

**23/00580/FUL**

**Applicant** Claire Garton

**Location** Land West Of Main Street Thoroton Nottinghamshire

**Proposal** Erection of new dwelling with access

**Ward** Thoroton (archive)

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

## THE SITE AND SURROUNDINGS

1. The application relates to a parcel of grass land situated to the rear of a pair of semi-detached houses known as The Jays and Lilac Cottage (1 Crown Cottages). The site is set back approximately 45m from Main Street in the centre of Thoroton and within the Conservation Area. The access to the site is grassed and rises slightly from the roadside towards the site. A public footpath (Thoroton FP2) runs alongside the access to the site and is separated off by fencing on either side.
2. The site is approximately level, grassed and at the time of undertaking a site visit had an old garden shed and chicken enclosure on it. The site is bound by a mix of hedging and fencing on all boundaries. To the south east are The Jays and Lilac Cottage, to the south west The Gables, north east Long Meadow, and north west Roter Adler and 8 Thoroton Farm. All properties are two storey in height, with the exception of Long Meadow and are of a variety of ages and finishes. The closest properties (building to building) are The Jays and Lilac Cottage approximately 18.5m to the south east, then The Gables 20.5m to the south west, Long Meadow 28.5m to the north east, 8 Thoroton Farm 30.5m to the north west and Roter Adler 49m to the north west.
3. Thoroton as a settlement has an essentially linear character and where there is development in depth it is usually of modest depth, often focused on historic farmsteads. In more recent years there has been modern development which has resulted in incidence of in-filling and backland development and this is apparent to the immediate west of the site where development of 8 properties was approved in approximately 2016. Further new build dwellings are located to the south of the proposed site notably The Gables forming the end property of a row of three which were constructed at a similar time.
4. Land to the north west of the site between Roter Adler and the Thoroton Farm development is open and agricultural and in separate land ownership to the proposed development site as indicated by the submitted location plan. As part of the emerging conservation area appraisal, the view up the grassed

track from Main Street towards the open countryside beyond is identified as a key view.

## **DETAILS OF THE PROPOSAL**

5. The application seeks planning permission for the erection of a two storey dwelling with access.
6. The property would be set back from Main Street by approximately 45m. It is proposed to be approximately 10.5m wide, 11.9m deep and have a ridge height of approximately 7.6m. The scale of the property has been reduced during the lifetime of the application, to address concerns raised by officers and neighbouring properties. The property would have a dual pitched roof with gables to the front and rear. A single storey garage is proposed to the side of the property.
7. Materials are proposed to be red brick with a clay pantile roof.

## **SITE HISTORY**

8. 15/02167/FUL - Construction of three new dwellings with garages and two new accesses with removal of existing trees (revised submission of 13/00369/FUL) Approved 2015 – indicated the proposed site area to be retained as grass land.
9. 13/00369/FUL - Construct three new dwellings with garages and two new accesses. Removal of Existing Trees. Approved 2013 – indicated the proposed site area to be retained as an orchard and wildflower meadow.

## **REPRESENTATIONS**

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

10. One Ward Councillor (Cllr Grocock) - Objects on the following grounds:-
  - a) The principal objection is that the proposed house, irrespective of its design merits, contravenes Core Strategy Policy 3. This policy explicitly requires demonstrable local needs for additional housing within Thoroton, a condition that is lacking in this case
  - b) Size and scale of proposed house wouldn't meet local need
  - c) Moreover, considering that the Council can demonstrate a 5-year housing land supply, there are no overriding material circumstances that would warrant deviating from the local plan policies. It is vital that the weight of non-compliance with Policy CS3 is duly considered, leading to the refusal of the application
  - d) Application site is a greenfield site in agricultural use. In the National Planning Policy Framework (NPPF), agricultural land is excluded from the definition of previously developed land. Thus, the proposal cannot be accorded the same substantial weight as brownfield sites, as outlined in paragraph 120 of the NPPF. Moreover, the fact that the application site is located within an 'Other village' at the bottom of the Rushcliffe Core

Strategy Policy 3 Settlement Hierarchy further weighs against the application's approval

- e) Thoroton has no amenities and existing public infrastructure is in a poor state, therefore the development is not sustainable and should be refused.

11. The former Ward Councillor (Cllr S Bailey) - No objection.

Members and consultee Full Comments are available [here](#).

## **Statutory and Other Consultees**

### **Rushcliffe Borough Council**

12. The Borough Councils Team Manager (Planning, Monitoring and Implementation) who is also a qualified heritage professional has no objection. (Henceforth referred to within the report at 'The Conservation officer')

- a) The site is located within the Thoroton Conservation Area, the site itself would be a backland plot to the rear of The Jays and Lilac Cottage and in a position where development in depth already exists both to the North of the site (Roter Adler) and to the south (the 'Thoroton Farm' development)
- b) None of the neighbouring properties (The Jays, Lilac Cottage, Roter Adler, Long Meadow, The Thoroton Farm development or The Gables) are identified as positive buildings within the conservation area, and those nearest to the south of the site are themselves modern additions built since the adoption of the most recent conservation area appraisal. A revised appraisal is under development and has been subject to public consultation, however that document in draft does not propose to recognise any of the neighbouring properties to this plot as positive buildings. The plot itself is not prominent within the public realm and the proposed building would be hidden in views from the public right of way to the northwest by the intervening property at Roter Adler
- c) There are no listed buildings immediately adjacent the site, there is Thoroton Hall and an associated former stable/blacksmiths/coach house associated with the hall (both grade II listed) to the south of the site on the opposite side of Main Street. To the east there is also Manor Farm (GII) and the Parish Church (GI). In all cases these listed buildings are some distance from the site and are separated from the site by intervening development such that direct visual impacts would be limited. In the case of the parish church this building is set back from Main Street, such that there would be several buildings between the churchyard and the site including The Old Orchard, The Hayloft and Lilac Cottage. The churchyard itself has an enclosed and intimate feel and provides the primary setting for the church. Whilst the spire is prominent in wider views over some significant distances in some instances given the context and other buildings nearby the proposed development wouldn't adversely impact on any existing longer ranged views of the church spire

- d) Thoroton Hall has a grand street facing frontage as well as an outlook over former parkland to the southeast. The application site would be separated from the hall itself both by the separately listed former stables building that fronts the roadside and existing properties in the form of The Gables on the opposite side of Main Street
- e) The one point that is raised is that the emerging revised conservation area appraisal now identifies a view along the access and adjoining right of way out into surrounding countryside as a key view. This is largely in recognition of the reduction of open land on this side of Main Street such that remaining glimpse views into countryside are of increasing value. The position of the house itself would not limit this view, but the change in the nature of the access from existing grass track to paved driveway would alter the character of this view, the retained hedge and public right of way would not be sufficient in isolation to retain the character of this view. Limited weight can be given to the revised appraisal as it is not yet adopted, but it has been through public consultation so would have some weight attached. The key view would represent a positive feature of the conservation area loss of which would have to be treated as harmful by virtue of paragraph 207 of the NPPF
- f) Given the overall scale of the conservation area it is considered that the harm from this would be less than substantial but given the increasing rarity of rural views to this side of Main Street it is considered that the harm would be modest rather than minor. It may be possible to design an access so that it remains a more rural character which might better allow the character and value of the view to be retained but that's something that we would need to be shown convincing detail of and we would need to ensure that it secures an adequately usable access to avoid first occupant coming in for a concrete/tarmac driveway because whatever the alternative might be is considered inadequate
- g) The harm identified would give rise to a strong and statutory presumption against granting planning permission via section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, this could potentially be departed from if sufficiently weighty public benefits were identified to apply via the test in paragraph 208 of the NPPF, however for a clear and convincing justification to be demonstrated we would need to be satisfied that all options to minimise harmful impact had been explored, this comes back to ways of detailing access that could better retain the character of the rural landscape glimpse view

#### Further comments in relation to the proposed access

- h) My initial comments were that a hard surfaced driveway would alter the rural nature of this view in a way which would harm the value of that key view. I can see from these plans that a much softer approach to surfacing has been adopted such that only the wheel tracks would be surfaced in gravel for the majority of the length of the route, with only the section nearest the highway and turning area hard surfaced as would be unavoidable for wearing and highways safety

- i) In my view this would comply with the 4th step in best practise guidance on assessing impact on the setting of heritage assets which suggests that all steps to minimise harm and maximise benefit should be explored. This approach to access minimises any adverse impact and would result in a view that, whilst changed, would retain a broadly rural/agricultural character and would not have the appearance of a domestic driveway
- j) As such I would not maintain an objection to the amended scheme and am satisfied that this would serve to avoid causing harm to the conservation area as a designated heritage asset.

13. The Borough Councils Environmental Sustainability Officer has no objection

Please note, in order to demonstrate Biodiversity Net Gain it is necessary to carry out a baseline assessment of the current biodiversity value using an appropriate metric and a prediction of the future value based on the proposed enhancement.

It is unlikely the proposed development will negatively impact on the conservation status of a protected species at this time.

14. The Borough Councils Environmental Health Officer has no objection subject to a condition in relation to unexpected contamination.

15. Representations have been received from 12 individual properties and a letter from an agent on behalf of 4 properties, 1 of which also made their own individual representation. These comments are summarised as follows:-

- a) Concerned that Cllr Bailey hasn't visited the site and that her comments were submitted on the day of the elections. It is requested that comments are sought from the new ward councillor given that the reductions highlighted by Cllr Bailey have not resolved neighbours concerns
- b) Loss of privacy
- c) Overbearing
- d) Loss of wildlife
- e) Over intensive backland development
- f) No local need
- g) Not infill, not in line with concept of linear village
- h) The proposal would further drain limited resources in the village
- i) Strain on neighbours that once again would have to endure building work
- j) The council recently engaged with the village to strengthen the conservation area, this proposal seeks to reduce wild areas within the village and cannot be approved
- k) Noise from vehicles going up the drive and from air source heat pumps
- l) The proposal would be on land which was supposed to be an orchard/flower meadow and the land should be left open. If the land was required as an amenity feature in the 2013 application, why wasn't this carried through in the 2015 consent or secured via S106?
- m) The village has no facilities except the church and a sporadic bus service. New development in Thoroton is therefore not considered to be sustainable and contrary to local and national policy

- n) Local housing need is not defined in the core strategy and the LPA must therefore rely upon the glossary in the NPPF and consequently by the provision of policy 3 of the core strategy. Given the council can now demonstrate a 5 year housing land supply there is no requirement to consider approving development within lower order settlements
- o) During the period 2015-2022 20 dwellings appear to have been granted in the village which is proportionately very large compared to the existing housing stock. The current application should be refused given that Rushcliffe can now demonstrate a 5YHLS
- p) If the LPA chooses to grant planning permission for this application it would render the decision liable to a potential S.288 legal challenge under the provision of the Town and Country Planning Act 1990
- q) Over the last 10 years 16 new properties have been built in the village, planning has been approved for 2 more and should this application be approved and all be built this would be close to a 50% increase in housing in the village and total overdevelopment
- r) A bungalow would be a better option but there is insufficient space
- s) Proposed access road will be extended to build more properties between Thoroton Farm and Roter Adler on land that was again proposed to be planted with trees as stated by the developers when Thoroton Farm was developed
- t) The proposal would dwarf properties to the front; The Jays and 1 Crown cottages
- u) There are no other examples of houses being built so close to existing dwellings
- v) Why isn't it reorientated to face the road?
- w) The 3 houses to the front of the site were allowed as they were considered to complement the existing linear form of the village. The site was designated within this application as grassland and an orchard. The proposal would be contrary to the supporting text in the design and access statement for these 3 dwellings and the officers report at the time
- x) The proposal will result in loss of light, amenity and privacy to The Jays, 1 Crown Cottages and Long Meadow. We in Roter Adler will lose privacy in our garden and to some extent our house as bedroom windows will have views of our house and we will be able to see into the garden of the property from our house
- y) Out of character with existing properties
- z) The view contrary to the planning statement from Main St is a view of importance in the 2023 Conservation Area review.

16. The Borough Councils Policy Officer has no objection

- a) The local need for housing within Rushcliffe Borough is for the Borough as a whole under the provisions of Policy 3 of Local Plan Part 1, its housing trajectory and the distributive hierarchy set out within that policy. Windfall development on sites within the built up area of 'other villages' such as Thoroton form an integral part of Rushcliffe's borough-wide housing land supply which comes from a wide variety of different sources: from major urban extensions down to single windfall plots in smaller villages. All these various sources collectively contribute to meeting the housing needs of Rushcliffe on an ongoing basis and over the whole of the plan period up to 2028 (and then beyond), and also in providing for a mix of housing sites (as required by paragraph 69 of the

## National Planning Policy Framework (NPPF))

- b) Numerous single dwelling and other small scale windfall sites within many of Rushcliffe's 'other villages' (including in Thoroton) have to date already secured planning consent within the plan period, thereby contributing already to meeting local housing needs. Moreover, it is very much expected (within Rushcliffe's latest housing land supply trajectory) that they will continue to fully contribute to meeting both the five year housing land requirement and the housing target overall
- c) If suitable single dwelling and other small scale infill sites within the Borough's 'other villages' were not to continue to come forward because, for instance, it was deemed they do not form part of meeting local housing needs, then this would fundamentally undermine maintaining sufficient ongoing housing land supply (as required by the NPPF) and meeting Borough-wide housing targets. It should be noted that the Borough's latest 'five year housing land supply' calculation incorporates an allowance for windfall development on small sites in 'other villages'. This is one of the reasons why any arguments that small infill sites in other villages are not required because Rushcliffe can currently demonstrate that it has in excess of five years of housing land supply are totally without merit

## Local Plan Part 2: Policy 11 and 22

- d) The village of Thoroton is located beyond the Green Belt, and as such the principle of whether this proposal is acceptable will depend on whether the site is considered to be within the built-up area, where Policy 11 applies, or, beyond the physical edge of the settlement, within the countryside, where Policy 22 will apply
- e) If determined to be within the village, Policy 11 contains a number of criteria that are pertinent to this application
- f) If determined that the site is located within the countryside, part 2 of Policy 22 identifies uses that will be permitted beyond the physical edge of the settlement

## Conclusion

- g) Whether the proposal complies in principle with the adopted local plan rests on whether the site is located within the built-up area and complies with Local Plan Part 2 Policy 11 or is beyond the physical edge of the settlement. If it is determined that the site is within the countryside, it would be contrary to Local Plan Part 2 Policy 22.

## **Nottinghamshire County Council**

17. Nottinghamshire County Council as Highways Authority have no objection subject to conditions in relation to entrance surfacing, verge crossing and parking as indicated being provided.

18. Nottinghamshire County Council Rights of Way Officer have no objection subject to information notes regarding the Thoroton Footpath No 2 that runs inside the southern edge of the site.
19. Nottinghamshire County Council Archaeology Officer has no objection.
20. The Ramblers support the comments of the Rights of Way Officer.

## **PLANNING POLICY**

21. The Development Plan for Rushcliffe consists of the adopted Rushcliffe Local Plan Part 1: Core Strategy (December 2014) (LPP1) and the Rushcliffe Local Plan Part 2: Land and Planning Policies - adopted October 2019 (LPP2). Other material considerations include the National Planning Policy Framework (NPPF), the National Planning Practice Guidance (NPPG) and the Rushcliffe Residential Design Guide 2009 and the Thoroton Conservation Area Appraisal and Management Plan (Sept 2009). A review of the Conservation Area Appraisal is currently taking place and public consultation has been undertaken. The revised document has not yet been adopted.
22. The full text of the Council's policies are available on the Council's website [here](#).
23. Section 38(6) of the Planning and Compulsory Purchase Act, 2004, requires that regard is to be had to the development plan in the determination of an application under the planning acts. Determination must be made in accordance with the adopted development plan unless material considerations indicate otherwise.

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

24. The National Planning Policy Framework (NPPF) includes a presumption in favour of sustainable development. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. In assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development. There are three dimensions to sustainable development, economic, social, and environmental.
25. The relevant sections of the NPPF are:  
  
Section 2 – Achieving Sustainable Development  
Section 5 – Delivering a Sufficient Supply of Homes  
Section 12 – Achieving Well Designed Places  
Section 19 – Conserving and Enhancing the Historic Environment.

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

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

26. Under the Local Plan Part 1 the following policies are considered relevant:



- Policy 1 (Presumption in Favour of Sustainable Development)
- Policy 2 (Climate Change)
- Policy 3 (Spatial Strategy)
- Policy 10 (Design and Enhancing Local Identity)
- Policy 11 (Historic Environment)
- Policy 14 (Managing Travel Demand)
- Policy 16 (Green Infrastructure, Landscape, Parks and Open Space)
- Policy 17 (Biodiversity).

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

27. Under the Local Plan Part 2 the following policies are considered relevant
- Policy 1 (Development Requirements)
  - Policy 11 (Housing Development on Unallocated Sites within Settlements)
  - Policy 18 (Surface Water Management)
  - Policy 22 (Development within the Countryside)
  - Policy 28 (Conserving and enhancing heritage assets)
  - Policy 29 (Development affecting archaeological sites)
  - Policy 35 (Green Infrastructure Network and Urban Fringe)
  - Policy 38 (Non-Designated Biodiversity Assets and the Wider Ecological Network)
  - Policy 40 (Pollution and Land Contamination).

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

## **APPRAISAL**

### Principle of Development

28. Policy 3 (Spatial Strategy) of the Core Strategy indicates the settlements where major residential and employment development should occur. It also states that outside of those identified key settlements there will be a need for development in other villages in the Borough for local needs. The settlement of Thoroton is not identified in Policy 3 (Spatial Strategy) for housing (or employment) development. Paragraph 3.3.17 of Local Plan Part 1 clarifies that these 'local needs' will be delivered through small scale infill development or on exception sites or through small scale allocations as appropriate to provide further for local needs (where allocated by Local Plan Part 2 or neighbourhood plans). It is not an established requirement under this policy that a local need survey is required to support applications within settlements, or that a local need is required to be directly demonstrated to support applications within 'other settlements', except where these are brought forward as exception sites. Indeed it is acknowledged that within main built areas of 'other villages' such as Thoroton windfall development, in addition to the anticipated large urban extensions will form an integral part of the Rushcliffe wide housing land supply.
29. Policy 11 (Housing Development on Unallocated Sites within Settlements) of the Local Plan Part 2 states that planning permission for development on unallocated site, within the built-up area of settlements should be granted planning permission provided a series of criteria are fulfilled. Given the sites location with residential dwellings to the north east and north west and

immediately to the south as detailed in the site description, it can reasonably be considered that the proposed development is located within the settlement and not on its fringes nor within the open countryside. The site is therefore considered to be located within the built-up area of the settlement and policy 11 is applicable.

30. The criteria of Policy 11 require the development to be of a high standard and not to adversely affect the character or pattern of the area by reason of its scale, bulk, form, layout or materials. The scale and design of the dwelling have been amended to overcome concerns raised by officers in relation to amenity and these will be discussed in greater detail below.
31. The dwelling would be located to the rear of The Jays and Orchard Cottage. Officers note that there are examples of other "backland" developments within the settlement, including on land immediately to the south west and to the north beyond Roter Adler. It is therefore considered that the proposal would not adversely affect the character or pattern of development that currently exists within the settlement. The proposal is for a single, two-storey dwelling, with the design and materials not dissimilar to that already in the area.
32. Comments received from residents in the vicinity of the site in relation to previously identified uses of the site are noted. The initial application for the 3 dwellings to the south of the site identified the land as an 'orchard/wild flower meadow' and a management plan was subsequently submitted as part of discharge of conditions. A subsequent application seeking to revise the design of the dwellings in 2015 (15/02167/FUL) omitted the land from the red line site location plan and detailed the land as 'grassland'. From review of the officer reports, whilst the proposed 'orchard/wildflower meadow' was considered a positive addition to the character of this part of Thoroton it was put forward voluntarily by the applicant at the time, with no formal requirement to provide an area of open space for 3 dwellings, which all have appropriate private garden areas. It is understood that the intention was that the land be conveyed to the village, however again there was no formal requirement for this to be done, this would have been the applicants decision. The land appears to have remained in private ownership by the applicant and has been used for keeping chickens and grazing. It is not considered that previous inclusion of the site within red line and later blue lines of the applications for the 3 dwellings to the south of the site prejudice the ability for a subsequent application on the site to be considered.
33. Considerations of visual impact, residential amenity, access and parking will be discussed in greater detail below, however officers are comfortable that subject to appropriate conditions the proposal would not detract from the character of the area or wider conservation area and would have an acceptable relationship with neighbouring.
34. Overarching local concerns that the settlement is not a sustainable location for development are noted, however policy 3 of the LPP1 and Policy 11 of the LPP2 do allow for small scale infill development within 'other settlements' such as Thoroton, and given the assessment as outlined above, the development of this site would not be considered to conflict with the spatial policies of the development plan which still seek to support an appropriate level of sustainable growth within these settlements. Whilst it is noted that the

village has experienced new build development in the recent years and that the council is now able to robustly evidence an in excess of 5 year housing land supply, it is considered in this instance that the provision of one further family sized dwelling within the centre of the village would not be unacceptable and the proposal is considered to accord with the requirements of Policy 3 of the Local Plan Part 1 and Policy 11 of the Local Plan Part 2, and therefore the principle of development on this site is considered to be acceptable.

#### Relationships to Neighbouring Dwellings and Future Occupier Amenity

35. A number of letters of representation have been received primarily from properties which flank the proposed development site. In discussion with the applicant revised plans have been received which have sought to overcome initial concerns raised by officers. The scale and footprint of the dwelling has been reduced to seek to better relate to neighbouring properties. The ridge is now proposed to be 7.8m, 1.2m lower than initially submitted. The initially submitted two storey double garage has been reduced to a single storey, single garage and the depth of the wings to the rear have again been reduced.
36. The closest existing dwellings to the proposal are The Jays and Lilac Cottage located to the east of the site. The main body of the two storey property would be set just over 8m from the existing rear garden boundary for these properties, with no side facing windows orientated towards these dwellings. The building to building separation would be between 12m and 17m. The property would be situated to the west of these dwellings with the ridge of the garage proposed to be just over 5m and the dwelling 7.8m. Given the separation distance, proposed ridge height and orientation of the proposed development with these properties it is not considered that such a undue overbearing or overshadowing impact would result that would warrant a refusal of the application.
37. The Gables is the next closest dwelling situated to the south with a building to building separation of approximately 20.5m at the closest point. Three 1<sup>st</sup> floor windows would be orientated towards the rear garden of the property serving 2 bedrooms and a landing; however, the separation distance would be in excess of 28m to the private patio/seating area, which is considered to be an acceptable degree of separation to ensure no significant overlooking would occur. The proposed dwelling would be located almost due north and given the orientation and degree of separation it is not considered that the proposal would result in any significant overbearing impact or loss of light.
38. Long Meadow a single storey property would be approximately 28m to the north east at the closest point. The detailed letters of representation received and concerns raised have been noted. The proposed dwelling located approximately 28m to the south west of Long Meadow could result in some modest loss of light to the garden area of the dwelling in winter months, however the proposed degree of separation is not considered to result in any significant overbearing. In relation to potential overlooking; two windows are proposed at first floor level in the rear elevation of the dwelling serving bedrooms. The window to window separation to Long Meadow would be approximately 30.5m and the angle severely oblique at approximately 90°. Long Meadow benefits from a large rear garden area and the distance from

the closest proposed first floor windows to the most private patio area would be approximately 33m. it is therefore not considered that the proposal would result in a significant loss of amenity to current occupiers of this property.

39. No. 8 Thoroton Farm is located approximately 31m to the north west. Given the degree of separation it is not considered that the proposed dwelling would significantly overbear or result in loss of light to residents of No. 8. In relation to overlooking; the closest 1<sup>st</sup> floor window in the property would be that in bedroom 4 with a window to window separation distance of approximately 34m and on an oblique angle. The property benefits from a generous garden area and distances into the garden are in excess of 25m and as such the proposal is not considered to result in a significant loss of amenity through overlooking.
40. Finally, Roter Adler is situated approximately 50m to the west and set in a generous garden area. Given the degree of separation it is not considered that the proposed dwelling would result in any undue overbearing impact or loss of light to Roter Adler. Overlooking of the dwelling would be minimal with the separation distance generous and existing tree cover limiting views. Views into the garden area of the property would be possible with the separation distance at the closest point approximately 15m, however this is the very bottom of a very generous garden area and it is not considered that such overlooking of the bottom area of the garden would significantly impact upon residential amenity to warrant a refusal on these grounds.
41. The comments raised regarding noise from air source heat pumps is noted; this has been discussed with the applicant and they have stated that at present they have not decided how the property will be heated and air source heat pumps do not form part of the proposal. Should the applicant decide to heat the property via air source heat pumps then they could either be covered by Class G of Part 14 GPDO or via further application that would be considered in consultation with colleagues in environmental health.
42. In conclusion it is not considered that the proposed development would significantly impact upon the amenity of existing neighbouring properties. The dwelling would provide a private rear garden area of in excess of 250m<sup>2</sup> which is considered acceptable given the scale of the proposed dwelling and exceeds that recommended in the Rushcliffe Residential Design Guide. Limited information has been provided in relation to proposed boundary treatments and a condition requiring precise finishes and landscaping details to be submitted and agreed will further improve relations with neighbouring dwellings.
43. The use of the proposed driveway by a single property is unlikely to give rise to any undue increase in noise and disturbance to warrant a refusal of planning permission on these grounds.
44. The proposal is therefore also considered to comply with the requirements of Policies 1, 8, and 10 of the Rushcliffe Local Plan Part 1: Core Strategy, and Policy 1 of the Rushcliffe Local Plan Part 2: Land and Planning Policies.

#### Impacts upon the Character of the Conservation Area

45. As previously stated, the proposal site is within the Thoroton Conservation

Area and the view from Main Street towards open countryside beyond is identified as a 'key view' in the emerging revised Conservation Area Appraisal. Some weight should be given to this document. As acknowledged by the Conservation Officer, the proposed siting of the dwelling to the rear of The Jays and Lilac Cottage, would largely screen views of the site from Main Street and this is demonstrated on the submitted street scene elevation. Negotiations in relation to the surfacing of the driveway have been undertaken to seek to address concerns initially raised by the Conservation Officer. A plan has been received which indicates the use of crushed stone or gravel either side of a retained grass centre, with the grass verges retained either side. This has been reviewed by the Conservation Officer who considers that this approach would broadly retain the rural character of the site to the benefit of the wider conservation area. A condition is recommended to require precise details to be submitted and agreed.

46. The siting, scale, mass and finish of the proposed dwelling are considered to be acceptable and the development would preserve the character of the conservation area, a 'desirable' objective within section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### Highway Safety

47. The proposal has been considered by the County Council as the Highway Authority. No objection has been raised subject to further details relating to provision of a hard bound finish for the 1<sup>st</sup> 5m beyond the edge of the highway, vehicular verge crossing details and precise finish of the drive and parking/turning area, all which can be secured via condition. Subject to securing this further information it is not considered that the proposal would impact on highway or pedestrian safety. The proposal therefore complies with the requirements of Policies 1, and 10 of the Rushcliffe Local Plan Part 1: Core Strategy, and Policy 1, of the Rushcliffe Local Plan Part 2: Land and Planning Policies.

#### Ecology

48. The site is a grassed paddock with a chicken coop present at the time of undertaking the site visit. No ecological appraisal has been submitted and given the sites make up officers do not consider one to be necessary. The Brough Council's Ecologist considers it unlikely that the provision of a single dwelling would negatively impact on the conservation status of protected species. It is however recommended that biodiversity net gain be secured by way of a suitably worded condition for details to be submitted and agreed.
49. Officers are therefore satisfied that the proposal complies with the requirements of Policies 1, and 17 of the Rushcliffe Local Plan Part 1: Core Strategy, and Policies 1, and 38 of the Rushcliffe Local Plan Part 2: Land and Planning Policies.

#### CONCLUSION

50. It is acknowledged that Section 38(6) of the Planning and Compulsory Purchase Act, 2004, requires that regard is to be had to the development plan in the determination of an application under the planning acts. Determination must be made in accordance with the adopted development

plan unless material considerations indicate otherwise. Officers consider that for the reasons cited above the proposal is not considered to conflict with the relevant policies in the Rushcliffe Local Plan Part 1 and 2, the National Planning Policy Framework, or the guidance in the Rushcliffe Residential Design Guide. Due regard has been paid to the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 taking into account current and emerging Conservation Area Appraisals.

51. Negotiations have taken place during the consideration of the application to address adverse impacts identified by officers in connection with the proposal. Amendments have been made to the proposal, addressing the identified adverse impacts, thereby resulting in a more acceptable scheme and the recommendation to grant planning permission.

## **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:**

**Proposed site plan Dwg No. 2375/3 Rev C ( apart from driveway details)  
Proposed floor plans Dwg No. 2375/5 Rev D  
Proposed elevations and sections Dwg No. 2375/6 Rev E  
Proposed site plan Dwg No. 2375/7 Rev C  
Proposed site elevation Dwg No. 2375/11 Rev -**

**[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 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 policies 10 (Design and Enhancing Identity) and 11 (Historic Environment) of the Rushcliffe Local Plan Part 1: Core Strategy (2014); Policies 1 (Development Requirements) and 28 (Conserving and Enhancing Heritage Assets) of the Rushcliffe Local Plan Part 2: Land and Planning Policies (2019) and Chapters 12 and 16 of the National Planning Policy Framework (July 2021)].**

4. The development hereby permitted must not be occupied until precise details of the proposed vehicle parking area and driveway finish to serve the dwelling have been submitted to and approved in writing by the Local Planning Authority. The submitted details must show:
  - o The proposed surface of the parking area and drive to be used (to include the retention of grass verges and unbound materials were possible ( as indicated on drawing no 2375/4 ( Rev D).);
  - o The means of access and retaining features to the parking areas;
  - o The finished land level, drainage and any proposed lighting.

The vehicle parking area and drive way must be constructed in accordance with the approved details before the development hereby permitted is occupied. Thereafter the vehicle parking areas shall be retained in accordance with the submitted plan and kept permanently available for the parking of vehicles in connection with the development hereby permitted.

[In the interests of highway safety and to accord with policy Policy 1 (Development Requirements) of the Rushcliffe Local Plan Part 2: Land and Planning Policies (2019).]

5. The dwelling hereby permitted must not be occupied until the optional requirement for water efficiency (i.e: not exceeding 110 litres per person per day) set out at Regulation 36(2)(b) of the Building Regulations 2010 (as amended)(or any equivalent regulation revoking and/or re-enacting that Statutory Instrument) has been complied with. Thereafter this water efficiency standard must be retained throughout the life of the dwelling.

[To promote a reduction in water consumption and to comply with criteria 3 of Policy 12 (Housing Standards) of the Rushcliffe Local Plan Part 2: Land and Planning Policies].

6. The construction of the dwelling hereby permitted must not proceed above damp proof course level until a scheme for the provision of Electric Vehicle Charging Point(s) (EVCP) has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme must include details of the type, number and location of the proposed EVCP apparatus. The dwelling hereby permitted must not be first occupied until the EVCP has been installed in accordance with the approved details. Thereafter an EVCP must be permanently retained on the site in accordance with the approved scheme throughout the lifetime of the development.

[To promote sustainable transport measures that will help lead to a reduction in carbon emissions within the Borough and help contribute towards a reduction in general air quality having regard to Policy 2 (Climate Change) of the Local Plan Part 1: Core Strategy (2014) and Policy 41 (Air Quality) of the Rushcliffe Local Plan Part 2: Land and Planning Policies (2019) and Paragraph 112 of the National Planning Policy Framework (July 2021)].

7. Notwithstanding the details contained in the application form, the development shall not progress beyond damp proof course level until a

surface water drainage scheme showing compliance with the drainage hierarchy has been submitted to and approved in writing by the Borough Council. The development shall only be carried out in accordance with the approved surface water drainage scheme, which shall thereafter be maintained throughout the life of the development.

[To ensure the proper drainage of the site and to accord with the aims of Policy 2 (Climate Change) of the Local Plan Part 1 Rushcliffe Core Strategy, and Policy 18 (Surface Water Management) of the Rushcliffe Local Plan Part 2: Land and Planning Policies].

8. Prior to the development progressing above Damp Proof Course (DPC), details of ecological enhancements to provide biodiversity net gain shall be submitted to and approved in writing by the Borough Council. The biodiversity enhancements shall be implemented in accordance with the approved details prior to the first occupation of the development.

[To ensure that the proposed development contributes to the conservation and enhancement of biodiversity within the site and for the wider area in accordance with paragraphs 179-180 of the NPPF and Policy 17 of the Local Plan Part 1: Rushcliffe Core Strategy].

9. The approved dwelling shall not be occupied until the driveway has been surfaced in a hard bound material for a minimum distance of 5m behind the highway boundary and has been constructed with provision to prevent the unregulated discharge of surface water from the driveway to the public highway. The hard bound surfacing and drainage measures shall thereafter be retained for the life of the development.

[To reduce the possibility of deleterious material being deposited on the public highway (loose stones etc), and to ensure surface water from the site is not deposited on the public highway causing dangers to road users].

10. The approved dwelling shall not be occupied until the driveway is fronted by a suitably constructed vehicular verge crossing, in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.

[In the interests of highway safety].

11. If during the course of carrying out the development hereby permitted any unexpected contamination is found that has not been previously identified, it
  - a) must be reported to the Local Planning Authority within (48 hours). All development on the site must cease immediately and must not recommence until a written scheme for the investigation and risk assessment of the unexpected contamination has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme must be prepared by a suitably qualified 'competent person' (as defined in the National Planning Policy Framework July 2021) and must be in accordance with the



**Environment Agency's 'Land Contamination Risk Management' (LCRM)**

- b) Where remediation of the contamination is necessary no further development shall commence on the site until a Remediation Strategy (RS) has been submitted to and approved in writing by the Local Planning Authority. The submitted RS must include
- full details of how the contamination on the site is to be remediated and include (where appropriate) details of any options appraisal undertaken;
  - the proposed remediation objectives and criteria; and,
  - a verification plan.

The RS must demonstrate that as a minimum the site after remediation will not be capable of being classified as contaminated land under Part 2A of the Environmental Protection Act 1990

- c) The development hereby permitted must not be occupied or first brought into use until the site has been remediated in accordance with the approved RS and a written Verification Report (VR) confirming that all measures outlined in the approved RS have been successfully carried out and completed has been submitted to and agreed in writing by the Local Planning Authority. The VR must include, where appropriate the results of any validation testing and copies of any necessary waste management documentation.

[To ensure that any unexpected contamination that is encountered is appropriately remediated so that the site is suitable for the approved development without resulting any unacceptable risk to the health of any construction workers, future users of the site, occupiers of nearby land or the wider environment having regard to Policy 1 (Presumption in Favour of Sustainable Development) of the Rushcliffe Local Plan Part 1: Core Strategy (2014), Policies 39 (Health Impacts of Development) and 40 (Pollution and Land Contamination) of the Rushcliffe Local Plan Part 2: Land and Planning Policies (2019) and Paragraphs 178 and 177 of the National Planning Policy Framework (July 2021)].

12. Any topsoil (natural or manufactured), or subsoil that is to be imported onto the site must be assessed for chemical or other potential contaminants in accordance with a written scheme of investigation which shall be submitted to and approved in writing by the local planning authority prior to the material being brought onto the site. Only material that has been tested in accordance with the approved investigation scheme shall be imported onto the site.

[To ensure that all soil or soil forming materials brought onto the site are free from contamination so that the site is suitable for the approved development without resulting any unacceptable risk to the health of any construction workers, future users of the site, occupiers of nearby land or the wider environment having regard to Policy 1 (Presumption in

**Favour of Sustainable Development) of the Rushcliffe Local Plan Part 1: Core Strategy (2014), policies 39 (Health Impacts of Development) and 40 (Pollution and Land Contamination) of the Rushcliffe Local Plan Part 2: Land and Planning Policies (2019) and Paragraphs 178 and 177 of the National Planning Policy Framework (July 2021)].**

- 13. The development hereby permitted must not be occupied or first brought into use until a written scheme the hard (including means of enclosure) and soft landscaping of the site (including the location, number, size and species of any new trees/shrubs to be planted) has been 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)].**

#### **NOTES TO APPLICANT**

The development makes it necessary to construct a vehicular crossing over a footway/verge 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 or at [licences@viaem.co.uk](mailto:licences@viaem.co.uk) to arrange for these works to take place.

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 is CIL chargeable. Full details of the amount payable, the process and timescales for payment, and any potential exemptions/relief that may be applicable will be set out in a Liability Notice to be issued following this decision. Further information about CIL can be found on the Borough Council's website at <https://www.rushcliffe.gov.uk/planningandgrowth/cil/>

Condition 5 requires the new dwellings to meet the higher 'Optional Technical

Housing Standard' for water consumption of no more than 110 liters per person per day. The developer must inform their chosen Building Control Body of this requirement as a condition of their planning permission.

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

In order to prevent nuisance to neighbours, you are advised to agree with the Borough Council's Head of Environmental Health, a method statement detailing techniques for the control of noise, dust and vibration during demolition and construction. If the use of a crusher is required, this should be sited as far as possible from nearby dwellings and be operated in accordance with its process authorisation.

In the interests of amenity, all demolition and construction works, including deliveries, shall be restricted to the following times, to cause the minimum amount of disturbance to neighbouring residents:

- o Monday - Friday 0700 - 1900 hours
- o Saturday 0800 - 1700 hours
- o Sunday/Bank Holidays No work activity

Good practice construction methods should be adopted including:

- o Advising all workers of the potential for protected species. If protected species are found during works, work should cease until a suitable qualified ecologist has been consulted.
- o All work impacting on vegetation or buildings used by nesting birds should avoid the active bird nesting season, if this is not possible a search of the impacted areas should be carried out by a suitably competent person for nests immediately prior to the commencement of works. If any nests are found work should not commence until a suitably qualified ecologist has been consulted.
- o Best practice should be followed during building work to ensure trenches dug during works activities that are left open overnight should be left with a sloping end or ramp to allow animal that may fall in to escape. Also, any pipes over 200mm in diameter should be capped off at night to prevent animals entering. Materials such as netting and cutting tools should not be left in the works area where they might entangle or injure animals. No stockpiles of vegetation should be left overnight and if they are left then they should be dismantled by hand prior to removal. Night working should be avoided.
- o Root protection zones should be established around retained trees / hedgerows so that storage of materials and vehicles, the movement of vehicles and works are not carried out within these zones.
- o Pollution prevention measures should be adopted

Consideration should be given to energy efficiency, alternative energy generation, water efficiency, travel sustainability including electric vehicle charging points and cycle storage, management of waste during and post construction and the use of recycled materials and sustainable building methods.

The use of external lighting (during construction and post construction) should be appropriate to avoid adverse impacts on bat populations, see [http://www.bats.org.uk/pages/bats and lighting.html](http://www.bats.org.uk/pages/bats%20and%20lighting.html) for advice.

The applicant/developer should be aware and make the future owner aware of the following responsibilities: 1) to ensure that the footpath is not impacted by the hedge and that it is cut back regularly, 2) that the fence alongside the path and the gate giving access to the path maintained to a safe and suitable standard.