

25/00191/HYBRID

Applicant Mr G Dawson

Location Land At Main Street, Flintham, Nottinghamshire

Proposal Hybrid planning application for a rural exception development, including full planning permission for 14 affordable dwellings including 6 discount market sales dwellings with associated provision of car parking, open space, landscape, access and infrastructure works, and outline planning permission for 3 enabling self-build market dwelling plots.

Ward East Bridgford

LATE REPRESENTATIONS FOR COMMITTEE

1. **NATURE OF REPRESENTATION:** Applicants response to officer rebuttal

RECEIVED FROM: Applicant Mr Dawson

SUMMARY OF MAIN POINTS:

1. Constitution and Fairness

Rushcliffe Borough Council's Constitution requires decisions to be taken fairly, lawfully, and transparently.

2. Rebuttals, Not "Letters"

For clarity, my submissions titled "Misapplication of Design Code" and "Rebuttal to Mr Phillips" are exactly that.

They cannot lawfully be sidelined into a complaints process.

3. Apparent Bias – The Legal Test

There is a real possibility of bias under the law

4. Highest Standards of Professional Conduct

The council has refused to rebut or even engage with the applicants Housing Needs Survey.

Numerous letters and emails from multiple independent planning professionals heavily criticising the conduct of RBC on this site and related application.

The refusal to engage with updated evidence, the selective use of procedures, and the influence of individuals do not uphold the highest standards.

5. Refusal to Determine / CEO Assertions

The Council's handling of this application amounts to a constructive refusal to determine. Over many years, repeated delays, diversions and procedural manoeuvres have frustrated a fair and timely decision.

6. Determination or Judicial Review

For the avoidance of doubt, I have already agreed to one extension of time for determination until October 9th. I will not agree to any further extension. Any attempt by officers to delay beyond that date, or any tactical deferral by the Committee without a clear, proportionate and evidence-based planning reason, will be treated as constructive refusal to determine.

7. Protective Costs Order / Aarhus Costs Protection

For the avoidance of doubt, if I am forced to bring a Judicial Review, I will apply for costs protection under the Aarhus Convention regime.

8. Publication

Please confirm that my rebuttals (unredacted save for personal data) will be placed in the committee pack in full so that Members can read the substance and not just the officer's summary.

9. Committee Direction – Inconsistency with Previous Application

The previous, near-identical application for the same site was not referred to the committee and was determined under delegated powers.

What has changed? Why was the earlier scheme, materially the same in layout, housing mix and ecological impact, not considered worthy of committee determination then, but is now?

10. Flintham's Own Adopted Design Guidance vs. Borough-wide SPD Design Code

Flintham already has adopted design guidance: the Flintham Conservation Area Appraisal and Management Plan (2023).

The new Borough-wide Design Code SPD (adopted September 2025) is by contrast a generic document, not tailored to Flintham's conservation area, and was adopted mid-determination of this application.

The officer's report must therefore explicitly address the relative weight of the 2023 Flintham Appraisal/Management Plan against the 2025 SPD Design Code, and explain why it is fair, lawful and proportionate to apply the latter to an application that was already in train.

11. Misrepresentation of Site Context

The plans shown to Members omit neighbouring properties and misleadingly depict the orchard as if it were isolated in open countryside.

Members must be given accurate visuals including the neighbouring properties, or any decision will be open to challenge.

12. Fairness and Natural Justice – The Legal Test

The correct test for procedural fairness is whether, in all the circumstances, the process gave rise to a real risk of unfairness (*R (Lewis) v Redcar & Cleveland BC* [2009] 1 WLR 83; *R v Secretary of State ex p. Doody* [1994] 1 AC 531; *R (Osborn) v Parole Board* [2013] UKSC 61).

If these steps are not taken, the process will have given rise to a real risk of unfairness, contrary to both the Constitution and the law of natural justice.

PLANNING OFFICERS COMMENTS:

1. Officers have followed due procedure, following the scheme of delegation a committee report has been published, and the application will be determined by planning committee within a public forum.
2. The rebuttals from the applicant are published online and form part of the application. These have been acknowledged within the committee report at paragraph 9 of the committee report.

The rebuttal dated 2nd October 2025 is being addressed through the late representation process.

3. The reference to the caselaw on apparent bias is noted. Allegations made towards Officers of the Council are unfounded. Comments made in relation to conflicts of interest and suggestions of undue influence are unfounded. The Officer recommendation is made on material planning grounds only.
4. Officers have had regard to all material planning considerations associated with the proposed development, including all the submitted supporting documents and plans in forming an officer recommendation. It is reiterated that Planning Officers are professionals and uphold the highest standards of professional conduct and integrity.
5. There have been proactive and engaging discussions between the agent acting on behalf of the applicant and the case officer. The discussions have been in relation to consultee comments to ensure an understanding on the applicant's position on various points, including, but not limited to, trees, ecology and highway safety matters. Furthermore, the timeframe for the application and which committee meeting that the application is to be heard at was discussed with the agent and an appropriate extension of time agreed to facilitate this.

6. Noted.
7. Noted. If permission is refused, or approved by the Planning Committee, the applicant can exercise their right to a Judicial Review (within the appropriate timescales) if they consider the Council has erred in its consideration and determination of the application. The threat of a judicial review is not a material planning consideration.
8. The applicants' rebuttals are available in full on the Councils website (personal information has been redacted) and the Committees attention are drawn to these documents. These documents are material considerations in the determination of the applications.

A number of the applicant's rebuttals raise queries around whether specialist expert advice should be obtained on a number of the key considerations. As part of the application's process, consultation has been undertaken with a number of consultees who provide advice to planning officers on those particular considerations, for example NCC Highways provides advice on whether the application is acceptable in highway safety terms. As such, specialist external advice is not considered to be reasonable or proportionate for this application given the role of consultees in the planning process who provide site or topic-specific guidance on the application. Consultation is an essential step in the planning process and the committee report sets out the responses of the consultees within which officers have reviewed and considered as part of the recommendation to refuse permission.

9. The application could have been determined under delegated powers under the Councils constitution. The Committee will note the allegations being made regarding Officers and bias. Discussions have taken place as to the method of determination of the application and the Director of Development and Economic Growth has used their powers in the constitution to call the application into Planning Committee so that the application will be considered in an open public meeting so accusations of lack of transparency are unfounded. The previous refusal of planning permission was a delegated decision and the Committee is reminded that this decision was upheld at the Planning Appeal.
10. Both the the Flintham Conservation Area Appraisal and Management Plan (2023) (adopted September 2025) and the Design Code SPD are material considerations and have been assessed within the committee report.
11. A full range of plans which show the context of the site will be presented to members during the committee meeting.
12. Noted.

2. **NATURE OF REPRESENTATION:**
Rebuttal

Ecology Response to Applicants

RECEIVED FROM:

Senior Ecology and Sustainability
Officer

SUMMARY OF MAIN POINTS:

1. Misstatement of Orchard Loss

Figure of 0.86ha of traditional orchard which will be lost is taken from the applicants submitted BNG metric (dated 4 June 2025), which shows on Tab A-1, line 12, 0.860665855ha of Traditional Orchard on site (column H), and in column W, that this entire area will be lost.

2. Incorrect Legal Position on Bat Surveys

Natural England is England's statutory adviser on nature conservation. The recommendations of Natural England are therefore of high relevance and their advice states "You should not usually attach planning conditions that ask for surveys. This is because you need to consider the full impact of the development proposal on protected species before you can grant planning permission."

3. Misapplication of Biodiversity Gain Hierarchy

The applicant has not at this time demonstrated they have avoided and / or mitigated the impact of the development on the loss of Traditional Orchard, as currently proposed no mitigation has been provided; therefore based on the evidence provided, the application if permitted would lead to an unmitigated loss of a high distinctiveness (score of 6) habitat. Whether mitigation can be provided post permission is speculative and no ecological evidence has been provided on which to make comment.

PLANNING OFFICERS COMMENTS:

The comments of the Senior Ecology and Sustainability Officer are available to view in full on the Councils website (personal information has been redacted) and provide further additional comments with respect to ecology and biodiversity matters. The considerations set out within the Committee Report in respect of these matters remains unchanged, including recommended reason for refusals 6 & 8.