatives.
22. The Design and Landscape Officer does not object to the removal of T3, but recommends the retention of T2, the planting of native tree planting on the roadside frontage, and notes that neighbouring trees may be effected by excavation works.
23. The Conservation Officer objects to the proposal due to:
 - Proposed massing and scale would be prominent when viewed both from and into the Conservation Area, whilst extensions are not subordinate.
 - Not reflecting the rectilinear form of rural buildings (e.g. Large balconies, overhanging roofs and Juliet balconies) instead more suited to a suburban setting.
 - A significant increase in glazing providing a new level artificial light to the countryside.
 - The use of materials, in addition to the enlarged scale and assing, would result in competition with Sulney Fields.
 - The scale and design of the outbuilding would be out of keeping with the character of domestic outbuildings within the Conservation Area.

REPRESENTATIONS – Response to Current Submission (November 2022 to 19 January 2023)

Ward Councillor(s)

The Ward Councillor (Cllr T Combellack), objects due to overdevelopment of the site and impacts on a key view within the Conservation Area and contrary to local and neighbourhood plans. It is requested that conditions be implemented on any approval relating to the use of the garage/workshop and for the replanting of the boundary hedge.

Town/Parish Council

24. Upper Broughton Parish Council maintains their previous comments and objection.

Statutory and Other Consultees

Nottinghamshire County Council

25. The Highways Authority refers to their standing advice.

Rushcliffe Borough Council

26. The Design and Landscape Officer does not object and recommends conditions to be implemented regarding specification of tree planting and tree protection fencing as recommended in the arboricultural report.
27. The Conservation Officer does not object and notes the much-improved scheme. *“My previous concerns are no longer an issue and I have no additional further comments to add at this time”*. They note the previous requested conditions remain pertinent.
28. The Environmental Sustainability Officer, maintains their previous comment and recommendation.

Local Residents and the General Public

29. Four representations have been received from neighbouring occupiers/local residents objecting to the proposal. The concerns raised are summarised as follows:
 - Amendments are insignificant.
 - Effect on protected views.
 - Effect on Conservation Area/street scene.
 - Effect on neighbouring property, Brotone.
 - Potential use of garage/workshop.
 - Overdevelopment of the site.

Full details of all representations can be found [here](#).

PLANNING POLICY

30. The decision on any application should be taken in accordance with the Development Plan, unless material considerations indicate otherwise. The Development Plan for Rushcliffe consists of The Rushcliffe Local Plan Part 1: Core Strategy and The Rushcliffe Local Plan Part 2: Land and Planning Policies (LPP2). For the Parish of Upper Broughton The Upper Broughton Neighbourhood Plan (UBNP) also forms part of the opted development plan. Other material considerations include the National Planning Policy Framework (NPPF) (Revised 2021) the National Planning Practice Guidance (NPPG) and the Rushcliffe Residential Design Guide (RRDG).

The full text of the Council's policies are available on the Council's website at: <https://www.rushcliffe.gov.uk/planningpolicy/>.

Relevant Local Planning Policies and Guidance

31. The following policies of the Rushcliffe Local Plan Part 1: Core Strategy are considered to be relevant to the current proposal:
 - Policy 1 – Presumption in Favour of Sustainable Development.
 - Policy 10 – Design and Enhancing Local Identity.
 - Policy 11 – Historic Environment.
 - Policy 17 – Biodiversity.

Full text of the above Policies can be found [here](#).

32. The following policies of the Rushcliffe Local Plan Part 2: Land and Planning Policies (LPP2) are considered to be relevant to the current proposal:
- Policy 1 - Development Requirements.
 - Policy 28 - Conserving and Enhancing Heritage Assets.
 - Policy 38 - Non-Designated Biodiversity Assets and the Wider Ecological Network.

Full text of the above Policies can be found [here](#).

33. The following policies of The Upper Broughton Neighbourhood Plan (UBNP) are considered to be relevant to the current proposal:
- Policy UB2 - Locally Important Views.
 - Policy UB4 - Local Heritage Assets.
 - Policy UB5 - Local Design and Amenity.
 - Policy UB8 - Ecology and Biodiversity.
 - Policy UB9 - Trees and Hedges.

The Upper Broughton Neighbourhood Plan can be found [here](#).

34. The Rushcliffe Residential Design Guide (2009) sets out guidance for extension design and assessment of amenity impacts.

Relevant National Planning Policies and Guidance

35. 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.
36. The NPPF includes a presumption in favour of sustainable development. Local planning authorities should approach decisions on proposed development in a positive and creative way and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. In assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development. Decision-makers at every level should seek to approve applications for sustainable development where possible.
37. Achieving sustainable development means that the planning system has three overarching objectives, an economic objective, a social objective and an environmental objective, which are interdependent and need to be pursued in mutually supportive ways, so that opportunities can be taken to secure net gains across each of the different objectives.
38. As such, the following sections in the NPPF with regard to achieving sustainable development are considered most relevant to this planning application:
- Chapter 2 - Achieving Sustainable Development.
 - Chapter 12 - Achieving Well Designed Places.

- Chapter 15 - Conserving and enhancing the natural environment.
- Chapter 16 - Conserving and enhancing the historic environment.

Full details of the NPPF can be found [here](#).

39. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that with respect for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall 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.
40. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
41. The requirements of Regulation 535 of the Conservation of Habitats and Species Regulations (2010) must be applied and in particular the three tests set out in sub-paragraphs (2)(e), (9)(a) and (9)(b)6.
 1. Regulation 53(2)(e) states: a licence can be granted for the purposes of "preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment".
 2. Regulation 53(9)(a) states: the appropriate authority shall not grant a licence unless they are satisfied "that there is no satisfactory alternative".
 3. Regulation 53(9)(b) states: the appropriate authority shall not grant a licence unless they are satisfied "that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range".
42. Biodiversity and geological conservation: circular 06/2005 provides administrative guidance on the application of the law relating to planning and nature conservation as it applies in England.

APPRAISAL

43. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.
44. The main issues in the consideration of the application are; the principle of development; design/impact upon the character and appearance of the streetscene, heritage, and impacts upon residential amenity.

Principle of Development

45. There is no objection in principle to the proposed alterations and extension of the existing residential building, provided it would be designed to a high

standard, respect the established character of the area, and would not have an adverse effect on the amenity, whilst being in accordance with the policies of the National Planning Policy Framework (2021), The Rushcliffe Local Plan Part 1 and The Rushcliffe Local Plan Part 2.

Design Issues, Heritage and Surrounding Area

46. The application property is located in the East section of the Conservation Area, as outlined in the Conservation Area Appraisal and Management Plan, which includes a 'mixture of building types including many modern properties. The majority of buildings are not clearly visible from the roads as they are screened by established hedges and groups of trees.' The same document states that 'good contemporary design which respects local character and the context of the site will be encouraged.' The residential design guide states that, typically, 'the style and design of the original dwelling should remain the dominant element with the extension subordinate to it' although exceptions generally include the improvement of a dwelling in which is not particularly attractive whilst retaining its general built form.
47. The existing dwelling is not of any notable architectural or historical merit and is not, as a building design, representative of the strengths of the conservation area – aside from the gabled roof forms and use of brick. The proposed extensions would be considered to maintain the positive key features of the existing dwelling and be sympathetic to them such as the maximum ridge height being retained, the new gables having a pitch to match those already present on the host dwelling and making use of a red/brown brick. Other aspects retained include the property being split over three levels and whilst undoubtedly notably larger than the existing dwelling, the retention of the existing site arrangement with regards to general form and property orientation.
48. Although the extensions would not all be subordinate additions in and of themselves when considered against the existing built form on site, the extensions as a whole would be seen to build upon the key characteristics of the existing building and provide for an enhancement through the various brick detailings (including corbel banding, window detailing and eaves/verge detailing) and providing more visual interest and features to each elevation.
49. Traditionally the Rushcliffe Residential Design Guide advocates that extensions be subordinate to the existing building, usually achieved through design detail such as retaining the original frontage and roof form with all extensions then clearly set away, set back and designed so as to ensure the original form can be understood. This general guide is important in areas where properties of individual merit and design value are being altered, or where group character is important in the area (usually defined by areas with numbers of properties of similar if not identical design, and layout). In this instance however the key characteristics of this site must be considered the sites edge of settlement location and accordingly how the scheme interacts with the surrounding open countryside. Whilst of traditional form, the property is not of historic interest and holds no group character with surrounding forms. Accordingly the focus when assessing design in this matter relates largely to the designs interaction with the key characteristics of the site, rather than those of the existing building.

50. As such, whilst of notable scale and scope, the works proposed are considered to provide for a scheme that would make appropriate use of materials and design to provide for an enhancement to the existing building through a re-modelling exercise that could not be provided for should the extensions be required design being subservient to the existing structure. The key characteristics of the site such as materiality, use of gabled forms, orientation and overall heights are considered to have been sensitively respected whilst the increased footprint of development across the site, and increased roof form resultant from the extensions would not be considered harmful to the characteristics of the area. Enhancements provided in terms of detailing to the building and detailing to the public facing elevations would be considered an enhancement over the existing property in accordance with the design policies outlined above.
51. The Conservation Area Appraisal and Management plan outlines positive open spaces and key unlisted buildings within the Conservation Area, whilst the Upper Broughton Neighbourhood Plan outlines Key Views towards/within Upper Broughton.
52. To the South-East boundary of the site, there is a positive green space (as identified in the Conservation Area Townscape Appraisal Map) which is not considered to be affected by the proposals given that the works would be a significant distance from this green space, whilst also screened by a wooded area and further vegetation, which is proposed to be added to as part of the application. Also to the South-East lies a Key Unlisted Building, Sulney Fields, which is seen in the far right hand corner of Key View 11 in the Upper Broughton Neighbourhood Plan (Appendix III). Given that the application property is predominantly screened by the Key Unlisted Building, due to being sited to the rear (North), there are no significant concerns with regards to the effect of the proposals on the Key Unlisted Building, whilst the dwelling (as a result of the works) would remain as a contrasting brick finish so as to not compete with Sulney Fields and the locally important view.
53. The Conservation Officer has confirmed that, as a result of the changes throughout the course of the application, their previous concerns are no longer pertinent subject to the implementation of conditions relating to the submission and approval of materials and landscaping scheme. Thus, the design and finish of the works would be such that the property would be enhanced by the proposal and as such, there would be no harm to the special interest of the Conservation Area. Having assessed the scheme as submitted, Officer's have drawn no concerns that would conflict with the assessments of the Specialist Advisor, and as such the scheme would be considered to achieve the desirable criteria of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in preserving the special architectural and historic character of the Conservation Area. Accordingly, the development would accord with local and national heritage policies of the development plan.
54. The proposed detached garage/workshop would be located in the South-West corner of the site. It would be a 1.5 storey building measuring c.16.4m in width and c.8.63m in length and it would have a predominantly hipped roof structure and a front projecting gable. At ground floor, the building would facilitate a 4-bay garage/workshop. First-floor space would be used for storage only, without appropriate head space for a habitable room.

55. The building would be sunken into the ground (facilitated through excavation works) and thus, the building would have a ridge c.1.25m lower than the neighbouring property to the South-East. Due to the size of the building, the proposed topography of the site, and the existing and proposed boundary treatments, the garage/workshop would not be easily visible from Hickling Lane. Similarly, due to its position in relation to the host dwelling, the South-East neighbour (Brotone) and Sulney Fields to the East, the building would not be easily visible from public domain. As such, there are no concerns on the effect of the surrounding area. That said, it is considered that the building would be attractive and representative of the area through its material choice and front projecting gable.
56. It is noted that concerns have been raised with regards to the garage/workshop being used as an independent dwelling. Although the size of the building is significant, the application will be assessed as per the information submitted of which is as a use incidental to the host dwelling, as a garage, workshop and storage building. A condition will be implemented on any such approval restricting the ability for the building to be let out or used as a separate dwelling.
57. It is noted that concerns have been raised with regards to the overdevelopment of the site as a result of proposed extensions and the erection of a detached garage/workshop.
58. Although it is noted that the dwelling and garage/workshop building would be of a significant size, Officers consider the dwelling to be sympathetic to the site constraints and wider character of the area as outlined above. The proposed site would provide ample garden and outdoor amenity areas for a dwelling of this size, in addition to having sufficient car parking arrangements. Accordingly the scope of development sought across the site would not be considered over intensive or out of character for the area.

Trees and Hard & Soft Landscaping

59. In terms of hard landscaping, it is proposed for the construction of an enlarged driveway leading to the garage/workshop and a turning area adjacent to it, in addition to new paths and patio areas to the side and rear of the property. With regards to soft landscaping, it is proposed for new tree planting to the North-West and South-East boundaries, in addition to planting within the site. The details would be confirmed by condition for a landscaping scheme to be submitted to and approved by the Local Authority.
60. With regards to the existing trees on the site, many of which are mature trees including Ash, Cedar, Sycamore, Hawthorne, Cherry and Apple. T2 (Ash) located on the North-West boundary, as indicated in the submitted Tree Report and outlines its poor quality and its severe decline. Thus, the Council's Design and Landscape Officer wouldn't object to its removal subject to a replacement being planted. The proposed site plan indicates a new Silver Birch tree in a similar location on this boundary and its details dealt with as part of the aforementioned condition.

61. It is understood that the works would have no bearing on any other trees due to being outside of the root protection area and necessary tree protection measures implemented and secured by condition.

Impact of Proposed Development on Amenity of Adjoining Occupiers

62. Core Strategy Policy 10 states that development should be assessed in terms of its impact on the amenity of nearby residents. This is reinforced under Policy 1 of the Land and Planning Policies document, which states that development should not be granted where there is a significant adverse effect upon the amenity of adjoining properties.

Proposed Extensions:

63. **Overshadowing and Overbearing –**
The application property is the Northern most property within the settlement of Upper Broughton with neighbours to the East, South-East and South. The proposed dwelling would be sited c.25.5m from the East boundary, at its closest point, and c.17.5m from the South boundary.
64. Given the scale of the proposed extensions and their siting in relation to nearby dwellings, whilst taking into account the boundary treatments, there are no significant concerns with regards to the level or overshadowing or overbearing impacts on neighbouring properties.
65. **Overlooking –**
The proposed would result in an increased amount of glazing on the dwelling in addition to balconies on the North-East (side) and South-East (rear) elevations. It is noted that the North-East (side) and North-West (front) elevations do not have an outlook towards any properties.
66. Given that the South-East (rear) elevation would have an outlook predominantly contained within the substantial site boundaries and wooded areas, and a distance of c.40m to the nearest dwelling elevation, there are no significant overlooking concerns. With regards to the South elevation (which consists of a 4-pane bifolding door and 3-pane bifolding door at ground floor and a gable window at first floor) it would have an outlook directly towards Brotone to the South, of which the property is sited c.21m from the proposed South elevation and beyond a significant amount of natural screening. The South-West elevation, although facing towards Brotone, does not have any significant amount of glazing.
67. As such, there are no significant overlooking concerns as a result of the proposed extensions.

Proposed Garage/Workshop:

68. **Overshadowing and Overbearing –**
The proposed garage/workshop would be located to the North-West of Brotone. It would be sunken into the ground such that the building would have a ridge c.1.25m lower the ridge of Brotone, and be sited c.5.7m from the nearest elevation. Due to the limited massing in relation to the current land levels due to the sunken nature of the garage, in addition to the design of the structure, whilst being located to the North-West of Brotone, there are no significant overshadowing or overbearing concerns.

69. It would be sited a significant distance to the North of Mill House and as such, there are no significant concerns in relation to overshadowing or overbearing.
70. Overlooking –
On the front elevation, facing towards the application property, the dwelling would include a series of bifolding doors at ground floor level facilitating the garage and workshop, and 2no rooflights facilitation the storage room at first-floor. Given the outlook, there are no significant concerns.
71. There are 2no rooflights on each side elevation of which would facilitate the ground floor and not have an outlook from first-floor level. As such, there are no significant overlooking concerns.

Other Matters

Removal of boundary hedge:

72. It is noted that concerns have been raised with regards to the removal of the boundary hedge in which separated the residential curtilage with the agricultural field to the North-East and is beyond the settlement boundary / 'limits to development' as outlined in the Upper Broughton Neighbourhood Plan. The removal of a hedge, albeit in a conservation area, would not require any permission from the Council. That said, the use of non-residential land as part of the residential land would require a change of use application.
73. The application in question does not build upon, or make use of, any land outside of the existing residential curtilage whilst the applicant is aware of the extent of the residential curtilage which is denoted in the site plan and appears to be correct.
74. As such, Officers have no undue concerns with the proposal making use of land outside of the residential curtilage or settlement boundary – although, an informative of any approval would be implemented as a written reminder for the occupier, and any future occupier, outlining that the use of any portion of this field without express permission would be enforceable.

Ecology

75. The site consists of buildings and garden including amenity grassland hardstanding, semi mature and mature trees and small pond. Bat roosts have been confirmed in the main building. The garden supports foraging bats and has potential to support roosting and foraging birds, hedgehogs and invertebrates. No priority habitats were identified on site. Agricultural land with tree lined hedgerows are found adjacent to the property with residential properties to the south.
76. Works to the main house including the creation of vaulted ceilings utilising the existing loft space and tying in parts of the extension would potentially impact the identified bat roosts, and accordingly a European Protected Species License would be required.
77. The Conservation of Habitat and Species Regulations 2017 and the Wildlife and Countryside Act (as amended) 1981 contain certain prohibitions against activities affecting European Protected Species, such as bats. These include prohibitions against the deliberate capturing, killing or disturbance and against the damage or destruction of a breeding site or resting place of such

an animal. The Habitats Directive and Regulations provides for the derogation from these prohibitions in certain circumstances. Natural England is the body primarily responsible for enforcing these prohibitions and is responsible for a separate licensing regime that allows what would otherwise be an unlawful act to be carried out lawfully.

78. The Council as local planning authority is obliged in considering whether to grant planning permission to have regard to the requirements of the Habitats Directive and Habitats Regulations in so far as they may be affected by the grant of permission. Where the prohibitions in the Regulations will be offended (for example where European Protected Species will be disturbed by the development) then the Council is obliged to consider the likelihood of a licence being subsequently issued by Natural England and the "three tests" under the Regulations being satisfied.
79. Natural England will grant a licence where the following three tests are met:
 1. There are "imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment".
 2. There is no satisfactory alternative; and
 3. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.
80. When considering 'imperative reasons of overriding public interest, including those of a social and economic nature' Natural England will take into account whether the activities/ developments are required to meet or provide a contribution to meeting a specific need such as:
 - the requirement to maintain the nation's health, safety, education, environment (sustainable development, green energy, green transport);
 - complying with planning policies and guidance at a national, regional and local level;
 - requirements for economic or social development (Nationally Significant Infrastructure Projects, employment, regeneration, mineral extraction, housing, pipelines, etc.).
81. The Supreme Court has clarified that it could not see why planning permission should not ordinarily be granted unless it is concluded that the proposed development is unlikely to be issued a license by Natural England.
82. In considering the first test, the proposed works would improve the energy efficiency of the house, allowing it to be brought up to modern living standards and therefore allowing for its long term and viable retention as a building, therefore reducing carbon emissions from both its continued use, and embedded carbon in the fall-back event the house is left without improvement. As such there are environmental sustainability benefits as well as social benefits arising from the proposed development that would constitute imperative reasons to justify the proposed works.

83. In considering the second test, it is noted that any works to this site has the potential to cause impact (including works without the benefit of planning permission), and accordingly the only alternative would be for no works to be hereafter approved to the site, resulting in environmental, social and economic harms.
84. In considering the third test, the Borough Council's Environmental Sustainability Officer confirms that a bat survey has been provided and appears to have been carried out in accordance with good practice showing that a bat roost for Common Pipistrelles bats may be impacted. A licence is likely to be provided subject to suitable mitigation being provided, therefore it can be deemed that the favourable conservation status of a protected species will be unaffected by the proposed development subject to conditions.
85. As such, the three tests are seen to be adhered to. The conservation status of protected species would not be impacted subject to suitable mitigation and enhancements which can be secured by condition, in accordance with policies of the development plan.
86. Recommendations for conditions and informatives have been made by the consultant ecologist and the Council's Environmental Sustainability Officer should the application be approved, which will be implemented.

Third Party Representations

87. During the consultation process, a number of objections have been received regarding the proposed development. Objections have been received from a Ward Councillor, the Parish Council, Statutory Consultees and members of the public. Those objections/issues are considered to be covered within the Officer Report.

Recommendation

88. It is considered that the proposed development will not negatively impact the amenity of the occupiers of surrounding properties or be detrimental to the character and appearance of the area including the Conservation Area. The proposal therefore complies with local and national policies and it is recommended that planning permission be granted.

RECOMMENDATION

It is RECOMMENDED that planning permission be granted 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 must be carried out strictly in accordance with the following approved plan(s)/drawings/documents, received 31 October 2022.

- 6791_03_005 REV B – Proposed Site Plan.
- 6791_03_006 REV B – Proposed Lower and Ground Floor Plans.
- 6791_03_007 REV B – Proposed First Floor and Roof Plans.
- 6791_03-008 REV A – Proposed Elevations.
- 6791_03_009 REV B – Proposed Garage Plans and Elevations.

[For the avoidance of doubt having regard to Policy 10 of the Rushcliffe Local Plan Part 1: Core Strategy (2014) and Policy 1 of the Rushcliffe Local Plan Part 2: Land and Planning Policies (2019)].

3. The development hereby permitted must not proceed above the damp proof course level until details of the type, texture and colour of the materials, along with any architectural detailing to be used in the construction of the exterior of the development have been submitted to and approved in writing by the Local Planning Authority. The development must only be constructed in accordance with the approved materials.

[To ensure the appearance of the development is satisfactory having regard to policy 10 (Design and Enhancing Local Identity) of the Rushcliffe Local Plan Part 1: Core Strategy (2014) and policy 1 of the Rushcliffe Local Plan Part 2: Land and Planning Policies (2019)].

4. No operations shall commence on site until the existing trees and/or hedges which are to be retained have been protected in accordance with details to be approved in writing by the Borough Council and that protection shall be retained for the duration of the construction period. No materials, machinery or vehicles are to be stored or temporary buildings erected within the perimeter of the fence, nor is any excavation work to be undertaken within the confines of the fence without the written approval of the Borough Council. No changes of ground level shall be made within the protected area without the written approval of the Borough Council.

[To safeguard against significant adverse effects on the landscape character of the area having regard to Policy 10 (Design and Enhancing Local Identity) of the Rushcliffe Local Plan Part 1: Core Strategy (2014); Policy 1 (Development Requirements) of the Rushcliffe Local Plan Part 2: Land and Planning Policies (2019) and Chapter 12 (Achieving Well-designed Places) of the National Planning Policy Framework (February 2019)].

5. Prior to the commencement of works beyond damp proof course level, a landscaping scheme detailing the hard and soft landscaping of the site (including the location, number, size and species of any new trees/shrubs to be planted), shall be submitted to and approved in writing by the Local Planning Authority.

Thereafter the scheme must be carried out and completed in accordance with the approved details no later than during the first planting season (October - March) following either the substantial completion of the development hereby permitted or it being brought into use, whichever is sooner.

If, within a period of 5 years of from the date of planting, any tree or shrub planted as part of the approved scheme is removed, uprooted, destroyed, dies or become diseased or damaged then another tree or shrub of the same

species and size as that originally planted must be planted in the same place during the next planting season following its removal.

Once provided all hard landscaping works shall thereafter be permanently retained throughout the lifetime of the development.

[To ensure the development creates a visually attractive environment and to safeguard against significant adverse effects on the landscape character of the area having regard to Policy 10 (Design and Enhancing Local Identity) of the Rushcliffe Local Plan Part 1: Core Strategy (2014); Policy 1 (Development Requirements) of the Rushcliffe Local Plan Part 2: Land and Planning Policies (2019) and Chapter 12 (Achieving Well-designed Places) of the National Planning Policy Framework (February 2019)].

6. The garage/workshop building hereby permitted shall not be occupied at any time other than for purposes incidental to the residential use of the host dwelling known as 'Tacet House' and shall not be sold or let separately.

[To ensure that the use of the building hereby permitted is not used as a separate dwelling independently from the existing dwelling the development is of a nature whereby future development of this type should be closely controlled having regard Policy 10 (Design and Enhancing Local Identify) of the Rushcliffe Local Plan Part 1: Core Strategy (2014) and Policy 1 (Development Requirements) of the Rushcliffe Local Plan Part 2: Land and Planning Policies (2019)].

7. If works have not commenced by June 2023, an updated ecological survey shall be submitted to and approved by the Local Authority, and development shall thereafter only take place in accordance with the requirements and mitigation measures outlined within the approved survey report and any details agreed in respect of condition 8 of this permission.

[In the interests of protected species and biodiversity and to comply with Policy 17 (Biodiversity) of the Local Plan Part 1: Core Strategy; Policies 1 (Development Requirements) and 38 (Non-Designated Biodiversity Assets and the Wider Ecological Network) of the Local Plan Part 2].

8. Prior to the commencement of works, a mitigation plan and enhancement plan must be supplied to the Local Planning authority and agreed in writing, which sets out how the working methods adopted and the timing of development will avoid impacting bats (reasonable avoidance measures (RAMs)), and how any impacts will be compensated through bat boxes / bricks and wild bird nests. The agreed mitigation and enhancement plan must then be adhered to during construction and following completion.

[In the interests of amenity and biodiversity and to comply with Policy 17 (Biodiversity) of the Local Plan Part 1: Core Strategy; Policies 1 (Development Requirements) and 38 (Non-Designated Biodiversity Assets and the Wider Ecological Network) of the Local Plan Part 2].

9. Prior to the installation of any external lighting details of the lighting shall be submitted to and approved in writing by the Borough Council, together with a lux plot of the estimated illuminance and supporting details confirming that any scheme be sensitive to bats. The lighting shall be installed only in

accordance with the approved details.

[In the interests of amenity and biodiversity and to comply with Policy 17 (Biodiversity) of the Local Plan Part 1: Core Strategy; Policies 1 (Development Requirements) and 38 (Non-Designated Biodiversity Assets and the Wider Ecological Network) of the Local Plan Part 2].

Note-

The application was not the subject of pre-application consultation however any significant concerns have been raised and resolved during the consideration of the scheme allowing for the decision to be issued within an agreed extension of time.

Having regard to the above and having taken into account matters raised there are no other material considerations which are of significant weight in reaching a decision on this application.

NOTES TO APPLICANT

You are advised that this application does not give permission for any change of use of land and any additional land proposed to be used for domestic purposes would be subject to a separate planning application.

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.

The submitted protected species survey has confirmed that there is evidence of bats in the roof of the main house and as such no work should be undertaken to this structure until a licence has been obtained from DEFRA.

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.

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 landowner must first be obtained. The responsibility for meeting any claims for damage to such features lies with the applicant.

Nesting birds and bats, their roosts and their access to these roosts are protected under the Wildlife and Countryside Act 1981. Should birds be nesting in the trees concerned it is recommended that felling/surgery should be carried out between September and January for further advice contact Nottinghamshire Wildlife Trust on 0115 9588248. If bats are present you should contact Natural England on 0300 060 3900.

The use of external lighting (during construction and post construction) should be

appropriate to avoid adverse impacts on bat populations, see <https://www.bats.org.uk/news/2018/09/new-guidance-on-bats-and-lighting> for advice and a wildlife sensitive lighting scheme should be developed and implemented.

Please be advised that all applications approved on or after the 7th October 2019 may be subject to the Community Infrastructure Levy (CIL). The Borough Council considers that the approved development may be CIL liable, as the additional floorspace being created is above the relevant thresholds. Further information about CIL can be found on the Borough Council's website at <https://www.rushcliffe.gov.uk/planningandgrowth/cil/>.