

REPORT NO: 131/2014

DEVELOPMENT CONTROL AND LICENSING COMMITTEE

27TH MAY 2014

**PLANNING APPLICATIONS TO BE DETERMINED BY THE
DEVELOPMENT CONTROL AND LICENSING COMMITTEE**

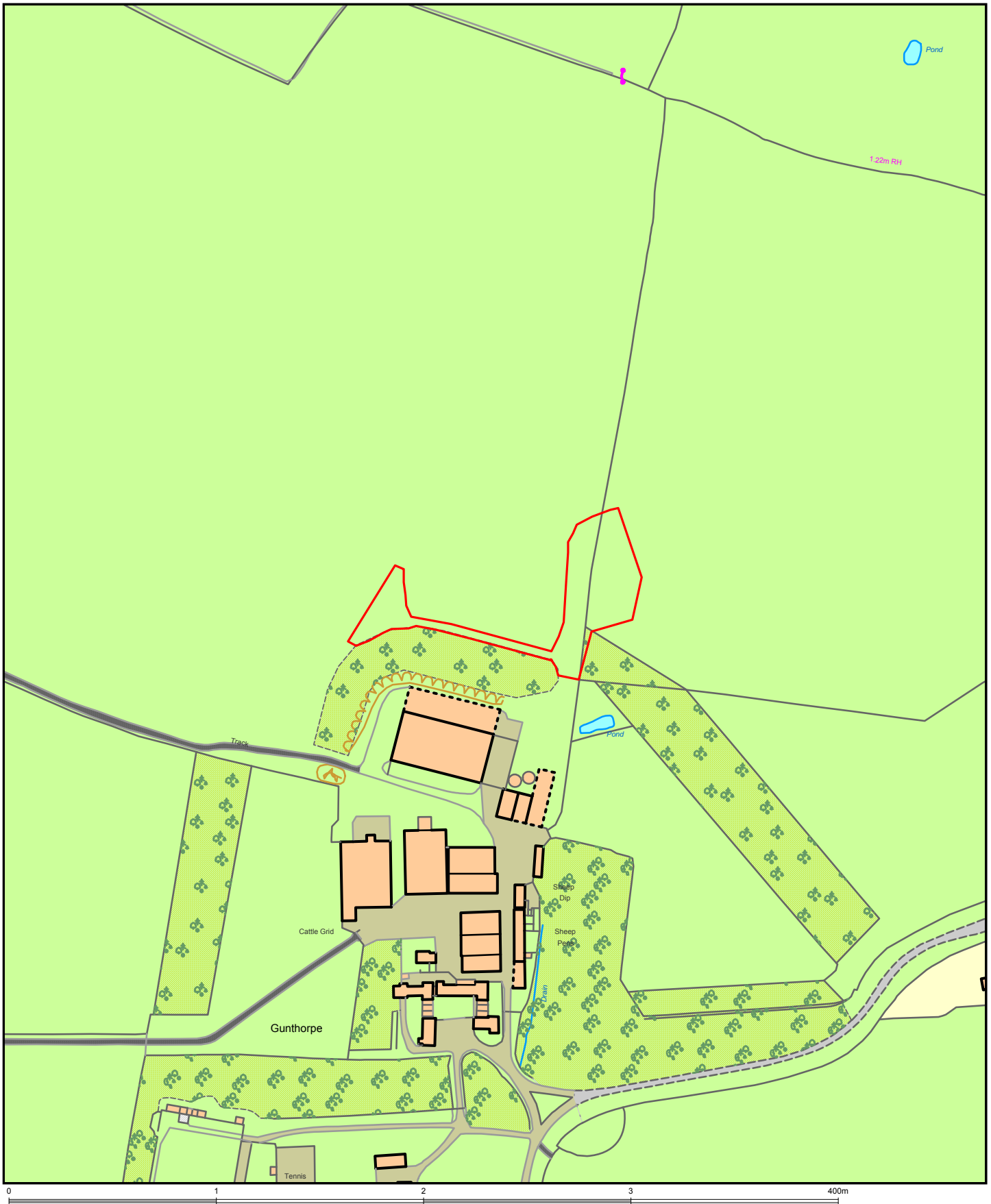
**REPORT OF THE DIRECTOR FOR PLACES
(ENVIRONMENT, PLANNING AND TRANSPORT)**

Rutland County Council

Development Control & Licensing Committee – 27th May 2014

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Ordnance Survey [100018056]

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Date of plot: 14/05/2014



Rutland County Council

Catmose,
Oakham,
Rutland
LE15 6HP

Application:	2013/1128/FUL	ITEM 1	
Proposal:	Construction of 1 No. dwellinghouse (part subterranean)		
Address:	Philpots, Gunthorpe Hall, Hall Drive, Gunthorpe		
Applicant:	Mr Tim Haywood	Parish	GUNTHORPE
Agent:	Mr Mark Webber, Nichols Brown Webber	Ward	Martinsthorpe
Reason for presenting to Committee:		Significant issues (enabling development)	
Date of Committee:		27 May 2014	

EXECUTIVE SUMMARY

This application for a detached single storey dwelling is intended to provide enabling development to fund the completion of restoration works at Martinsthorpe Farmhouse, an important heritage asset located on a Scheduled Monument, within the Gunthorpe Estate.

Enabling development can be approved, contrary to policy, if required to facilitate conservation of such a heritage asset. However, the current application is recommended for refusal as the proposed dwelling is in a prominent countryside location where the variance with normal restraint policies outweighs the benefit of any contribution towards enabling development.

Despite this, the developer could reapply for enabling development via more appropriate locations within the Estate.

RECOMMENDATION

REFUSAL, for the following reason:

1. The proposed new dwelling is located on elevated ground within the open countryside and not justified as necessary to meet local needs for either agricultural workers accommodation or affordable housing. Although the part-subterranean design and grey roof are intended to minimise its impact, the proposed dwelling is in such a prominent location that it would be visible across open countryside, where the combined impact of its shape, materials and design would be out of keeping with the character of this "Area of Particularly Attractive Countryside". The proposal is therefore contrary to Policies CS4 and CS19 of the adopted Rutland Core Strategy (2011), to Policies EN26 and EN28 of the adopted Rutland Local Plan (2001), to Policies SP6 and Policy SP14 of the Site Allocations and Policies Development Plan Document: Proposed Submission Document (2013), and to paragraph 55 of the National Planning Policy Framework (NPPF) (2012). Furthermore, the applicant's justification that an exception be made to these policies due to this proposal providing enabling development for the restoration of a heritage asset elsewhere within the same landholding is not in accordance with paragraph 140 of the NPPF, or with the guidance in "Enabling Development and Conservation of Significant Places (English Heritage: 2008)".

Note to Applicant:

1. In making this decision, due weight was given to submission of the application as potential enabling development for completion of restoration works at Martinsthorpe Farmhouse. In considering any future application for such enabling development, the Local Planning Authority would again balance the enabling benefits against the extent to which it varies from normal restraint policy. Without prejudice to the outcome, it is also advised that any future application should endeavour to address the reason for refusal of this application.

Site & Surroundings

1. Philpots is in a countryside location at the north of Gunthorpe Farm, within the Gunthorpe Estate. It is on higher ground, overlooking Rutland Water and accessed via the farm. The site is otherwise surrounded by open farmland and two small areas of woodland.

Proposal

2. The proposed new dwelling is single storey, on an oval footprint. The primary external materials are stone and glass under a grey zinc roof. Internally, the property contains four bedrooms, an open plan kitchen/dining/lounge area, and an integral double garage. It is partly subterranean, in an attempt to reduce its bulk and prominence.
3. The application has been submitted as “Enabling Development”, whereby the development value is intended to part-fund the restoration of Martinsthorpe Farmhouse, an iconic listed building elsewhere within the Gunthorpe Estate.
4. Various documents were submitted with the application, with some of these explaining the need for enabling development:
 - Design & Access Statement
 - Archaeological Appraisal
 - Ecological Appraisal
 - Enabling Development Statement

Relevant Planning History

Application	Description	Decision
Martinsthorpe: APP/2011/0633	Side extension and restoration works	Approved 18-10-11
APP/2011/0634	Extension, and external & internal alterations (LBC)	Approved 18-10-11
APP/2012/0154	Extension, and external & internal alterations (including new staircase & fire doors) (LBC)	Approved 07-09-12

2013/1132/FUL	Removal of Holiday Let Condition	Approved 15-05-14
2014/0095/LBA	New dormer onto extension	Refused 15-05-14
Gunthorpe: 2013/1130/FUL	New dwelling	Withdrawn 03-03-14

Planning Guidance and Policy

National Planning Policy Framework (NPPF)

Paragraphs:

- 55 – Housing in the Countryside
- 56 & 64 – Design
- 128, 129, 131 & 132 – Heritage Assets
- 140 – Enabling Development

The Rutland Core Strategy

- CS4 – Location of Development
- CS8 – Developer Contributions
- CS11 – Affordable Housing
- CS19 – Design
- CS21 – Natural Environment
- CS22 – Historic and Cultural Environment

The Rutland Local Plan

- EN14 – Archaeology
- EN17 – Landscaping
- EN19 – Ecology
- EN26 – Development in the Countryside
- EN28 – Countryside of Special Landscape Value
- EN29 – Amenity

Site Allocations and Policies DPD: Proposed Submission Document

- SP5 – Housing in the Countryside
- SP14 – Design and Amenity
- SP18 – Biodiversity and Geodiversity
- SP19 – Development affecting heritage assets
- SP22 – Landscape Character in the Countryside

Other Material Considerations

Enabling Development and Conservation of Significant Places (English Heritage: 2008)

Enabling Development

The NPPF and English Heritage Guidance (both referenced, above) provide a framework for considering applications that are contrary to policy, but justified as necessary to provide funding for the conservation of a heritage asset.

Any negative gap between the final value of the restored heritage asset and the cost of restoration, is known as the “Conservation Gap”, with the additional proposals known as “Enabling Development”.

Paragraph 140 of the NPPF specifies that:

“Local Planning Authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.”

The English Heritage Guidance “Enabling Development and Conservation of Significant Places” provides detailed advice. This commences with an overriding policy:

“Enabling development that would secure the future of a significant place, but contravene other planning policy objectives, should be unacceptable unless:

- a it will not materially harm the heritage values of the place or its setting
- b it avoids detrimental fragmentation of management of the place
- c it will secure the long-term future of the place and, where applicable, its continued use for a sympathetic purpose
- d it is necessary to resolve problems arising from the inherent needs of the place, rather than the circumstances of the present owner, or the purchase price paid
- e sufficient subsidy is not available from any other source
- f it is demonstrated that the amount of enabling development is the minimum necessary to secure the future of the place, and that its form minimises harm to other public interests”
- g the public benefit of securing the future of the significant place through such enabling development decisively outweighs the disbenefits of breaching other public policies.

These are robust criteria, to ensure that any permission granted for such enabling development can be accepted as a justifiable departure from normal policy. The final criterion is the most critical as it deals with the potential extent of departure from normal policy.

The Policy is then expanded into further robust guidance:

“If it is decided that a scheme of enabling development meets all these criteria, English Heritage believes that planning permission should only be granted if:

- a the impact of the development is precisely defined at the outset, normally through the granting of full, rather than outline, planning permission
- b the achievement of the heritage objective is securely and enforceably linked to it, bearing in mind the guidance in ODPM Circular 05/05, Planning Obligations [NOTE: This Circular is now superseded by the Community Infrastructure Regulations]
- c the place concerned is repaired to an agreed standard, or the funds to do so are made available, as early as possible in the course of the enabling

development, ideally at the outset and certainly before completion or occupation

- d. the planning authority closely monitors implementation, if necessary acting promptly to ensure that obligations are fulfilled.”

This is intended to ensure that anything granted permission as an exception to normal policy can be justified as providing a net gain as “enabling development”. For this reason, it is also implicit that the planning application(s) for enabling development be submitted at the same time as those for the heritage asset.

The current application is assessed against this English Heritage Policy and Guidance later in the report.

Consultations

5. Archaeological Consultant
No objections, subject to a condition on any approval requiring a programme of archaeological investigation.
6. Ecological Consultant
No objections subject to the mitigation measures set out in the applicant’s Ecological Appraisal.

Neighbour Representations

7. One letter received from a trustee of the Gunthorpe Estate, suggesting that the proposal is inappropriate and out of character with the Estate.

Planning Assessment

8. The key issues are:
 - The principle of New Housing in the Open Countryside as a means of providing Enabling Development for Martinthorpe Farmhouse
 - Location and Design
 - Planning Obligation
9. Other considerations are then addressed briefly at the end of the report.

Principle of new Housing in the Countryside as a means of providing Enabling Development for Martinthorpe Farmhouse

(i) ***Housing in the Countryside***

This proposal is for a new dwelling in the open countryside, not justified as required for an agricultural worker or to satisfy local affordable housing needs. It is therefore contrary to key national and local policies and could be recommended for refusal as a matter of principle.

(ii) ***Martinthorpe***

The applicant has indicated that this proposal is intended to provide “enabling development” for completion of restoration works at Martinthorpe Farmhouse. This is a late 17th Century listed building (Grade II) in an isolated location at the

south of the Gunthorpe Estate, 1 km to the west of Manton Top and 1km south of Gunthorpe Hall.

It is the last surviving building of the former medieval village of Martinsthorpe and is surrounded by (but not included within) the earthworks of the “Martinsthorpe deserted medieval village”, now designated as a Scheduled Monument.

The farmhouse was constructed as a service wing to the former Martinsthorpe Hall. After the village was abandoned, it was converted, into a separate farmhouse with livestock accommodation. It has been unoccupied since the 1950s, but not regarded as an “abandoned dwelling”. The only vehicular access is by a concrete track from Gunthorpe Hall.

To the south of the building is a bridleway and footpath following the line of the ridge that forms part of the Macmillan Way long distance route.

(iii) ***Restoration***

Planning Permission and Listed Building Consent (refs: APP/2011/0633 and APP/2012/0154) were granted respectively on 18 October 2011 and 7 September 2012, for works necessary to restore Martinsthorpe Farmhouse and then use it as a holiday let. This included a two storey extension to the western side elevation to provide a store / boiler room on the ground floor, with new bedroom above. Works commenced later in 2012.

The developer has indicated that, at the time of applying for the restoration works on the farmhouse, he was not aware of any impending conservation gap. However, he subsequently provided a Written Statement indicating that financial figures were recalculated when the building contractor who commenced the restoration works ceased trading in February 2013 and works halted on site.

In particular, a post-commencement inspection of the roof structure had indicated that significantly more restoration work would be required. Consequently, the post-commencement costs had escalated significantly.

The shell of the building and its extension were made watertight but without the works being completed.

(iv) ***Case for Enabling Development***

The developer entered pre-application discussions with your Officers to establish if it would be possible to submit applications for a package of enabling developments to fund the completion of these works.

As a first step, your officers sought independent advice (at the applicant's expense) from a quantity surveyor specialising in historic buildings, and from a property valuer. Their final reports indicated that there was a significant conservation gap between the cost of the restoration works and the final value of the property. A summary of key figures, and a full copy of the Quantity Surveyor's Advice is set out as Appendices One and Two, in the exempt papers for this report. The quantity surveyor broadly agreed with the revised costs for each element of the building works.

Given this, it was accepted by your Officers that the extent and cost of restoration works necessary to secure the future conservation of this heritage asset, do warrant some enabling development.

The extent of the conservation gap indicated that additional housing would be required as enabling development to provide the necessary funding. Mindful that enabling development is not a justification for putting all planning policy to one side, your officers strongly advised the developer to seek locations close to the central part of the Estate so that the new development would become part of the existing complex of buildings (Gunthorpe Farm, Gunthorpe Hall, and its associated dwellings).

An enabling package was then submitted including the application subject to this report and an additional dwelling on South Lane (the main driveway to Gunthorpe Hall).

The applicant accepted that the proposed enabling development would not bridge the entire conservation gap, but that he would be in a position to complete the restoration with the development value from these applications.

The South Lane application was then withdrawn on 3 March 2014, for estate management reasons. The current application is the only enabling development now under consideration.

NOTE: Further applications were submitted for removal of the restriction on use solely as a holiday let and for the addition of a rear dormer on the part-constructed side extension. Albeit not part of any enabling development, the applicant advised that these further proposals would increase the value of the property and help to make the restoration viable. The planning application for removal of the holiday let restriction was approved under delegated powers on 15 May 2014. The application for listed building consent for an additional dormer was refused under delegated powers on the same day, due to its detrimental impact on the character and setting of the listed building.

(v) **Assessment**

The restoration of Martinthorpe offers public benefit, given that it is a “significant place” with a distinctive character arising from its open and isolated location. However, consistent with paragraph 140 of the NPPF, an assessment of any application for enabling development must commence with two key questions:

- can the future conservation of this heritage asset be secured without enabling development ?
- if not, does the public benefit of conserving this asset outweigh the disbenefits of the enabling development departing from normal policy ?

For reasons set out in the previous sub-section of this report, it is accepted that enabling development is justified due to the extent and cost of works necessary to restore Martinthorpe Farmhouse. However, this application for enabling development was submitted after works had commenced, raising the question of why is it now necessary when the landowner was clearly in a position to commence the restoration works without (at that stage) requiring any enabling development. From the detailed advice given to your Officers by the independent quantity surveyor, it is clear that the total estimated cost of works anticipated at the time of commencement were too low. It is also accepted that a

significant element of these increased costs (ie: restoring the roof), only became obvious after commencement of the works.

If this had been realised at the outset, it is likely that any application for enabling development received at the same time as the applications for restoration would, in principle, have resulted in the same independent advice that enabling development is justified. Given the total figures involved, any small variation in individual costs during the intervening period is unlikely to affect this final conclusion. The figures considered by both the independent quantity surveyor and valuer were based on the costs and value of restoring the heritage asset, not the circumstances of the landowner. Also, there are no other subsidies available for the restoration of Martinsthorpe.

It can therefore be accepted that the need for enabling development is justified, even though the current application was submitted after commencement of the restoration works. It should also be noted that work ceased on Martinsthorpe Farmhouse and has not recommenced.

It is implicit in the key policy at the front of the English Heritage Guidance, that the works being funded by enabling development should be those necessary to conserve the heritage asset, not any additional works. This is pertinent to the current application, as the restoration works at Martinsthorpe Farmhouse include a new extension as well as works to the existing building. However, the extension is considered necessary for the restoration of the building and for its future viable use, as it accommodates ancillary equipment such as the heating system, in a manner that does not impact on the historic fabric. It also provides storage space and thereby reduces the pressure for detrimental external storage.

Given all this, the current application satisfies the following criteria in the English Heritage Guidance.

- c. The heritage asset has a secure future in a sympathetic use
- d. The enabling development addresses the needs of the place, not the circumstances of the landowner
- e. No subsidy available from other sources

Therefore, the principle of some development in the open countryside as enabling development for the restoration of Martinsthorpe Farmhouse can be accepted. The following paragraphs then consider the location and other details of the current proposed scheme.

Location and Design

10. Given that the enabling development is proposed at the opposite end of the Gunthorpe Estate, it would not have any impact on the setting of Martinsthorpe, thereby satisfying other criteria within the English Heritage Guidance:
 - a. No harm to the heritage asset or its setting
 - b. No detrimental fragmentation of the place
11. Criteria “f” and “g” of the Guidance must now be given closer consideration. These are concerned with the extent to which the enabling development conflicts with normal restraint policies, and then require that the benefit of the enabling development should decisively outweigh the disbenefits of breaching these policies.

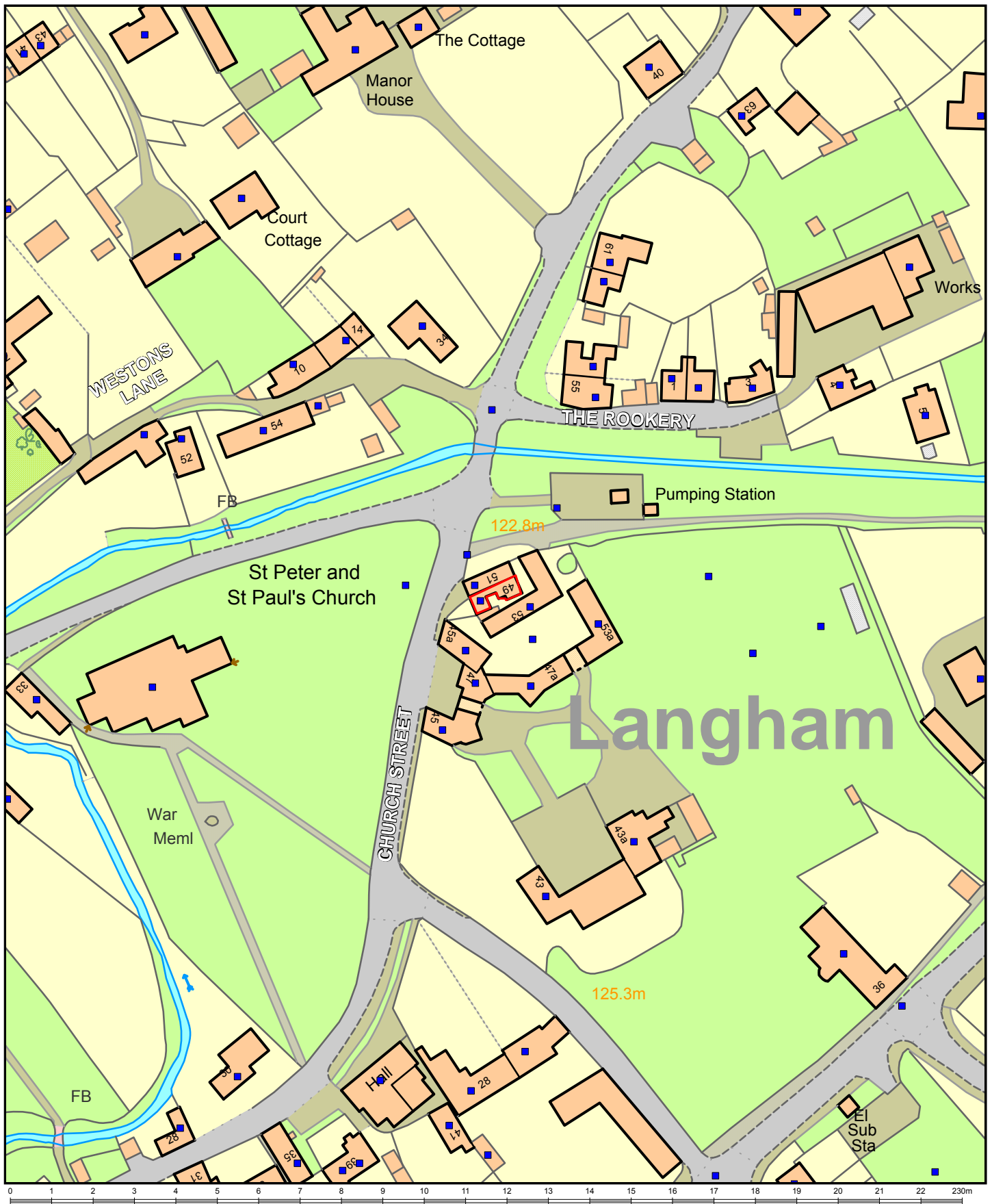
12. In this case, the proposed enabling development is in a very prominent location on higher ground with views available for some distance across Rutland Water. It is also identified in the adopted Local Plan as within an Area of Particularly Attractive Countryside, where Policy E28 requires that its character and appearance should not be adversely affected. This prominence, and resultant impact on the character of the open countryside, is a potential reason for refusal. Such a harmful impact on the wider countryside at the north of Gunthorpe could outweigh the benefits of enabling the retention of Martinsthorpe and its a positive impact on the wider countryside at the south.
13. The applicant has attempted to address this, by submitting a partly subterranean design with the proposed floor level set down 1.5 metres below ground level. He also proposes a grey zinc roof, and suggests that its curvature would help to blend the new dwelling into its immediate topography and prevent it from protruding into the skyline of distant public viewpoints. The proposal also includes woodland planting at the west, to provide a “backdrop to views from Rutland Water”.
14. If successfully implemented, these features could address some concerns about visual prominence and adverse impact on the Area of Particularly Attractive Countryside, particularly as the new building would be set into the landscape rather than “skylining above it. However, it would still be a noticeable and potentially alien feature, particularly as the greater bulk of the proposed dwelling is above the surrounding ground level: ie the top of the proposed roof is some 3.2 metres above ground level. Depending on the time of year and whether the adjacent fields are grazed, ploughed or cultivated, the shape and colour of the proposed dwelling would contrast with its immediate surrounds thereby adding to its prominence.
15. An assessment of the applicant’s supporting statements does not suggest that the benefits of restoring Martinsthorpe Farmhouse outweigh the harm caused by constructing a new dwelling within such a prominent location in the open countryside.
16. Consistent with paragraph 140 of the NPPF, and the detailed English Heritage Guidance, the application is accordingly recommended for refusal.

Developer Contributions

17. A Planning Obligation to secure developer contributions and off-site affordable housing is not required with any grant of permission for enabling development, hence no such contributions were offered with this application. Unlike such situations with other proposals for new housing, this cannot be an additional reason for refusal of the current application.

Other considerations

18. Given the recommendation of refusal, no further consideration is given to the archaeological and ecological advice. There are no concerns regarding highways and access.
19. If this recommendation is accepted by members, there would be no enabling development towards the public benefit of completing the restoration of Martinsthorpe farmhouse. Therefore, a separate advisory note is recommended that, without prejudice, any further applications for enabling development should endeavour to address the reason for refusal of this application.



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Date of plot: 14/05/2014



Rutland County Council

Catmose,
Oakham,
Rutland
LE15 6HP

Application:	2014/0089/FUL	ITEM 2	
Proposal:	Retention of a second floor window to the front elevation of the dwelling.		
Address:	Birch Cottage, 49, Church Street, Langham		
Applicant:	Mr Robert Clive Smith	Parish	LANGHAM
Agent:	N/A	Ward	Langham
Reason for presenting to Committee:		Enforcement Action recommended	
Committee Date:		27 May 2014	

EXECUTIVE SUMMARY

The applicant is applying retrospectively for the retention of a UPVC window. Objections have been received from the Conservation Officer and the Parish Council, along with 3 letters of support.

The replacement window has noticeably thicker/heavier proportions than the sash window it replaced, and its design and materials do not preserve or enhance the character or appearance of the Langham Conservation Area.

The application is recommended for refusal. Enforcement action for the UPVC frame to be removed is also proposed, including the re-instatement of a vertical six-pane wooden sliding sash window to match that which was originally removed.

RECOMMENDATION

A. REFUSE PLANNING PERMISSION, for the following reason:

The replacement second floor upvc window, by virtue of its location, material and design, has a harmful effect on the external appearance of the house and does not preserve or enhance the character or appearance of the conservation area. In particular, the design has a top-opening light with frames that are noticeable thicker and heavier than the more slender proportions of the sash window that was removed. The outward opening of the window, which breaks the line of the building, is also a discordant feature. As such, the proposal is contrary to saved planning policy EN5 of the Rutland Local Plan (2001), CS22 of the adopted Core Strategy (2011), and SP19 of the emerging Site Allocations and Policies Development Plan Document: Proposed Submission Document (2014).

B. TAKE ENFORCEMENT ACTION

Subject to The Head of Legal Services being satisfied as to the evidence, that all required enforcement action be taken, including through the Courts if necessary, to ensure the removal of the second floor window on the front elevation of Birch Cottage, 49 Church Street, Langham, and the re-instatement of a vertical six-pane wooden sliding sash window to match that which was originally removed.

Site & Surroundings

1. The site is a semi-detached 19th century stone dwelling, located in central Langham, within the conservation area. The dwelling is attractive, and makes a positive

contribution to the character and appearance of the conservation area. The majority of the existing windows for the property are the original single glazed sliding sash windows.

Proposal

2. The applicant is seeking retrospective permission for the retention of a first floor UPVC window facing the road that has been installed without planning permission. As the site is within Langham's Article 4 direction (designated in 2004), planning permission is required for development adjacent to the public highway. The frame of the window has a different design and materials to the wooden sliding sash window it replaced, and materially affects the external appearance of the property. As such, planning permission is required to retain the window. Images of the original sash window and the replacement window are attached as appendix 1.
3. A similar application has been submitted by the same applicant for the neighbouring property, for a ground floor window (reference number 2013/0088/FUL). In this case, the window that was removed was a non-original casement window (historically this opening was a front door), and thus did not match the style and proportions of the other sash windows on the front elevation. Additionally, the replacement window is a sash design that broadly replicates the style of the other sash windows. Notwithstanding that the replacement frame is UPVC, its design does offer a more uniform appearance to the front of the property than the removed window did. Given that any enforcement action could only re-instate the casement window, in this instance the use of UPVC was accepted, and the application has been approved.

Planning Guidance and Policy

National Planning Policy Framework (NPPF)

Part 12: Conserving and enhancing the historic environment
Paragraph 207 - Enforcement

The Rutland Core Strategy

CS19 – Promoting Good Design
CS22 – Historic Environment

Rutland Local Plan

EN5 – Conservation Area
EN29 – Amenity

Other Considerations

Site Allocations and Policies Development Plan Document (DPD) – Proposed Submission Document (April 2013)

SP14 – Design & Amenity
SP19 – The Historic Environment

Consultations

4. Langham Parish Council

'49 Church Street is one of several cottages within the curtilage of the Old Hall (Grade II* Listed). It occupies a prominent position in the Conservation Area

(Article4/2), opposite the Church (Grade I Listed) and adjacent to the Old Hall Gatehouse.

The replacement window, of 'wood effect composite', is similar in appearance to a UPVC window with a prominent black seal between the glass panes and the window frame, although this may not be discernable from the ground. The window does not operate as a sash window, ventilation being obtained by opening the upper half with top hinges, in the same way as a transom window, but on a larger scale. The style of this window, the materials and method of construction are at odds with the integrity and character of this stone cottage, having a detrimental effect on both the dwelling and on the Conservation Area. The intention to replace one of the five windows on the front of the dwelling, which does not match the other four, is laudable. This design does not, however, match the other four. All windows should be matching and be constructed of wood.

Reference: Village Design Statement, Guidelines Nos. 12,13,14,29,31,34.'

5. Conservation Officer

'I object to the application

The application relates to one of a pair of attached stone houses, probably dating from the late 19th century, that occupy a prominent position within Langham Conservation Area. The building makes a positive contribution to the character and appearance of the conservation area.

The surviving timber sash windows are an attractive feature of the building. The Article 4 direction in Langham was introduced in response to the gradual erosion of the character and appearance of the conservation area through, amongst other things, the replacement of original timber windows with upvc frames.

The replacement second floor upvc window has a top-opening light with frames that are noticeable thicker and heavier than the more slender proportions of the timber windows on the rest of the building. The outward opening of the window, which breaks the line of the building, is also a discordant feature. I consider that the window has a harmful effect on the appearance of the house and does not preserve or enhance the character or appearance of the conservation area. If allowed, it would also set a precedent for replacement of the other windows on the building which would be difficult to resist and which, cumulatively, would further erode the character of the area.'

Neighbour Representations

6. Three letters of support have been received from local residents.

Planning Assessment

7. The main issues are the impact on Langham Conservation Area, and potential enforcement action.

Impact on Langham Conservation Area

8. The objections from the Conservation Officer and Parish are noted, and have been given due consideration, as have the letters of support. For clarification (given the

Parish's comments above) the site is adjacent to the Old Hall (grade II listed), but is not within its historic curtilage, and therefore not curtilage listed.

9. Street view images from 2009 show that the opening was previously a wooden sash window matching the style and proportions of the remaining original windows. The applicant has since stated that approximately 5 years ago the bottom half of this window collapsed into the rotten sill and the whole of the window slipped down in its aperture. The applicant reconstructed, filled and painted the bottom half of the window, rendering it inoperable. He then replaced the window with the current UPVC frame subject to this application.
10. In contrast to the original sash windows, the replacement window has a top-opening light, which opens outwards and breaks the line of the building. This creates a discordant feature within this historic part of the village. Furthermore, the frame is noticeably thicker and heavier than the more slender proportions of the sash window it replaced, and jars with the remaining sash windows on this elevation.
11. UPVC is rarely an appropriate material for window frames in historic buildings within the conservation area. While there are examples of UPVC frames within the village, these tend to be either on modern houses, on elevations that are not prominent from public viewpoints, or were installed prior to the Article 4 direction in 2004. The window replacement identified in section 3 of this report is noted; however the benefits of that proposal outweighed the overall impact of using UPVC. In contrast, this application substitutes an original matching window, for a design and material that do not match.
12. The replacement UPVC window, located in a prominent location, has a detrimental impact upon the overall external appearance of the building, and does not preserve or enhance the character or appearance of the conservation area.

Enforcement action

13. As the window is already installed, if Members are minded to accept the recommendation for refusal of the current application, it would be expedient to undertake enforcement action to secure removal of the UPVC window, and the re-instatement of a vertical six-pane wooden sliding sash window to match that which has been removed. It is recommended that three months should allow enough time for compliance.
14. Members are also asked to note the following information regarding enforcement action.

FINANCIAL IMPLICATIONS

Legal costs will be incurred if this matter is pursued, although this cost will be kept to a minimum. Should prosecution in the Courts become necessary, an application for costs will be made if the Council is successful. Any works carried out in default would allow the Council to demand payment from the landowner. If the Council is unsuccessful through the Courts, cost would fall to be met from current budgets.

LEGAL IMPLICATIONS

Under Section 172 of the Town and Country Planning Act 1990, the Council may serve an Enforcement Notice if Members are satisfied that:

- a. There has been a breach of planning control and,
- b. It is expedient to issue the Notice having regard to the provisions of the Development Plan and any other material considerations.

To the extent that the Human Rights Act may be engaged, it is considered that the enforcement action proposed is proportionate and justified response to the harm caused to legitimate public interests by the unauthorised development.

Original sash

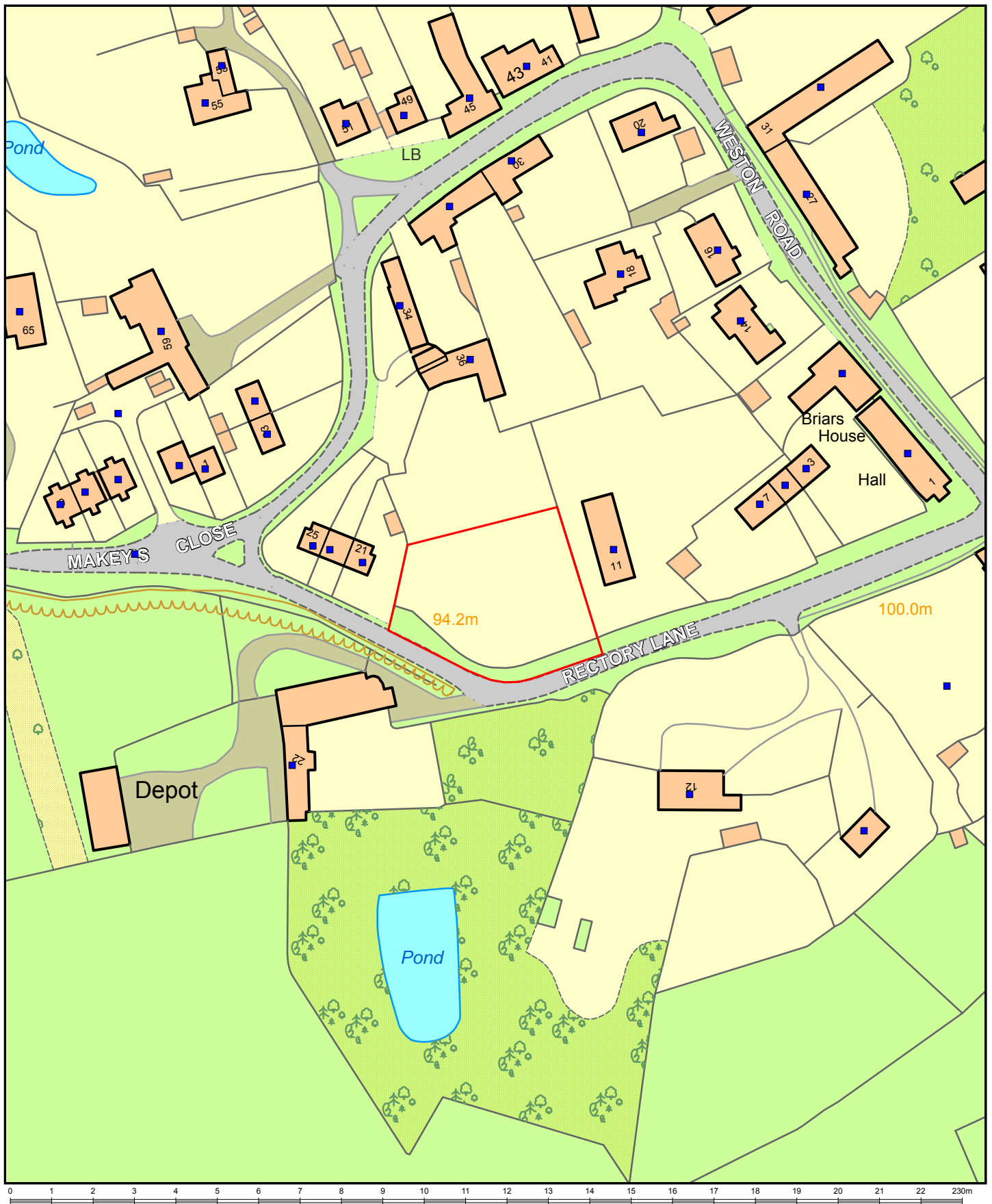


Replacement UPVC window



UPVC top opening light





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Time of plot: 12:12
Date of plot: 14/05/2014



Rutland County Council

Catmose,
Oakham,
Rutland
LE15 6HP

Application:	2014/0256/FUL	ITEM 3	
Proposal:	Construction of two dwellings		
Address:	36 Weston Road, Edith Weston		
Applicant:	Mr Simon Hooper	Parish	EDITH WESTON
Agent:	Mr Andrew Hattersley Smiths Gore	Ward	Normanton
Reason for presenting to Committee:		Ward Member Referral	
Date of Committee:		27 May 2014	

EXECUTIVE SUMMARY

This application proposes two detached dwellings on an infill plot within the Planned Limits to Development and Conservation Area of Edith Weston. Trees within the site and on its frontage, make a positive contribution to the character and appearance of the Conservation Area.

The recommendation is for refusal given the detrimental impact on the Conservation Area due to the overdevelopment of the site and loss of trees. The dwelling on Plot Two also has a detrimental impact on the residential amenity of the neighbouring property. No developer contributions have been offered via any Planning Obligation.

RECOMMENDATION

REFUSAL, for the following reasons:

1. Construction of two detached dwellings of the proposed layout, scale, form and design, would result in the loss of an open, well landscaped area that makes a positive contribution to the Edith Weston Conservation Area. The visual relationship between the smaller dwelling on Plot One and the larger dwelling on Plot Two, creates a jarring element within the street scene. The design of Plot Two, with its wide one-and a half storey element attached to the main two storey part of the house, also creates the impression of a stretched non-subservient extension. The loss of existing trees further exacerbates these detrimental impacts. The close proximity of the proposed dwellings to retained trees creates potential pressure for their future removal, due to concerns from the occupants about potential damage or overshadowing of the dwellings. Given all this, the proposal would fail to preserve or enhance the character and appearance of the Edith Weston Conservation Area causing harm which, although less than substantial, would not be outweighed by any public benefit. The proposal is therefore contrary to Policies CS19 and CS22 of the adopted Rutland Core Strategy (2011), to Policy EN5 of the adopted Rutland Local Plan (2001), to Policies SP14 and SP19 of the Site Allocations and Policies Development Plan Document (Proposed Submission Document) (2013), and to paragraphs 128,131,132, and 134 of the National Planning Policy Framework (2012).
2. The scale, location and orientation of the proposed dwelling on Plot Two would impact on the residential amenity of the neighbouring dwelling at 11 Rectory Lane, particularly via the overlooking and overbearing impact on the western patio area and ground floor

windows on the western elevation of the neighbouring property. Given this, the proposal has a detrimental impact on the residential amenity of 11 Rectory Lane, contrary to Policy CS19 of the adopted Rutland Core Strategy (2011), to Policy EN29 of the adopted Rutland Local Plan (2001), and to Policy SP14(c) of the Site Allocations and Policies Development Plan Document (Proposed Submission Document) (2013).

3. No developer contributions, or financial contributions towards the off-site provision of affordable housing, have been offered in accordance with the requirements of the Planning Obligations and Developer Contributions Supplementary Planning Document (2010), and Developer Contributions to Off-Site Affordable Housing Supplementary Planning Document (2012). Given this, the proposal is contrary to Policy CS11 of the adopted Rutland Core Strategy.

Site & Surroundings

1. The application site is within the Planned Limits to Development of Edith Weston, and within the Edith Weston Conservation Area. It takes up roughly half of the residential curtilage of 26 Weston Road, but has a frontage onto Rectory Lane. There is an existing vehicular access from Rectory Lane.
2. The site is characterised by mature trees along the Rectory Lane frontage and further within the site. This is in keeping with the well landscaped character of other properties on this part of Rectory Lane.
3. There is a bend in the carriageway of Rectory Lane outside the site frontage. There are existing dwellings on either side of the site, with that at the east (no.11 Rectory Lane) oriented north-south along the common boundary, and including a number of windows facing that boundary.

Proposal

4. This proposal is for two detached dwellings, set back from the frontage, and sharing the existing vehicular access. It follows the withdrawal of a similar scheme on 28 June 2013 (2013/0303/FUL). Pre-application advice was then requested by the applicant prior to submission of the current application. This advice is attached as Appendix One, given that it was subsequently appended to the planning application and referred to in the neighbour's comments.
5. Plot One is at the west, closest to a terrace of three dwellings at 21-25 Rectory Lane. Its proposed dwelling has three bedrooms but no garage. Parking/turning space is available on the frontage. Plot Two is at the east, closest to the detached dwelling at 11 Rectory Lane. The proposed dwelling has a larger footprint, four bedrooms, a detached single garage and additional parking/turning space. Both proposed dwellings are of stone construction under a slate roof. Some changes were made to the layout and design, as a result of the pre-application advice.
6. The application submission includes a Design and Access Statement and a Tree Survey & Arboricultural Assessment. Detailed plans are also submitted, indicating the extent of tree cover to be lost.

7. The applicant then submitted further written comments in response to the input of various consultees and neighbours. These comments regarding conservation, landscaping, parking and extent of development are considered later in this report.

Relevant Planning History

Application	Description	Decision
2003/0589	Detached garage with living accommodation above	Approved 20 Oct 2003
2007/1125	Detached garage, with living accommodation above	Approved 14 Jan 2008
2013/0303/FUL	Two dwellinghouses	Withdrawn 28 June 2013

Planning Guidance and Policy

National Planning Policy Framework

Section 6 – Housing

Section 7 – Design

Section 11 – Natural Environment

Section 12 – Historic Environment

The Rutland Core Strategy

CS1 Sustainable Development principles

CS3 Settlement Hierarchy

CS4 Location of Development

CS8 Developer Contributions

CS11 Affordable Housing

CS19 Design

CS21 Natural Environment

CS22 Historic and Cultural Environment

Rutland Local Plan

EN1 Location of Development

EN5 Conservation Areas

EN17 Landscaping

EN18 Trees and Hedgerows

EN19 Ecology

EN22 Protected Wildlife Species

EN29 Amenity

HT5 Road Access and Design

IM1 On-site and Off-site Facilities

Site Allocations and Policies DPD (Proposed Submission Document)

SP4 Built Development in Towns and Villages

SP14 Design & Amenity

SP18 Biodiversity

SP19 Historic Environment

Other Material Considerations

Supplementary Planning Document: "Planning Obligations and Developer Contributions (2010)"

Supplementary Planning Document: "Developer Contributions to Off-Site Affordable Housing (2012)"

Consultations

8. Edith Weston Parish Council
One dwelling might have been acceptable, but two is an overdevelopment of the site as they are too large, too close to the neighbours on either side, have insufficient on-site parking and a detrimental impact on the Conservation Area.
9. Highway Authority
No objection, subject to various conditions.
10. English Heritage
No comments; the application should be determined in accordance with policy guidance and the Council's conservation advice.
11. Conservation Officer (verbatim comments)

"I object to the proposed development of the site, which would fail to preserve or enhance the character or appearance of Edith Weston Conservation Area. .

The application site is an area of garden land to the rear of 36 Weston Road that fronts onto Rectory Road. I consider that the land makes a positive contribution to Edith Weston Conservation Area. No assessment appears to have been made of the significance of the land within the designated heritage asset – i.e. the conservation area - as required by paragraph 128 of the NPPF. In the absence of evidence to the contrary, I consider the proposal would result in harm to the designated heritage asset that would not be outweighed by public benefit, as required in paragraph 134 of the NPPF.

Although the number of access points has been reduced and the most important trees on the site retained, I consider that the development would have a detrimental impact on the appearance of the Conservation Area. The siting and scale of the houses would also place inevitable pressure to remove trees and vegetation likely to overshadow the houses, with a resultant further adverse impact on the appearance of the area. As such, the proposal would be contrary to policy EN5 of the Rutland Local plan, in that the scale, form and siting would fail to preserve or enhance the character and appearance of the conservation area and to policy CS22 of the Core Strategy, which requires that new development will be expected to protect and where possible enhance historic assets and their settings and maintain local distinctiveness."

Neighbour Representations

12. Seven letters received from neighbouring dwellings (one anonymous) raising the following general objections:
 - Disproportionate, high density infill
 - Detrimental urbanising impact on the character of the area
 - Fails to satisfy Policy CS19 - Design
 - Dangerous access due to location of the driveway
 - Additional traffic pressure on Rectory Lane causing danger to pedestrians, particularly children en route to the primary school
 - Inadequate parking provision, causing potential for overspill parking on the narrow lane.
 - Loss of trees, including via damage during construction works
 - Impact on wildlife habitat
13. Specific comment was also offered regarding the potential impact of Plot Two, on the adjacent dwelling at 11 Rectory Lane, particularly from the occupant's themselves:
 - Loss of light, overlooking and overbearing impact, particularly as the proposal is angled towards the existing dwelling.
 - The proposed landscaping would cause further loss of light and overshadowing.
 - Smoke emissions from the proposed chimneys close to the common boundary
14. Four of the respondents suggest that one dwelling is appropriate, with some suggesting that this would allow more scope for on-site parking and for tree retention.
15. All seven respondents specify that they agree with the Case Officers pre-application advice, which was appended by the applicant to his Design and Access Statement. It is repeated as Appendix One to this report.
16. Some of the neighbours commented that the application is driven by financial gain as the applicant no longer lives in the village. This, however, is not a material planning consideration. Some comments repeat their objections to the previous application for two dwellings (2013/0303/FUL), including factual comments that were relevant to the previous scheme but not the current proposal. These have not been reported above.

Planning Assessment

17. The main issues for consideration are:
 - Principle of development
 - Access and Parking
 - Trees and Landscaping
 - Design and impact on the Edith Weston Conservation Area
 - Residential amenity of neighbouring dwellings
 - Planning Obligation
18. Any outstanding matters are then addressed together at the end of the report.

Principle of Development

19. The proposed development site is within the “Planned Limits to Development” of Edith Weston, which is identified as a “Local Service Centre” within the Adopted Rutland Core Strategy. Consequently, some modest development on infill plots is acceptable in principle.
20. However, this not override the detailed considerations assessed below.

Access and Parking

21. The existing access on Rectory Lane, used in the past as a secondary entrance for 36 Weston Road, is now proposed as a single point of access for the two new dwellings. This is a change from the previous application (2013/0303/FUL) which proposed a separate access for each plot via the existing entrance and a proposed new entrance further east.
22. The use of a single point of access is preferable to the previous proposal, as the proposed new access had inferior sight lines, would have created a visually detrimental gap in the frontage and would have also required some significant earth movements to deal with changes in ground levels. The current proposal can satisfy sight line requirements and would have much less visual impact. The internal driveway intended to serve both plots does not raise any issues. The on-site parking and turning arrangements are satisfactory, with sufficient parking spaces available to meet the standards for both the three-bed and four-bed dwelling.
23. The applicant’s later submission that the on-site parking and turning for each property accords with current standards, is accepted.
24. Given all this, and notwithstanding some of the public comments, the Highway Authority does not have any objections, albeit that conditions would be required on any approval to deal with such technical matters as driveway surfacing. The proposed access and parking arrangements are therefore acceptable.

Trees and Landscaping

25. The current proposal involves the loss of a significant number of trees, in the centre and rear of the site, with others partly hidden behind the new dwellings. As individual specimens, most of these are not of high amenity value, but their group value contributes positively to the character and appearance of the Edith Weston Conservation Area.
26. It is appreciated that many of the better quality trees are to be retained along the road frontage and that the existing hedgerow is to be retained and supplemented. However, the proximity of some of the retained trees to the proposed dwellings could also result in pressure for their removal if future occupants were concerned at potential branch drop, loss of light or overbearing impact on their dwelling. This particularly applies to the large walnut tree at the rear of Plot Two which, on its own, is of significant amenity value.
27. In his subsequent comments, the applicant specifies that the layout was changed pre-submission to allow more space between the proposed dwellings and retained trees. This is acknowledged, but the proposed layout still raises these concerns.

28. Given all this, any grant of planning permission is likely to result in a significant loss of trees during the construction phase, with potential for further tree losses at a later stage, in addition to those at the rear of the site which would be hidden from public view. Such a loss is contrary to Development Plan Policy as the existing tree cover on this site, and on neighbouring land in this part of Rectory Lane, makes a positive contribution to the character and appearance of the Conservation Area,.
29. In addition to the concerns about layout and design, below, this detrimental impact on the Conservation Area results in the first recommended reason for refusal.

Layout and Design

30. On its own, the proposed loss of existing landscaping (above) would be detrimental to the character and appearance of the Conservation Area, but the proposed layout and design of the new dwellings would then add further detriment. Although the proposed materials and front elevations attempt to copy the vernacular of a Rutland village, there are a number of other detailed concerns.
31. Firstly, the two dwellings are of different sizes and thereby create an unbalanced appearance. This is then exacerbated by the smaller dwelling (Plot One) being located towards the rear of the site to create scope for the shared access at the front, whilst the larger dwelling (Plot Two) is further forward to ensure that the walnut tree is retained at the rear. Notwithstanding these benefits, the net result is an imbalance between a large new dwelling with garage and a smaller dwelling appearing to be squeezed into a rear part of the site. This also creates the impression of overdeveloping the site, and does not preserve or enhance the character and appearance of the Conservation Area.
32. The design of the dwelling on Plot Two incorporates a one-and-a-half storey element at the east. This is intended to reduce the potential impact on No.11 Rectory Lane but, from public viewpoints, it has the appearance of an overly wide side extension. This adds further detriment to the street scene and Conservation Area. The garage door also appears to be of an up-and-over design, inappropriate within the Conservation Area. Also, on Plot One, the external chimney stack is not an appropriate feature within the Rutland vernacular.
33. Given all this, the proposal is contrary to various Development Plan Policies in that the scale, form, siting and design would fail to preserve or enhance the character and appearance of the conservation area. In particular, it is contrary to Policy CS22 of the Core Strategy, which requires new development to protect and where possible enhance historic assets and their settings and maintain local distinctiveness. Finally, this substantial harm would not be outweighed by any public benefit, as required in paragraph 133 of the NPPF.
34. The applicant's subsequent input suggests that the Conservation Officer is advising that no development should be permitted on the site. However, it is clear that the Conservation Officer is only commenting on the current proposal for two dwellings and has not suggested that any development would be unacceptable. The applicant has also produced a schedule of planning permission for new dwellings in Edith Weston since 2001. However, none of these raise the same depth of concern as the current proposal.
35. In addition to the concerns about loss of trees and landscaping, above, this detrimental impact on the Conservation Area is taken forward via the first recommended reason for refusal.

Residential Amenity of Neighbouring Dwellings

36. The key issue for consideration is the potential impact of the larger dwelling on Plot Two on the residential amenity of the neighbouring property at 11 Rectory Lane. The neighbouring property is on higher ground than Plot 2, with a number of ground and first floor windows directly facing the boundary. There is also a patio area between the dwelling and the boundary.
37. A key change from the plans submitted with the previous (withdrawn) application is that the two storey part of the dwelling on Plot 2 is now further away from the neighbouring dwelling, with a lower one-and-a-half storey element now closer to the common boundary. However, the proposed dwelling is angled slightly towards the neighbouring dwelling
38. Given the lower ground levels of the proposed new dwelling, the lower height of the one-and-a-half storey element, and its absence of rear first floor windows, the overbearing/overlooking impact on the neighbour's west facing first floor windows would not justify any recommendation of refusal.
39. Closer consideration must be given, however, to the potential overlooking/overbearing impact on the neighbour's west facing ground floor windows and patio area. In addition to the one-and-a-half storey element, the two storey part of the proposal (angled towards the common boundary) would create an overbearing impact. The patio area would also be overlooked from the first floor windows on the two storey part of the proposed dwelling.
40. The applicant's later comments suggest that this proximity between dwellings is not uncommon in villages. It is accepted that, traditionally, there are many such situations but this does not justify any grant of planning permission, contrary to today's policies.
41. The application is therefore also recommended for refusal because of the impact on the residential amenity of the neighbouring dwelling at 11 Rectory Lane. There are no concerns regarding other neighbouring properties.

Planning Obligation

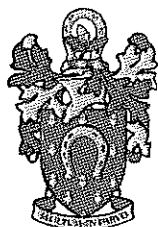
42. Any grant of planning permission would require an associated Planning Obligation to secure financial contributions from the developer towards provision of additional public services, including off-site provision of affordable housing. The applicant has been advised of the required contributions for Edith Weston but has not progressed this. It is recommended that the absence of an Obligation should be a further reason for refusal.

Other Considerations

43. Although not justifying any further reason for refusal, the proposed loss of trees will have some impact on wildlife habitat. There are, however, no concerns regarding any archaeological interests in this part of the village.
44. The applicant has written to the Parish Council (cc. the Case Officer) in response to its formal views on the application. This includes a comment on earlier pre-application advice, which, in his view, encouraged a scheme for two dwellings. For clarity, this earlier advice set out the issues to be addressed via any application for two dwellings; it did not encourage such a proposal. The applicant has already been advised that a single dwelling of appropriate location and design may be acceptable on this site.

Pre-application advice

Note: Given the financial implications, the Planning Obligation figures appended to the pre-application advice, are not reproduced here.



Rutland
County Council

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DX: 28340 Oakham

Mr Ian Smith
Smiths Gore
Stuart House
City Road
Peterborough
PE1 1QF

15 January 2014

Our Ref: PRE/2013/0444

Dear Mr Smith

**Preliminary enquiry relating to land at the rear of 36 Weston Road, Edith Weston, Rutland:
Proposal for 2 No. dwellings.**

I refer to your enquiry concerning the above site, received on 25 November 2013. Please accept my apologies for the delay in providing you with this reply.

I'm mindful that you have submitted this enquiry in response to the various issues that arose during consideration of your previous planning application (Ref: 2013/0303/FUL) for two dwellings on this site. The application was subsequently withdrawn on 28 June 2013.

I note that the site layout plan submitted with your current enquiry now proposes a single access from Rectory Lane and has also adjusted the proposed footprint of both dwellings. The following paragraphs provide comment on various issues likely to arise if this were submitted as a further planning application. An overall conclusion is then provided at the end of the letter.

I appreciate that, to give you a complete picture, this response will inevitably repeat some of the advice previously released in response to the earlier pre-application enquiries of 13 October 2011 and 3 December 2012. Furthermore, as our previous discussions about the earlier planning application had concentrated on key issues, I will take the opportunity to comment on other resolvable details via this letter.

Principle of Development

The proposed development site is within the "Planned Limits to Development" of Edith Weston, which is identified as a "Local Service Centre" within the Adopted Rutland Core Strategy. Consequently, some modest development on infill plots is acceptable in principle. However, this is subject to various detailed considerations being resolved satisfactorily, as discussed below.

Access and Parking

I am pleased to note that your proposal now includes a single vehicular access serving both proposed dwellings.

Given this, the site access should be a minimum of 4.25 metres wide, to enable traffic associated with each new dwelling to pass each other. The gradient of the access driveway should be no greater than 1:20 for the first 5 metres beyond the highway, and should be constructed of a hard bound but porous material. It should be designed to meet these requirements with minimal impact on frontage landscaping.

Any grant of permission is also likely to include specific conditions to ensure that:

- visibility Splays are maintained at the site entrance
- the on-site parking and turning spaces are made available before the new dwellings are occupied
- no gates are constructed within 5 metres of the highway

That said, I have discussed your proposed parking arrangements with colleagues at the Highway Authority, and am concerned that the on-site parking for Plot 1 (two tandem spaces) is very tightly crammed into a limited area between the proposed dwelling and the site boundary. I appreciate that the provision of two spaces will satisfy the standard requirement for a three bedroomed dwelling, but the proposed layout could conflict with the proposed planting on the western boundary, adjacent to No. 21 Rectory Lane. I also note that the shared access to Plot 2 could be hindered as it is also used as a turning area for Plot 1. This all increases the potential for parking and manoeuvring on the highway to the detriment of public safety and convenience.

The parking arrangements should be reconsidered if you decide to proceed with a planning application for two dwellings. Please ensure that the proposed spaces are at a minimum size of 5 metres x 2.4 metres. For Plot 1, you may wish to consider the provision of a garage or the availability of space for such a construction in the future. At present, the proposed layout does not provide scope for this but, given the current reliance on just parking spaces, there could still be pressure from future occupants for the construction of such a garage, but without any available potential.

Also, please note my related comments under "Trees and Landscaping", below.

Trees and Landscaping

Any grant of planning permission would require the Local Planning Authority to accept the loss of a significant number of trees, as indicated on your submitted drawings. As individual specimens, most of these are not of high amenity value, but their group value does contribute positively to the character and appearance of the Edith Weston Conservation Area. If permission is granted, Tree Preservation Orders may be considered for some of the retained trees.

Any such planning application would also need to demonstrate that the internal driveways would have no direct impact on retained trees and hedging.

I also remain concerned at the short distance between some of these retained trees and the proposed dwellings. This could result in pressure for their removal if future occupants are concerned at potential branch drop, loss of light or overbearing impact on their dwelling. In particular I am concerned at pressure for removal of the large walnut tree at the rear of Plot Two.

Design and Impact on the Edith Weston Conservation Area

The Conservation Officer has offered the following comments (verbatim):

"The proposal is for two large houses on an area of garden land that makes a positive contribution to the character and appearance of Edith Weston Conservation Area.

Although the number of access points has been reduced and the most important trees on the site retained, I consider that the development would have a detrimental impact on the Conservation Area. The siting of the houses would also place inevitable pressure to remove trees and vegetation likely to overshadow the houses, with a resultant further adverse impact on the appearance of the area. As such, the proposal would be contrary to policy EN5 of the Rutland Local plan, in that the scale, form and siting would fail to preserve or enhance the character and appearance of the conservation area and to policy CS22 of the Core Strategy, which requires that new development will be expected to protect and where possible enhance historic assets and their settings and maintain local distinctiveness.

No assessment appears to have been made of the significance of the land within a designated heritage asset – i.e. the conservation area - as required by Para 128 of the NPPF. In the absence of evidence to the contrary, I consider the proposal would result in substantial harm that would not be outweighed by substantial public benefit, as required in paragraph 133 of the NPPF."

Despite the retention of trees and hedging along the site frontage, my view is that the current proposal would introduce a greater element of built development into what is otherwise a very green and verdant part of the conservation area. In particular, the existing views of trees at the rear of the site would be reduced.

I am also concerned that the two dwellings are of different sizes creating an unbalanced appearance. I appreciate that Plot 1 has to be set back further into the site in order to create scope for the shared access, and that Plot 2 has to be further forward to ensure that the walnut tree is retained at the rear. However, this exacerbates the visual impact of the dwelling on Plot 2 being much larger than on Plot 1. On the other hand, if the site were able to accommodate two dwellings, I do not consider that similar sizes would introduce any unwarranted uniformity or suburban character, given the softening impact of the existing landscaping.

With regard to the detailed design of the proposed dwellings, I am concerned that the location and orientation of the garage/workshop for Plot 2 creates a visually discordant feature. The garage door also appears to be of an up-and-over design which may not be appropriate within the Conservation Area. The one and a half storey element of this dwelling also creates the appearance of an overly wide side extension. This creates a discordant feature in itself, but also exacerbates the visual impression of this dwelling being too large, and adds to the overall detrimental impact identified by the Conservation Officer.

Albeit not visible from the public highway, the extent of glazing on the rear gable feature of the dwelling on Plot 2 could also be out of keeping with the design of this dwelling. Finally on Plot One, the external chimney stacks on both side elevations are not appropriate features within the Rutland vernacular.

Also, please note my related comments under "Residential Amenity", below.

Residential Amenity of Neighbouring Dwellings

As previously discussed, the potential impact on residential amenity of the neighbouring property at No.11 Rectory Lane was one of my most significant concerns about your previous planning application. I appreciate that the revised proposal has reduced this, but, in my view, not to a degree that would make the scheme acceptable in this regard. In arriving at this view, I have assessed the proposal from within the neighbouring property, but have not given the occupants any indication of my opinion.

A key change on your revised plan is that the higher part of the dwelling on Plot 2 is now further away from the neighbouring dwelling, with the lower (one and a half storey) part now closer to the common boundary. This lower element does not have the same overbearing impact on the neighbouring property. I also note that there is reduced potential for overlooking given that there are no first floor windows on its rear elevation.

That said, I remain concerned about the impact of the two storey part of the proposed dwelling, particularly as it is now angled slightly towards the neighbouring dwelling rather than the 90 degree relationship indicated on your previous proposals. As a result, it is likely to have an overbearing impact on the patio area at the west of the neighbouring property and on some of its west facing ground floor windows. Given the lower ground levels of the proposed new dwelling, I accept that it will not have the same overbearing impact on the neighbour's first floor windows.

Albeit via an angled view, I am concerned that the extent of glazing on the rear gable feature of Plot 2 would create a perception of overlooking and loss of privacy for occupants of No. 11 Rectory Lane.

Planning Obligation

Any grant of planning permission will require an associated Legal Agreement (Planning Obligation)⁵⁴ intended to secure financial contributions from the developer towards provision of additional public services as a result of the increased population.

I have attached an up-to-date "quotation" provided by the Council's Section 106 Officer. You will note that this is expressed as two separate figures per metre squared, for affordable housing and for general payments. Given the concerns expressed earlier in this letter, I have not applied these to the total floorspace of your proposal.

Conclusion

Although willing to explore the possibility of developing this site for two dwellings via three rounds of pre-application enquiry and related discussion, I have consistently suggested that the site may only be suitable for one new dwelling.

Given the various constraints and other issues set out above, I consider that the revised proposal is still an overdevelopment of the site, and that it may be appropriate to revise the scheme to just a single new dwelling located centrally within the available area. Subject to details, this is more likely to overcome my various concerns.

Finally, please note that these comments represent my views on the material made available, and are offered without prejudice to the formal consideration of any subsequent planning application.

Yours sincerely

Patrick Gear
Senior Planning Officer

**Your proposal may require approval under the
Building Regulations.**

To find out, please contact Building Control on 01572
722577 or email buildingcontrol@rutland.gov.uk

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Scale - 1:1250
Time of plot: 12:13
Date of plot: 14/05/2014



Rutland County Council

Catmose,
Oakham,
Rutland
LE15 6HP

Application:	2014/0320/FUL	ITEM 4	
Proposal:	Retrospective application for construction of a shed in the rear garden.		
Address:	Jetty Cottage, 18 Main Street, Preston		
Applicant:	Mr Ivan John Bingham	Parish	PRESTON
Agent:	N/A	Ward	Braunston & Belton
Reason for presenting to Committee:	Enforcement Action recommended		
Date of Committee:	27 May 2014		

EXECUTIVE SUMMARY

The applicant is applying retrospectively for the retention of a shed in the rear garden of a listed building. The boxy design and appearance of the shed has a detrimental impact upon the setting of the listed building, and the neighbouring listed building.

The application is recommended for refusal, along with enforcement action for the removal of the shed.

RECOMMENDATION

A. REFUSE PLANNING PERMISSION, for the following reason:

The shed, by virtue of its size, design and appearance, results in it being an incongruous feature within the rear garden, to the detriment of the setting of both the listed building (no. 18 Main St) and the adjacent attached listed cottage (no.20 Main Street). This harm would not be outweighed by any public benefit. As such, the proposal is contrary to policies CS19 and CS22 of the adopted Core Strategy (2011), SP19 of the emerging Site Allocations and Policies Development Plan Document: Proposed Submission Document (2014), and paragraph 134 of the National Planning Policy Framework.

B. TAKE ENFORCEMENT ACTION

Subject to The Head of Legal Services being satisfied as to the evidence, that all required enforcement action be taken, including through the Courts if necessary, to ensure the removal of the shed from the grounds of Jetty Cottage, 18 Main Street, Preston.

Site & Surroundings

1. The application site is a terraced 17th-18th century stone dwelling, located in central Preston, within the conservation area. The cottage is part of a row of listed buildings.
2. Both cottages have access to the rear through a shared gated archway, and there is a fence delineating the boundary. The neighbouring property until recently was part of the application site; however the properties were converted into separate units in 2009. As part of the above conversion a flat roofed garage in the rear garden was demolished in order to separate the site.

3. There is a block paved patio area to the rear, and a small grassed garden on raised ground (300mm).

Proposal

4. The applicant is seeking retrospective permission for the retention of a shed that has been constructed on the block paved area in the rear garden. It has an unorthodox rectangular design with a flat roof, and is made of wood. Planning permission is required as it is located within the grounds of the listed building.
5. A photograph of the shed is attached as **APPENDIX 1**.

Relevant Planning History

FUL/2009/1154 & Conversion of single dwelling into two dwellings Permission
LBA/2009/1155

Planning Guidance and Policy

National Planning Policy Framework (NPPF)

Part 12: Conserving and enhancing the historic environment
Paragraph 207 - Enforcement

The Rutland Core Strategy

CS19 – Promoting Good Design
CS22 – Historic Environment

Rutland Local Plan

EN5 – Conservation Area
EN29 – Amenity

Other Considerations

Site Allocations and Policies Development Plan Document (DPD) – Proposed Submission Document (April 2013)

SP14 – Design & Amenity
SP19 – The Historic Environment

Consultations

6. Preston Parish Council
No comments received
7. Conservation Officer
'I saw the structure when visiting the property to agree replacement windows with the householder.

The structure is about 6 metres from the rear of the grade II listed buildings at 18 & 20 Main Street. I consider that the size, design and appearance results in it being an incongruous feature within the rear garden and has an adverse impact on the setting of both the application building and also the attached listed cottage at No.20 Main Street. Although partially visible through the archway between the two

properties, it does not have a significant impact on the character of Preston Conservation Area, however.

I suggested that, if it is to be retained, it ought to be relocated to be further away from the houses to reduce its intrusive impact.'

Neighbour Representations

8. No responses received

Planning Assessment

9. The main issues are the impact on setting of the listed buildings, and potential enforcement action.

Impact on setting of the listed buildings

10. The shed's boxy design and size results in it appearing as a visually incongruous addition to the rear garden, to the detriment of the setting of the listed buildings in the immediate vicinity (the application site and no 20 Main St). This impact would not be outweighed by any public benefit.
11. It is noted that there was a flat roofed garage in the rear garden that was demolished when the site was split. However, as this structure has been removed, this should not carry any weight when considering the current application.
12. The objection from the Conservation Officer is noted, and has been given due consideration. Officers have looked at the potential to re-locate the structure, however given the small size of the rear garden, there is insufficient space to accommodate an alternative location that would reduce the indentified impact on the setting of the listed buildings.

Other Issues

13. While the shed is adjacent to the shared side boundary, given it is angled away from the boundary, it does not have a significant overbearing or detrimental impact upon the residential amenity of the neighbouring property.
14. The shed would be partially visible from the public footpath through the iron bars of the gate, however it would not be prominent from the street, and would not significantly impact the character or appearance of the conservation area.

Enforcement action

15. As the shed is already constructed on site, if Members are minded to accept the recommendation for refusal of the current application, it would be expedient to undertake enforcement action to secure its removal. It is recommended that three months should allow enough time for compliance.
16. Members are also asked to note the following information regarding enforcement action.

FINANCIAL IMPLICATIONS

17. Legal costs will be incurred if this matter is pursued, although this cost will be kept to a minimum. Should prosecution in the Courts become necessary, an application for costs will be made if the Council is successful. Any works carried out in default would allow the Council to demand payment from the landowner. If the Council is unsuccessful through the Courts, cost would fall to be met from current budgets.

LEGAL IMPLICATIONS

18. Under Section 172 of the Town and Country Planning Act 1990, the Council may serve an Enforcement Notice if Members are satisfied that:
 - a. There has been a breach of planning control and,
 - b. It is expedient to issue the Notice having regard to the provisions of the Development Plan and any other material considerations.
19. To the extent that the Human Rights Act may be engaged, it is considered that the enforcement action proposed is proportionate and justified response to the harm caused to legitimate public interests by the unauthorised development.

