



# **Rutland County Council**

Catmose, Oakham, Rutland, LE15 6HP

Telephone 01572 722577 Email: [governance@rutland.gov.uk](mailto:governance@rutland.gov.uk)

Ladies and Gentlemen,

A meeting of the **PLANNING AND LICENSING COMMITTEE** will be held in the Rutland County Museum, Catmose Street, Oakham, Rutland, LE15 6HW - The meeting can be listened to at <https://us06web.zoom.us/j/83424320117> on **Monday, 4th October, 2021** commencing at 7.00 pm when it is hoped you will be able to attend.

Yours faithfully

Mark Andrews  
**Chief Executive**

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## **A G E N D A**

### **1) APOLOGIES**

To receive any apologies from Members.

### **2) DECLARATIONS OF INTERESTS**

In accordance with the Regulations, Members are invited to declare any disclosable interests under the Code of Conduct and the nature of those interests in respect of items on this Agenda and/or indicate if Section 106 of the Local Government Finance Act 1992 applies to them.

### **3) PETITIONS, DEPUTATIONS AND QUESTIONS**

Requests to speak on planning applications will be subject to the RCC Public Speaking Scheme.

To request to speak at a Planning Committee, please send an email to [Governance@rutland.gov.uk](mailto:Governance@rutland.gov.uk)

**4) PLANNING APPLICATIONS**

To receive Report No. 131/2021 from the Strategic Director of Places  
(Pages 3 - 38)

**5) ANY URGENT BUSINESS**

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**TO: ELECTED MEMBERS OF THE PLANNING AND LICENSING COMMITTEE**

Councillor E Baines (Chairman)

Councillor D Blanksby

Councillor K Bool

Councillor A Brown

Councillor G Brown

Councillor P Browne

Councillor W Cross

Councillor A MacCartney

Councillor M Oxley

Councillor K Payne

**Rutland County Council**

**Planning & Licensing Committee – Monday 4<sup>th</sup> October 2021**

**Index of Committee Items**

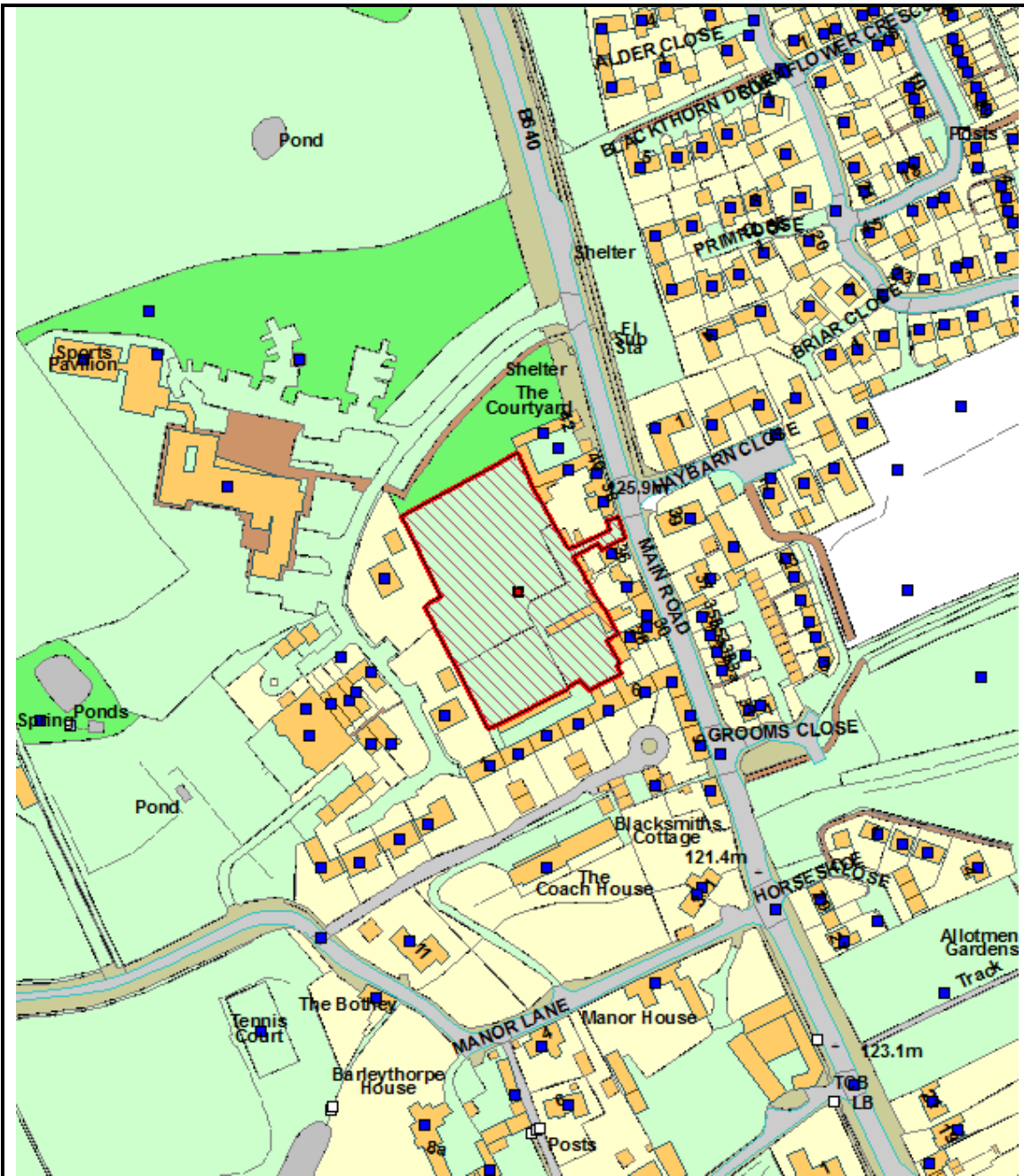
<b>Item</b>	<b>Application No</b>	<b>Applicant, Location &amp; Description</b>	<b>Recommendation</b>	<b>Page</b>
<b>1</b>	<b>2019/1389/FUL</b>	S A Rutland Land adj to Barleythorpe Hall, Main Road, Barleythorpe 6 no. detached dwellings with garaging and associated site work.	<b>Approval</b>	<b>5 - 30</b>
<b>2</b>	<b>2021/0229/LBA</b>	Mr Gary Dale, LOROS 9 High Street East, Uppingham Change colour or wood work on front of shop window to DULUX MONARCH, including same on the window & 2 doors to the side of the property. Also replace existing graphics to side window with graphics relating to the hospice and add graphic images to the front of the shop window.	<b>Approval</b>	<b>31 - 37</b>

**REPORT NO: 131/2021**

**PLANNING AND LICENSING COMMITTEE**

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

**REPORT OF THE DIRECTOR OF PLACES**



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Ordnance Survey [100018056]



**Rutland County Council**

Catmose,  
Oakham,  
Rutland  
LE15 6HP

Application:	<b>2019/1389/FUL</b>	<b>ITEM 2</b>	
Proposal:	<b>6 no. detached dwellings with garaging and associated site work</b>		
Address:	<b>Land Adjacent To Barleythorpe Hall. Main Road. Barleythorpe</b>		
Applicant:	<b>S A Rutland Ltd</b>	Parish	<b>Barleythorpe</b>
Agent:	<b>Mr Malcolm Foulkes- Arnold</b>	Ward	<b>Barleythorpe</b>
Reason for presenting to Committee:	<b>At the request of the Head Of Development Control</b>		
Date of Committee:	5 <sup>th</sup> October 2021		
Determination Date:	<b>10 February 2020</b>		
Agreed Extension of Time Date:	<b>29 October 2021</b>		

## EXECUTIVE SUMMARY

**The Council's approach to Barleythorpe being a Restraint Village is out of date as it can demonstrate that Barleythorpe is in effect a sustainable location.**

**This is a suitable site for residential development, providing housing on vacant land within the planned limits of development for Barleythorpe. The design and layout is of good quality which does not have a detrimental impact on residential amenity, heritage assets or highway safety.**

## RECOMMENDATION

Referred to the Chairman of the Planning Committee for APPROVAL subject to signing of a Section 106 Agreement and subject to the following conditions:

1. The development shall be begun before the expiration of three years from the date of this permission.  
Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans,  
Drawing Number: Drawing Number: 4611/BJ/18/001 Rev P0 - Location Plan  
Drawing Number: 4611/BJ/19/003 Rev P10 - Proposed Master Site Plan  
Drawing Number: F19138/01 Rev C - Improved Access Layout and Visibility Assessment  
Drawing Number: 4611/BJ/19/005 Rev P0 - Proposed Plot 1 Ground, First & Roof Plans  
Drawing Number: 4611/BJ/19/006 - Rev A - Proposed Plot 1 - Elevations  
Drawing Number: 4611/BJ/19/007 Rev P0 - Proposed Plot 2 - Ground & First Floor Plans  
Drawing Number: 4611/BJ/19/008 Rev B - Proposed Plot 2 - Roof Plan  
Drawing Number: 4611/BJ/19/009 Rev E - Proposed Plot 2 Elevations  
Drawing Number: 4611/BJ/19/010 Rev P0 - Proposed Plot 3 - Ground & First Floor Plans  
Drawing Number: 4611/BJ/19/011 Rev B - Proposed Plot 3 - Roof Plan  
Drawing Number: 4611/BJ/19/012 Rev P0 - Proposed Plot 3 Elevations  
Drawing Number: 4611/BJ/19/015 Rev P0 - Proposed Plot 4 - Plans & Elevations  
Drawing Number: 4611/BJ/19/016 - Proposed Outbuilding  
Drawing Number: 4611/BJ/19/017 Rev P0 - Proposed Plot 5 - Plans & Elevations  
Drawing Number: 4611/BJ/19/020 Rev P0 - Proposed Plot 6 Plans & Elevations  
Drawing Number: 4611/BJ/19/032 Rev P1 - Proposed Garages

Drawing Number: 4611/BJ/19/033 Rev P0 - Proposed Garage for number 34, Main Street  
Drawing Number: 4611/BJ/19/034 Rev P0 - Proposed Garage for number 36, Main Street  
Drawing Number: 4611/BJ/19/035 Rev P0 - Proposed Plot 4 Garage  
Drawing Number: 4611/BJ/19/036 Rev P0 - Proposed Plot 5 Garage  
Drawing Number: 4611/BJ/19/037 Rev P0 - Proposed Plot 6 Garage  
Drawing Number: 4611/BJ/19/040 Rev P0 - Proposed Plots 4 & 5 Site Section  
Drawing Number: 4611/BJ/19/041 Rev P1 - Plot 4 Site Section C-C  
Drawing Number: 4611/BJ/19/042 Rev P1 - Plot 5 Site Section D-D  
Drawing Number: 4611/BJ/19/043 Rev P0 - Garage Site Section E-E  
Drawing Number: 4611/BJ/19/045 Rev P0 - Plot 4 Site Section CC- CC  
Drawing Number: 4611/BJ/19/046 Rev P0 - Plot 5 Site Section DD-DD  
Drawing Number: 100410\_01\_0500\_01 Rev A - Proposed Drainage Strategy  
Drawing Number: 100410\_01\_0500\_02 - Proposed Permeable Areas

Reason: For the avoidance of doubt and in the interests of proper planning.

3. No development above damp course level shall be carried out until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.  
REASON: To ensure that the materials are compatible with the surroundings in the interests of visual amenity and because no details have been submitted with the application.
4. No ground works including any Archaeological works shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, including boundary treatments, which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in Relation to Construction."  
REASON: To ensure that the landscaping is designed in a manner appropriate to the locality and to enhance the appearance of the development
5. All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species.  
Reason: To ensure that the landscaping is carried out at the appropriate time and is properly maintained.
6. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all hard and soft landscape areas and walls and fencing, other than small, privately owned, domestic gardens, shall be submitted to and approved, in writing, by the local planning authority prior to the first occupation of the development. The landscape management plan shall be carried out as approved in accordance with the details and timescales in the plan.  
Reason - To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

7. No development shall take place until the existing trees on the site, agreed with the Local Planning Authority for inclusion in the scheme of landscaping / shown to be retained on the approved plan, have been protected by the erection of temporary protective fences in accordance with BS5837:2012 and of a height, size and in positions which shall previously have been agreed, in writing, with the Local Planning Authority. The protective fences shall be retained throughout the duration of building and engineering works in the vicinity of the trees to be protected. Within the areas agreed to be protected, the existing ground level shall be neither raised nor lowered, and no materials or temporary building or surplus soil shall be placed or stored there. If any trenches for services are required in the protected areas, they shall be excavated and back-filled by hand and any tree roots encountered with a diameter of 5cm or more shall be left unsevered.
- Reason - The trees are important features in the area and this condition is imposed to make sure that they are properly protected while building works take place on the site.
8. No development shall commence until details of existing and proposed levels of the site, finished floor levels and identifying all areas of cut or fill, have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the agreed scheme.
- Reason - To ensure that appropriate details are approved by the Local Planning Authority in the interests of the appearance of the development and so that works are undertaken and completed in reasonable time.
9. The development hereby permitted shall not commence until details of the design, implementation, maintenance and management of a surface water drainage scheme have been submitted to and approved in writing by the local planning authority. Those details shall include:
- a) Information about the design storm period and intensity (1 in 30 & 1 in 100 (+30% allowance for climate change), discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance, the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters;
  - b) Flood water exceedance routes, both on and off site;
  - c) A timetable for implementation;
  - d) Site investigation and test results to confirm infiltrations rates; and
  - e) A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by an appropriate public body or statutory undertaker, management and maintenance by a Residents' Management Company or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.
- Reason: To ensure that surface water is dealt with on site to prevent flooding of land nearby and downstream
10. No development shall take place, including any demolition work, until a Construction Management Plan has been submitted and approved in writing by the Local Planning Authority, which will include the following:-
- a) A scheme for monitoring, reporting and control of construction noise and vibration including hours of working and scope for remedial action.
  - b) A scheme for the control of dust and scope for remedial action in the event that dust is identified as an issue or any complaints are received.



c) A scheme of chassis and wheel cleaning for all construction vehicles to include the details of location and specification of a fully working jetted drive-thru bath type wheel wash system together with hard surfacing laid between the apparatus and public highway in either concrete or tarmac, to be maintained free of mud, slurry and any other form of contamination during the period of construction with all exiting vehicles passing through. A contingency plan including, if necessary, the temporary cessation of all construction operations and movements to be implemented and any affected public highway thoroughly cleaned immediately with mechanical sweepers in the event that the approved vehicle cleaning scheme fails to be effective for any reason.

d) Haul routes to the site and hours of delivery.

e) Measures to ensure that vehicles can access the site immediately upon arrival to ensure there is no parking, waiting, loading/unloading or queuing on the public highway.

f) Details of site compounds, storage area and contractor/visitor parking/turning.

g) Details of the site enclosure or part thereof and gated site security.

h) Confirmation of any tree protection measures.

i) Confirmation that any demolition will be carried out in accordance with the ecological assessment.

j) Details of site notice with contact details and a scheme for dealing with complaints.

k) Details of any temporary lighting which must not directly light the public highway.

l) Phasing plans where necessary.

m) a scheme for recycling/disposing of waste resulting from the demolition and construction works.

n) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.

The development shall thereafter be carried out in accordance with the approved Construction Management Plan.

Reason: In the interests of residential amenity and highway safety in accordance with policies Policies SP15 and SP17 of Site Allocations & Policies Development Plan Document Adopted October 2014.

11. No demolition/development shall take place/commence until a staged programme of archaeological work, commencing with an initial phase of trial trenching and including photographic survey as necessary has been undertaken. Each stage will be completed in accordance with a written scheme of investigation (WSI), which has been [submitted to and] approved by the local planning authority in writing. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and

- The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
- The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

Reason: To ensure satisfactory archaeological investigation, recording, dissemination and archiving

12. The development hereby approved shall be carried out in accordance with the recommendations contained within the Extended Phase 1 Survey by Hillier Ecology dated January 2020.  
Reason: In the interests of the protection of wildlife and their habitat.
13. The accesses shall be designed to ensure no surface water flows from the private area on to the public highway.  
Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety in accordance with Policy SP15 of Site Allocations & Policies Development Plan Document Adopted October 2014.
14. The existing brick wall around the site shall be retained in perpetuity in accordance with the details shown on Drawing Number: 4611/BJ/19/003 Rev P10 - Proposed Master Site Plan.  
Reason: The wall makes a positive contribution to the character of the Conservation Area.
15. No development above damp course level shall be carried out until precise details of the new Green Screen Fencing as shown on Drawing Number: 4611/BJ/19/003 Rev P10 - Proposed Master Site Plan shall be submitted to and approved in writing by the local authority. The Green Screen Fencing shall be erected and maintained in accordance with those approved details before occupation of the first dwelling and shall remain as such thereafter.  
Reason: In the interests of the protection of neighbouring private residential amenity.
16. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A, B, C, and D of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwellings shall be erected or carried out except with prior planning permission.  
Reason: The local authority wishes to control further development of the site.
17. Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Classes A, B and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no provision of buildings, enclosures, swimming or other pool shall be erected except with prior planning permission.  
Reason: The local authority wishes to control further development of the site.

## **Deferred Matters.**

1. This application was deferred from the meeting of Tuesday 24<sup>th</sup> August to address issues that were raised regarding affordable housing provision and to allow Members to carry out a site visit.

### Revised Conditions

2. Following points that were raised during the committee meeting the attached conditions have been amended to include a condition which requires the existing wall that surrounds the site to be retained (Condition 14) and final details of the proposed green screen to be submitted for final approval (Condition 15).
3. Condition 4 has been amended to replace the words 'No development above damp course level shall take place'

4. For the words ' No ground works including any Archaeological works shall take place'.
5. The proposed Highway Conditions have also been amended.
6. The Highway Department has requested that various conditions stated within the report are removed and replaced. This is to remove some duplication.
7. Conditions 9 & 13-15 have been removed from the conditions stated in the committee report of the 24<sup>th</sup> August Agenda and replaced with the following condition:
8. The following condition is to be added:

*No development shall take place, including any demolition work, until a Construction Management Plan has been submitted and approved in writing by the Local Planning Authority, which will include the following:-*

- a) A scheme for monitoring, reporting and control of construction noise and vibration including hours of working and scope for remedial action.*
  - b) A scheme for the control of dust and scope for remedial action in the event that dust is identified as an issue or any complaints are received.*
  - c) A scheme of chassis and wheel cleaning for all construction vehicles to include the details of location and specification of a fully working jetted drive-thru bath type wheel wash system together with hard surfacing laid between the apparatus and public highway in either concrete or tarmacadam, to be maintained free of mud, slurry and any other form of contamination during the period of construction with all exiting vehicles passing through. A contingency plan including, if necessary, the temporary cessation of all construction operations and movements to be implemented and any affected public highway thoroughly cleaned immediately with mechanical sweepers in the event that the approved vehicle cleaning scheme fails to be effective for any reason.*
  - d) Haul routes to the site and hours of delivery.*
  - e) Measures to ensure that vehicles can access the site immediately upon arrival to ensure there is no parking, waiting, loading/unloading or queuing on the public highway.*
  - f) Details of site compounds, storage area and contractor/visitor parking/turning.*
  - g) Details of the site enclosure or part thereof and gated site security.*
  - h) Confirmation of any tree protection measures.*
  - i) Confirmation that any demolition will be carried out in accordance with the ecological assessment.*
  - j) Details of site notice with contact details and a scheme for dealing with complaints.*
  - k) Details of any temporary lighting which must not directly light the public highway.*
  - l) Phasing plans where necessary.*
  - m) a scheme for recycling/disposing of waste resulting from the demolition and construction works.*
  - n) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.*
- The development shall thereafter be carried out in accordance with the approved Construction Management Plan.*

*Reason: In the interests of residential amenity and highway safety in accordance with policies Policies SP15 and SP17 of Site Allocations & Policies Development Plan Document Adopted October 2014.*

#### Additional Affordable Housing information

9. Following deferral of the application a further consultation has been carried out with the Affordable Housing Officer for clarity on why a commuted sum has been requested for this site.
10. The Officer has pointed to Cabinet Report No: 119/2016 (see Appendix 1) which set the commuted sum threshold policy for Rutland County Council. The purpose of the report was to summarise the government's revised national Planning Policy Guidance published May 19th 2016 in respect of the use of s106 Agreements on small scale development and identify and confirm changes required to the Council's S106 policy in response to the above.
11. The report set out the policy change for Rutland which stated that affordable housing and tariff style s106 contributions will be sought from developments of between 6 and 10-units in the form of cash payments which are commuted until after the completion of units within the development.
12. The current application is for 6 units and as such a commuted sum has been requested.

#### **Site & Surroundings**

13. The site is located at the western edge of Main Road in Barleythorpe, Rutland. It comprises a rectangular shaped parcel of land with an area of approximately 0.55 hectares and is under the ownership of the residents at Property No. 36 Main Road (the Applicant). The site is bound by undeveloped land to the north, properties fronting Main Road to the east, residential dwellings fronting a private road off Manor Lane to the south and Rutland County College to the west
14. The site is currently served by a dropped kerb access at the western edge of Main Road which leads to the driveways of Nos. 36 and 38, Main Road.
15. Main Road is a single carriageway road subject to a 30mph speed limit at the site frontage. It extends in a north to south direction past the site frontage connecting to the A606 to the north and providing access into Oakham to the south

#### **Proposal**

16. The design of this private development revolves mainly around a central round-about with various private drives accessing the properties which sit around the edges of the site.
17. The composition of the dwellings on the site are as follows:
18. Plot 1 is a two storey dwelling 5 bedroom dwelling  
Plot 2 is a two storey dwelling 5 bedroom dwelling  
Plot 3 is a two storey dwelling 5 bedroom dwelling  
Plot 4 is a two storey dwelling 4 bedroom dwelling  
Plot 5 is a two storey dwelling 4 bedroom dwelling  
Plot 6 is a two storey dwelling 4 bedroom dwelling

#### **Relevant Planning History**

- Application (2014/1077/FUL)

A planning application was originally submitted in November 2014 under reference 2014/1077/FUL for the provision of 8 detached houses and associated garages and gardens on the current application site.

The proposed access arrangements for that application were considered by Highways who objected to the proposal.

That application was subsequently refused for reasons relating to sustainability, impacts on Clock House Court and highway safety

- Application (2016/0048/FUL)

A second planning application was submitted in March 2016 under reference 2016/0048/FUL, which again sought consent for 8 detached houses and associated garages and gardens on the application site.

Planning permission was refused on 3 grounds on 4 May 2016 referring to sustainability and impacts on Clock House Court

## **Planning Guidance and Policy**

### **National Planning Policy Framework**

Chapter 2 – Achieving Sustainable Development – Presumption in favour of sustainable development  
Chapter 5 – Delivering a Sufficient Supply of Homes  
Chapter 9 – Promoting sustainable transport  
Chapter 11 – Making effective use of land  
Chapter 12 – Achieving well designed places  
Chapter 16 – Conserving and enhancing the historic environment

### **The Rutland Core Strategy (2011)**

CS3 – Settlement Hierarchy  
CS4 – Location of Development  
CS19 – Promoting Good Design  
CS22 – The Historic and Cultural Environment

### **Site Allocations and Policies DPD (2014)**

SP5 – Development in Towns and Villages  
SP6 – Housing in the Countryside  
SP9 – Affordable Housing  
SP15 – Design & Amenity  
SP20 – The Historic Environment

## **Supplementary Planning Document**

Planning Obligations

## Consultations

19. **Highway Department:** No objection subject to conditions
20. **Lead Flood Authority:** No objections subject to conditions
21. **Conservation Officer:** No objection
22. **Rutland Tree Officer:** No objections subject to conditions.
23. **Rutland Design Officer:** No objection
24. **Ecology:** No objection subject to condition
25. **Archaeology:** No objections

## Neighbour Representations

26. Objections have been received from 11 objectors in relation to the amended scheme mainly revolving around impact on residential amenity, impact on the setting of listed buildings, drainage and highway safety.
27. The issues raised are as follows:
  - The creation of an additional vehicular entrance will create a potentially dangerous situation. Object on the grounds of unsatisfactory and unsafe access.
  - Concern that the vehicular access way to the proposed development will create a traffic hazard by increased traffic flow at this point immediately adjacent to our existing access which is shared with number 38 Main Road
  - Parked vehicles on the road already make access and egress from 38 & 40 extremely difficult and the additional vehicle movements would surely create a potentially dangerous situation.
  - The garage would be approximately 6 metres from the rear of our property which is unacceptably close considering that our property is a listed asset.
  - The 2016 application found that the application for smaller units, further away from existing buildings and of a smaller scale was unacceptable both in terms of residential amenity and impact of heritage assets
  - The proposals will cause harm to residential amenity given their proximity and overbearing presence.
  - The residential dwelling at Plot 5 is approximately 12 metres from the rear of 3 Clock House Court. It is clear that this small distance is unacceptable and will cause harm to the setting of the listed asset(s).
  - The land could be used in such a manner that met Local and National planning regulations and gave due consideration to the feelings of the immediate neighbours.
  - provision has been made regarding the parking of vehicles on the pavement/road thus restricting the visibility in the direction of Oakham
  - The size and scale of the proposed development is totally inappropriate for this site
  - Plan which is unworkable given the existing access rights of number 40 which appear to have been completely ignored.
  - the vehicular access way to the proposed development will create a traffic hazard by increased traffic flow at this point immediately adjacent to our existing access
  - An application for 8 No. bungalows was refused and garage to Plot 5 is the same height and only 6m from rear of 3, Clock House Court.

- Due to height, proximity and scale, current application should also be considered to have an adverse impact with regards to the listed buildings.
- The built form of Plot 5 will be overbearing and intrusive over 3 Clock House Court
- The proximity, height and scale of current proposals are worse and impact more on residential amenity than dwellings under 2016/0048/FUL Refusal
- Lowering of adjacent ground will impact on neighbouring walls and tree roots.
- No information regarding the future maintenance of the green fencing
- Serious road safety issues caused by the access to the Main Road, will remain irrespective of the number of dwellings
- Traffic hazard caused by access to the proposed development from the Main Road. Parked vehicles in the Main Road seriously limit the vision of vehicles leaving the site which, with traffic frequently passing through the village at 40mph
- Proposed buildings adjacent to our home look straight into our dining/living room.
- Plots 5 and 6, which now directly over look our home. This new proposal does not maintain privacy and does not prevent overlooking or overbearing
- The site is on a considerable slope and we are now concerned about the possibility of flooding by run-off water into our garden.
- We also have significant reservations surrounding the access road particularly the visibility towards Oakham. This is exacerbated by local residents parking their vehicles on road/pavement day and night further reducing the view in that direction
- Plot 5 will be overbearing over No. 4 Clock House Court
- The kitchen and utility windows on the West side of Plot 2 will be looking straight into our house
- Plot 2 is too close to our plot we would suffer a significant loss of privacy and light
- plot 4 would have considerable impact upon 5 Clock House Court concerned about my privacy and the light that will be blocked out by the new house due to houses being considerably higher in accordance with higher land levels on the site

## **Planning Assessment**

28. The main issues are the principle of development, design and impact on the character and appearance of the conservation area, impact on the setting of adjacent listed buildings, residential amenity, highway safety, impact on trees, drainage and the delivery of affordable housing.

### Policy Context and the Principle of Development

29. The starting point for determination is the development plan and whether there are any material planning considerations that would justify setting aside the development plan policies.
30. Policy CS4 states that a minor level of development can be accommodated in Smaller Service Centres. This is defined in the supporting text as 5 units (but within the PLD).
31. Since the Core Strategy was adopted in 2011, planning advice has moved on and the government encourages the re-use of brownfield land, especially to provide housing in sustainable locations. The appeal that was allowed at Greetham Garden Centre established that the development of a brownfield site adjacent to the PLD of a settlement can be considered acceptable, provided it is acceptable in all other planning considerations, even where the local planning authority can demonstrate a 5 year housing land supply. Whilst Barleythorpe village lacks a range of services it is located close to Oakham which provides a wide range of local services.

32. It is necessary to consider the position of Barleythorpe as a restraint village when considering this planning proposal against the policies in the adopted Local Plan.
33. The following information needs to be taken into account when determining this proposal:
34. **Cores Strategy Policy CS3** – sets out the defined settlement hierarchy for Rutland and identifies Barleythorpe as a Restraint Village. The Core Strategy definition of a 'restraint village' means it is one of the smallest villages with few services and facilities making it an unsustainable location for development. Policy CS4 states Restraint Villages are not considered sustainable locations for further development, unless it is development normally acceptable in the countryside.
35. Barleythorpe village adjoins Oakham, the site is accessible on foot to the full the range of services public transport, services and facilities, including supermarkets, hospital, secondary school and train station. Therefore, Barleythorpe can demonstrate it is a sustainable location. In the emerging plan the settlement hierarchy has been reviewed and Barleythorpe will jointly be with Oakham in the settlement category given its sustainable location.
36. **SAPD Policy SP1 – Presumption in Favour of Sustainable Development** states the Council will take a positive approach when considering development proposals that reflect the NPPF presumption in favour of sustainable development in line with Paragraph 11.
37. Where there are no policies relevant to the application or relevant policies are out of date then the Council will grant permission unless material considerations indicate otherwise, taking into account whether this proposal will lead to any adverse impacts, which would significantly and demonstrably outweigh the benefits of the scheme in the context of the presumption in favour of sustainable development.
38. It is considered the Council's approach to Barleythorpe being a Restraint Villages is out of date and that Barleythorpe is in effect a sustainable location. The National Planning Practice Guidance (NPPG) states that all settlements can play a role in delivering sustainable development and so blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless their use can be supported by robust evidence.
39. Therefore, the exceptional release of this land for residential development will need to be justified in accordance with the provisions of the NPPF.
40. Paragraph 11 of the NPPF makes it clear that there is a presumption in favour of sustainable development, which has three dimensions: economic, social, and environmental. The main factors to consider are whether the proposal will lead to any adverse impacts, which would significantly and demonstrably outweigh the benefits of the scheme in the context of the presumption in favour of sustainable development.

The main issues are:

41. Whether the proposal for 6 dwellings is an efficient use of the site sufficient to meet the economic dimension of NPPF Paragraph 11 by providing housing to support economic growth;
42. The social dimension and whether this is met, although affordable housing is not provided on site, a commuted sum has been calculated and will be subject to a legal agreement
43. Finally whether the proposal meets the environmental dimension and whether this proposal for 6 dwellings constitutes sustainable development and whether the proposal will harm the



character and setting of Barleythorpe.

44. A commuted sum has been calculated and subject to the final signing of the Section 106 Agreement the affordable housing provision is set to be met.
45. The Site Allocations & Policies DPD, has Policy SP1 – Presumption in Favour of Sustainable Development. This policy is now more relevant where the Council cannot demonstrate a 5 year supply of housing. The policy states the Council will take a positive approach when considering development proposals that reflect the National Planning Policy Framework (NPPF) presumption in favour of sustainable development in line with Paragraph 11 d) of the NPPF. This includes applications involving the provision of housing, where the local planning authority cannot demonstrate a five year supply of deliverable housing sites. Where relevant policies are out of date then the Council will grant permission unless material considerations indicate otherwise, taking into account whether this proposal will lead to any adverse impacts, which would significantly and demonstrably outweigh the benefits of the scheme in the context of the presumption in favour of sustainable development.
46. The main issue is whether the proposal meets the environmental dimension and whether this proposal for six dwellings constitutes sustainable development. The proposal is within the planned limits of Barleythorpe and is not considered to result in significant visual harm to the area. Given the current shortfall in the required five-year housing supply, the low adverse impacts of the development are not considered to significantly outweigh its benefits. As such the development is considered to be in compliance with the National Planning Policy Framework.
47. In terms of location of the site, the NPPF advises that when planning for development i.e. through the Local Plan process, the focus should be on existing service centres and on land within or adjoining existing settlements. The site lies within the planned limits of development for Barleythorpe adjoining Oakham the main town and is within walking distance of a number of facilities including a supermarket, schools, GP surgery and train station.
48. It is considered the Council's approach to Restraint Villages is out of date, the National Planning Practice Guidance (NPPG) states that all settlements can play a role in delivering sustainable development and so blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless their use can be supported by robust evidence. Therefore, it is considered the site is in a sustainable location and meets the NPPF's core approach to sustainable development. Given the proposal consists of developing alongside existing residential development, it is considered unlikely the proposal will harm the character and setting of the countryside.
49. Overall, we are satisfied that this development for six dwellings constitutes sustainable development in accordance with the NPPF and that it is unlikely to have any adverse impact on the surrounding environment or character of the area that would significantly and demonstrably outweigh the benefits of the application, when assessed against the policies of the NPPF as a whole.

#### Design

50. The dwellings are of a design and form which complements the range of properties that surround the site and are to be constructed from a pallet of materials and include details which will further assimilate them with the prevailing character of the village.
51. The original submission was for 8 No. dwellings but was reduced to 6 to overcome issues relating to the impact on the setting of the listed Clock House Court dwellings and dwellings being too close to a group of Yew Trees which benefit from a Tree Preservation Order

(TPO).

52. The proposed amended development comprises the erection of 6 residential dwellings, on land to the rear of Property No. 36 Main Road. Plots 1 and 2 and 4 to 6 are all provided with 2 off-street parking spaces and a double garage, whilst Plot 3 is provided with 3 off-street parking spaces and a triple garage. The proposed development would be served by an improved access from Main Road, further details of which are outlined in Section 4 of this report.
53. The internal layout comprises a single access road that extends from Main Road to the centre of the site. It then forms a small roundabout which serves private driveways to the 6 proposed dwellings.
54. Regarding the density of the scheme, although allocated in the emerging Local Plan for eight dwellings the site layout provides a density of six as requested by the Local Authority. Affordable housing will be dealt with an offsite contribution under a section 106 agreement.
55. Concern was raised about the original plan and the height of Plot 3 against Plot 2 and 40, Main Road believing this dwelling to be too large in form and overly high in relation to the houses within the site and the properties to the east that front Main Road. It was considered that this house would be visible within the roofscape of the area and will be visually intrusive.
56. Plot 3 has been lowered into the ground to be more in keeping with the height of Plot 2 as indicated in the submitted cross-section 'A' plan. The cross-sections show that the dwelling are not large in form or overly high in relation to other houses within the site and the properties to the east that front Main Road. Elements of the houses will be visible within the roofscape of the area but will not be visually intrusive.
57. The front boundary treatment and other landscaping will be the subject of a more detailed submission under condition should consent be granted. However the site plan now reflects that low hedges and dwarf walls with railings will form the front boundary treatment to plots.
58. A large proportion of the site's boundaries are formed of tall walls that have heritage value and are likely to be associated with Barleythorpe Hall. The development preserves these walls and by retaining them, uses them to enhance the character of any proposed scheme.
59. The entrance to the site is sensitive in that it is very close to an existing property and its front boundary wall. The highway design is sensitive to this with the edge materials proposed on the plan along the access street being of high quality and adding to the historic character of the development.
60. The central roundabout is a key focal point within the scheme and features sensitive landscaping within it. A full landscaping proposal will be submitted for approval under condition once consent is received. It is envisaged that a semi-mature tree could be included as the focal point on the roundabout within the site providing a much stronger feature. It is also envisaged that the proposal will include a rich variety of native species creating a strong element of Biodiversity. All of this will be subject to approval by the Local Authority.
61. The local authority has a Design Officer who has been formally consulted to assess all the important design considerations. The Officer considers that this proposal for 6 dwellings constitutes sustainable development which will not harm the character and setting of Barleythorpe. The development is considered sensitive to the setting of the designated and non-designated heritage assets within the site and the surrounding area.
62. The scheme has taken account of the mature trees close to the site boundary, including their root protection areas. Trees within the site have been assessed and been used as features within the site to enhance its character and biodiversity value.

63. By virtue of the design, scale and materials to be used, the proposal would be in keeping with the area, streetscene and surrounding context in accordance with Section 12 and Section 16 of the NPPF (2021), Policies CS19 and CS22 of the Rutland Core Strategy (2011) and Policies SP15 and SP20 of the Site Allocations and Policies Development Plan Document (2014).

#### Heritage Matters

64. The Conservation Officer has been able to assess the full submission, including the cross-sections.
65. The Conservation Officer has been consulted particularly to gauge if he considers that the scheme has been designed to preserve and enhance the setting of the conservation area and designated heritage assets and non-designated heritage assets.
66. Given that the built development immediately to the rear of the buildings on the Main Road frontage will now comprise only garaging and other single storey elements and, therefore, the two storey houses will be further removed from the rear boundary to the existing houses, the Conservation Officer does not consider, even allowing for the difference in ground levels, that the development as now proposed would have an adverse impact on the setting of the Listed and unlisted buildings on the Main Road frontage.
67. Also, it is considered that there would be no adverse impact on the setting of the Grade II Listed Clock House and Stables to the south.
68. Whilst there would be a less than substantial harm to the setting of various surrounding listed buildings on both the Main Road and Clock House Court, on balance, the harmful elements of the proposal are justified and outweighed by public benefit through provision of dwellings on a redundant site within a sustainable location in accordance with Paragraphs 194 and 196 of the National Planning Policy Framework (NPPF 2021).
69. In reaching our conclusion and recommendation the local authority have considered the statutory duty of Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, having special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.

#### Neighbouring Amenity

70. The original scheme for 8 dwellings showed Plot 4 is very close to the rear boundary of No. 32, Main Road and would have sited built form at a two storey height the full width of the rear garden creating a dominant and oppressive environment. The garden area would encounter increased levels of overshadowing and lose a significant amount of light compared to what it currently enjoys. Similar impacts would have been felt to the closest elevation of No. 28, Main Street with two storey built form being sited in very close proximity to habitable room windows and amenity space.
71. Concern was raised about the original plan and the height of Plot 3 against Plot 2 and 40, Main Road believing this dwelling as too large in form and overly high in relation to the houses within the site and the properties to the east that front Main Road. It was considered that this house would be visible within the roofscape of the area and will be visually intrusive. Plot 3 has been lowered into the ground to be more in keeping with the height of Plot 2 as indicated in the cross-section A.
72. Following objections and inaccurate details an amended sections and Additional Neighbour Impact document was submitted.

73. These sections show the development in relation to the listed Clock House Court.

No. 5 Clock House Court

74. The separation distance between the proposed Plot 4 and the existing property at No.5 Clock House Court satisfies the requirement of 22m between principle windows at First Floor. Two of the three small windows to the First Floor of No5 Clock House Court would not be considered 'Principle' windows as they serve the En-suite to Bedroom 1 and the Family Bathroom.
75. Due to the size and location of the First Floor windows in question it is considered that any potential for overlooking is negligible given the size of windows, the purpose of the space served by these openings and the considerable distance between them and the proposal. The existing fencing is also evident in these images and this will be retained, with an additional 1.5m maintenance / access path to the new boundary and green fence screening.
76. Any potential for overlooking or loss of amenity space would be negated through the inclusion of the new, 1800mm high, green screen boundary fence shown in the sections.
77. Regarding impact on residential amenity, the impacts of overlooking from Plot 4 first floor front windows has now been reduced over the rear garden of No. 34, Main Street.
78. Plot 4 has also been moved away from the rear boundary of No. 32 and elevation of No.28, Main Road reducing the dominant and oppressive environment that the previous siting created.

No. 2 Clock House Court

79. The Ground Floor openings of Plot 5 face what is mainly the blank gables of No.2 Clock House Court as the only opening from No.2 is the door avoiding the resident's access to the rear garden, therefore no principle windows are adversely affected.
80. Plot 5 will have a blank gable to the first floor so no openings will face No. 2, Clock House Court.
81. The Ground level within the adjacent site will be lowered to accommodate the proposed 2 storey dwelling at Plot 5 which will bring it more in line with the existing level of No.2 and minimise any potential for overlooking. As with Plot 4, a maintenance / access path will be retained between the existing boundary and the new boundary of Plot 5, which will also have a 1.8m green screen.
82. The information contained within the neighbouring impact document demonstrates that the potential for overlooking has been reduced to an acceptable level with suitable levels of separation. The proposed development would therefore have no adverse effect on the privacy and amenity space of the adjacent properties at Clock House Court.
83. Plot 5 is the closest property to No. 7, Barleythorpe Mews. Plot 5 has a single storey rear projection which has glazed double doors. Taking into account the height of this opening and the existence of boundary treatments it is considered that this will not impact on neighbouring privacy.
84. The rear first floor windows are set further back in the site and will look in the direction of the side elevation of No.7. Due to the levels of separation maintained between these upper floor windows and neighbouring habitable room windows the privacy that No. 7 currently enjoys will not be impacted to an extent that weighs against the proposed development.

85. Plot 6 is sited further away and will have longer obscure views towards No. 7. These views are further obscured by the siting of a large mature Wellingtonia tree adjacent to the boundary.
86. Plot 2 is the closest to No. 1 Barleythorpe Mews but is orientated so that its side elevation faces this adjacent property. There are no upper floor windows to the side elevation of Plot 2 which faces No. 1, Barleythorpe Mews so reducing any adverse impact on their private residential amenity.
87. Plot 1 is sited between the curtilages of Nos. 1 and 7 Barleythorpe Mews. The closes first floor window serves an en-suite and will have obscure glazing. Of the three other windows that face in the direction of Barleythorpe Mews, one serves a bathroom which again will have obscure glazing. The two bedroom windows maintain a sufficient distance of separation from the properties on Barleythorpe Mews and will offer obscure views.
88. The scheme has been designed and laid out such that there would be no unacceptable levels of impact on the amenities of adjacent residents. There is sufficient distance between all properties within and adjoining the development to avoid loss of privacy or over-dominance/overshadowing. The levels are such that the new dwellings would be higher than those existing to the south but the differences over the distances involved are not significant to make them unacceptable
89. Comments have been made about the future maintenance of the access along the boundary of Plots 4 & 5. The applicant states that there will be clauses inserted in the Contracts and corresponding TP1 Transfers for the sale of Plots 4 and 5 ensuring that the buyers will maintain the green boundary / hedge to ensure that at all times an access pathway of at least 900 mm width exists between the said green boundary/ hedge and the boundary fence. The covenant will also allow access for the owners or occupiers of (the coach house 2-6) to repair and maintain the boundary.
90. Potential disturbance from construction will be over a short period and will be no greater than could be expected from the development of such a residential site.
91. Furthermore, it is not considered that additional vehicles from this development would disturb neighbours to the extent that it weighs against the proposed development.
92. Taking into account the nature of the proposal, small scale, and adequate separation distances, it is considered that there would be no unacceptable adverse impact on the residential amenities of the occupiers of adjacent properties in accordance with Section 12 of the NPPF (2021), Policy CS19 of the Rutland Core Strategy (2011) and Policy SP15 of the Site Allocations and Policies Development Plan Document (2014).

#### Tree Matters

93. The site includes a group of Yew trees that benefit from the protection of a Tree Protection Order (TPO).
94. A tree survey was undertaken at the above site. Rutland's Tree Officer is satisfied with the submitted details and has no objection to the development.

#### Drainage

95. Regarding the drainage information that was submitted, the Lead Flood Authority are requesting that should the application be approved then conditions will be required requiring the final details of the drainage solution and a maintenance strategy to be approved in writing.

## Highway Safety

96. Concern has been raised about the access arrangements and parking.
97. The existing site access currently serves 2 residential dwellings at Property No. 36 and 38 Main Road. The proposed development comprises the erection of 6 new residential dwellings, which would result in the improved site access serving a total of 8 dwellings.
98. Alterations are proposed to an existing garden wall at No. 36, Main Street to achieve the required visibility.
99. The existing stone and rendered flank wall serving the access and enclosure to 38-40 Main Road will be repaired and refurbished subject to gaining final approval from the owners of these adjacent properties. The access through the wall is to be repaired and a new pier built to the southern part of the entrance tidying up the existing damaged brickwork.
100. The access for the first 7.0 m will be tarmac and the roadway accessing the site will be in resin bound gravel with a granite sett border to reduce the visual impact of the road as it moves into the site. All Kerbs will also be granite along the access roadways. Street material samples will be provided as part of the landscaping submission for Local Authority approval under condition following consent.
101. A suitable servicing strategy is proposed with the provision of a bin storage area adjacent to Plot 3. This location would be within 25 metres of Main Road and therefore within the maximum carrying distance for refuse collection workers.
102. The Highways Department have no objections to the development, subject to conditions. The proposed development would not result in an excessive increase of car movements from the improved site access and as such it is considered that the proposed development would not have a significant impact on the surrounding highway network.
103. Issues of rights of way and ownership are a private civil matter and not one which would weigh against this proposal from a planning perspective.
104. The proposal would result in adequate access, parking and turning facilities and would not have an unacceptable adverse impact on highway safety in accordance with Section 9 of the NPPF (2021) and Policy SP15 of the Site Allocations and Policies Development Plan Document (2014).

## Affordable Housing

105. The developer has agreed to pay a commuted sum for affordable housing which will be secured through a Section 106 Agreement.
106. The Strategic Housing Officer has been consulted to work out the commuted sum which the scheme now commands.

*'As we're now in a new financial year, I've used the **\*forecast\*** index to produce the /m2 rate, which is likely to change.*

*The average GIA size of dwelling exceeds 107m2 and that there are now 6 dwellings.*

*£188.90 [the cost/m2] x 107 x 6 = £121,273.80*

*Applying the Vacant Building Credit, 48.92m2 x £188.90/m2 = £9,240.99*

*Therefore the commuted sum would be £121,273.80 - £9,240.99 = £112,032.81. They*

*would also have to pay the Council's legal costs.'*

107. At the time of writing the report the Section 106 has not be finalised and signed and the application cannot be approved until this process has been completed.

#### Conclusion

108. The Council's approach to Barleythorpe being a Restraint Village is out of date as it can demonstrate that Barleythorpe is in effect a sustainable location.
109. This is a suitable site for residential development on vacant land within the planned limits of development for Barleythorpe. Having regard to the necessary test at paragraph 11(d) of the NPPF, there are no adverse impacts which would outweigh the benefits of development. In this case the Council's lack of a 5 year housing land supply means that the planning balance is tilted in favour of planning permission being granted. The design and layout is of good quality which does not have a detrimental impact on residential amenity, heritage assets or highway safety. There are no technical issues that cannot be overcome so the development can be approved. It is recommended that the application be approved subject to the completion of the legal agreement and that any other minor issues be dealt with in consultation with the Chairman.

**Report No: 119/2016  
PUBLIC REPORT**

## **CABINET**

**21st June 2016**

### **SECTION 106 AND AFFORDABLE HOUSING CONTRIBUTIONS ON SMALL SITES**

**Report of the Director of Places (Development and Economy)**

Strategic Aim:	Creating A Sustained Environment Building Our Infrastructure	
Key Decision: No	Forward Plan Reference: FP/270516/07	
Exempt Information	No	
Cabinet Member(s) Responsible:	Mr T King, Leader and Places (Development and Economy) and Resources	
Contact Officer(s):	Paul Phillipson, Director for Places	Tel: 01572 758321 pphillipson@rutland.gov.uk
Contact Officer(s):	Brett Culpin, Community Infrastructure and Planning Obligations Officer	Tel: 01572 758251 bculp@rutland.gov.uk
Ward Councillors	N.A.	

#### **DECISION RECOMMENDATIONS**

That Cabinet be recommended to:

1. Amend the Council's current s106 policy to bring it in line with government changes as summarised at Appendix A to this report; and
2. Implement the revised approach to s106 policy with immediate effect, with provision being made to amend/nullify any affected s106 Agreements under negotiation for all small residential developments for which a Decision Notice has yet to be issued by the Council.



## **1 PURPOSE OF THE REPORT**

- 1.1 To summarise the government's revised national Planning Policy Guidance published May 19<sup>th</sup> 2016 in respect of the use of s106 Agreements on small scale development and identify and confirm changes now required to the Council's S106 policy in response to the above.

## **2 BACKGROUND AND MAIN CONSIDERATIONS**

- 2.1 Government first introduced a change to the national Planning Practice Guidance (PPG) on this matter through a Written Ministerial Statement (WMS) on the 28<sup>th</sup> November 2014. In response Cabinet quickly approved a recommendation to amend the Council's s106 policy to bring it in line with the changes at its 6<sup>th</sup> January 2015 meeting.
- 2.2 In July 2015, a High Court judgement was issued in favour of West Berkshire and Reading Borough Councils claims for judicial review of the Governments introduction, through WMS and the PPG of a threshold on the size of developments beneath which planning authorities should not seek affordable housing contributions through s106 agreements. The ruling resulted in the Government withdrawing the changes it had made to the Planning Practice Guidance (PPG).
- 2.3 In response to the Government's withdrawal of the changes it had made to the PPG the Council published a Planning Policy Briefing Note in August 2015. This explained that the Council would effectively re-instate its policy on small development sites of 10 units or fewer, in line with the Council's policy prior to November 2014.
- 2.4 In December 2015 Cabinet approved a new Supplementary Planning Document (SPD) to provide up to date guidance on the Council's use of planning obligations. It amended existing policy to pave the way for the Cabinet recommendation to Council to adopt a Community Infrastructure Levy (CIL). This was necessary because CIL would largely replace the use of Section 106 agreements for all community infrastructure investment other than for Affordable Housing. Both CIL and the new SPD were implemented on 1<sup>st</sup> March 2016.
- 2.5 On the 11<sup>th</sup> May this year the Court of Appeal handed down judgement in the Secretary of State's appeal against the High Court decision giving legal effect to the policy originally set out in the WMS of 28<sup>th</sup> November 2014. The outcome of the legal ruling and re-insertion on 19<sup>th</sup> May 2016 of the governments desired policy guidance on its affordable housing exemption for small sites and vacant building credit requires the Council to review its planning policy with immediate effect and, in due course, the Planning Obligations SPD adopted earlier this year.
- 2.6 It is possible that West Berkshire and Reading Borough Councils may choose to appeal the Court of Appeal ruling. Any such application for leave to appeal would have to be submitted within a 28 day period from the date of the Court of Appeal's decision. If leave is granted there can be no certainty when the appeal might be heard as this is not time limited and is a matter for the Courts to decide. There is also clearly no certainty that either an application for leave to appeal or, if granted, the appeal itself would be successful.

- 2.7 It is suggested that, in the meantime, work commence on the review of the Planning Obligations SPD to bring back to Cabinet for consultation purposes. The SPD review will also look to strengthen the Council's position in resisting residential 'site splitting' by landowners/developers seeking to avoid having to make s106 contributions towards the off-site provision of Affordable Housing. This issue will be further addressed in the local plan review work currently being undertaken to establish appropriate planning policies to deliver the required housing growth over the next 20 years.

### **3 CONSULTATION**

- 3.1 There are clearly no grounds for consultation on the Council's implementation of this change to government planning policy. The procedures however for revising the current Planning Obligations Supplementary Planning Document would require consultation on a draft SPD prior to its adoption.
- 3.2 In the meantime the statement attached at Appendix A can be used to inform stakeholders and other interested parties (particularly planning agents, landowners and other applicants) of the change in the Council's planning policy alongside updating the Council's web pages on the subject.

### **4 ALTERNATIVE OPTIONS**

- 4.1 Consideration has been given to delaying making any changes to the Council's planning policy until it is clear that there will be no further challenge to the Supreme Court. An update can be given to this Cabinet meeting on whether or not leave to appeal has been sought but for the reasons outlined at paragraph 2.6 it is not clear how long the Council would have to delay in taking this approach. In the meantime planning applications determined in accordance with policy that was clearly contrary to the PPG could be the subject of challenge.

### **5 FINANCIAL IMPLICATIONS**

- 5.1 The impact of applying the new S106 policy guidance is immediate in respect of live planning applications affected by the policy change (i.e. applications yet to be determined where there are Affordable Housing requirements). As the Planning Obligations SPD only took effect on 1<sup>st</sup> March there are very few applicants with development proposals where S106 contributions for affordable housing apply in accordance with the Council's policy in the short period prior to the 19th May. These applicants have been informed of the possible change and what it may mean in respect of their planning application pending the Council's decision on the matter.
- 5.2 It is important to bear in mind that now CIL is being implemented at a charging level that is demonstrably viable to the development industry, it no longer requires a S106 legal agreement to be negotiated on each and every development proposal in order to secure 'tariff style' community infrastructure contributions. CIL is simply paid, 'up front' by the developer giving the Council a legitimate right to then invest the levy in its local infrastructure priorities.
- 5.3 The main impact on the Council will be in the loss of potential commuted sums towards off-site Affordable Housing on the small sites with between 2 and 5 dwellings in the designated rural areas and 2 and 10 dwellings in Oakham and

Uppingham. The Planning Obligations SPD had already determined a change in Council policy to not require a commuted sum for off-site Affordable Housing from single dwelling plots, residential annexe or extension to an existing home.

- 5.4 The Council currently hold a balance of approx. £151k in commuted sums for the provision of Affordable Housing. The change in policy will mean that the developers of housing sites below the new size thresholds will make no future contribution. Based on looking at recent development activity (i.e. site size breakdown of current residential commitments) and evidence produced for CIL on future site types expected to be brought forward, an estimate is that approx. 14% of future annual housing supply could be no longer making a contribution. If future housing supply is 160 dwellings a year and the average open market dwelling is 95m<sup>2</sup> in size and would have contributed £162/m<sup>2</sup> towards off-site Affordable Housing up to £344k per annum could in future years be 'lost'. There are many difficulties in estimating this potential income loss however.
- 5.5 It should also be noted that since 1<sup>st</sup> March 2016 we are applying CIL on these developments whereas with our former use of S106 agreements to securing funding for community infrastructure as well as AH contributions we would have received no future developer contributions on small sites. CIL will also apply in future to all of the dwellings on these sites if no AH is provided on site.

## **6 LEGAL AND GOVERNANCE CONSIDERATIONS**

- 6.1 A risk associated with the Council making effective the new PPG is that of a future successful legal challenge to the government's policy guidance. The benefits however outweigh this risk even allowing for the recent history of this policy initiative. When planning policy guidance changes the new guidance becomes a material consideration in any planning decision as discussed above.

## **7 EQUALITY IMPACT ASSESSMENT**

- 7.1 An EIA is not required to in respect of making planning policy compliant with government requirements. The EIA is considered in the making of the new national guidance.

## **8 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

- 8.1 The new Planning Policy Guidance is now a material consideration in the determination of planning applications and should be implemented with immediate effect.

## **9 BACKGROUND PAPERS**

- 9.1 There are no additional background papers to the report.

## **10 APPENDICES**

- 10.1 Appendix A – Changes to Section 106 and Affordable Housing & Tariff Style contributions on Small sites

A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577

## Changes to Section 106 and Affordable Housing & Tariff Style contributions on Small sites

### Introduction

The Government introduced a change to the national Planning Practice Guidance (PPG) on 19th May 2016.

(see <http://planningguidance.planningportal.gov.uk/revisions/23b/012/>)

In brief, it means that Local Authorities can no longer require affordable housing or s106 tariff-style contributions on small development sites of 10 units or less (and which have a maximum combined gross floor space of 1000m<sup>2</sup>) or 5 units or less in designated rural areas. Affordable housing or s106 tariff-style contributions can also no longer be sought on residential annexes and extensions.

### What does this mean for Rutland?

In accordance with the PPG, the lower threshold of 5-units or less units will apply to the majority of Rutland Parishes which are designated as 'rural areas' under section 157(1) of the Housing Act 1985 (see list of Parishes designated as rural areas in Rutland in Table 1). The exceptions are the parishes of Oakham and Uppingham where the higher 10 unit threshold applies.

**Table 1: Designated Rural Areas in Rutland**<sup>1</sup>

<p>In the District of Rutland, the parishes of Ashwell, Ayston, Barleythorpe, Barrow, Barrowden, Beaumont Chase, Belton, Bisbrooke, Braunston, Brooke, Burley, Caldecott, Clipsham, Cottesmore, Edith Weston, Egleton, Empingham, Essendine, Exton, Glaston, Great Casterton, Greetham, Gunthorpe, Hambelton, Horn, Ketton, Langham, Leighfield, Little Casterton, Lyddington, Lyndon, Manton, Market Overton, Martinthorpe, Morcott, Normanton, North Luffenham, Pickworth, Pilton, Preston, Ridlington, Ryhall, Seaton, South Luffenham, Stoke Dry, Stretton, Teigh, Thistleton, Thorpe by Water, Tickencote, Tinwell, Tixover, Wardley, Whissendine, Whitwell, Wing.</p>
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In the designated rural areas of Rutland, no s106 affordable housing or tariff style s106 contributions shall be sought from housing development of 5-units or less units. In addition, affordable housing and tariff style s106 contributions will be sought from developments of between 6 and 10-units in the form of cash payments which are commuted until after the completion of units within the development. The revised PPG also states that the restrictions on seeking planning obligations contributions do not apply to development on Rural Exceptions Sites which will continue to be determined in accordance with policy on such sites set out in the Council's Site Allocations & Policies Development Plan Document.

In Oakham and Uppingham, no s106 affordable housing or tariff based s106 contributions should be sought from housing development of 10-units or less units and which have a maximum combined gross floorspace of no more than 1000m<sup>2</sup>.

<sup>1</sup> Statutory instrument 2004/418 lists Rutland parishes (excluding Oakham and Uppingham) as being 'designated rural areas'.

Where vacant buildings are brought back into use or are demolished, the floorspace involved should now be deducted from the developer contribution required. New consents for self-build housing and residential extensions and annexes were already exempt subject to certain criteria under Rutland County Council policy following the decision made by Cabinet on 6 May 2014.

The PPG clarifies that the Council can still seek s106 obligations for site specific infrastructure - such as improving road access and the provision of adequate street lighting - where this is appropriate, to make a site acceptable in planning terms. This is entirely consistent with the Council's new planning obligations policy set out in the SPD adopted 1<sup>st</sup> March 2016.

In implementing these changes the Council will continue to use national planning policy guidance and adopted local planning policy to resist the artificial breaking up or division of sites by developers trying to avoid having to make a planning contribution.

### **When will these changes come into force?**

As these changes have now been introduced through the PPG, the changes will apply with immediate effect to any planning applications pending, where a decision notice has not been issued by the Council.

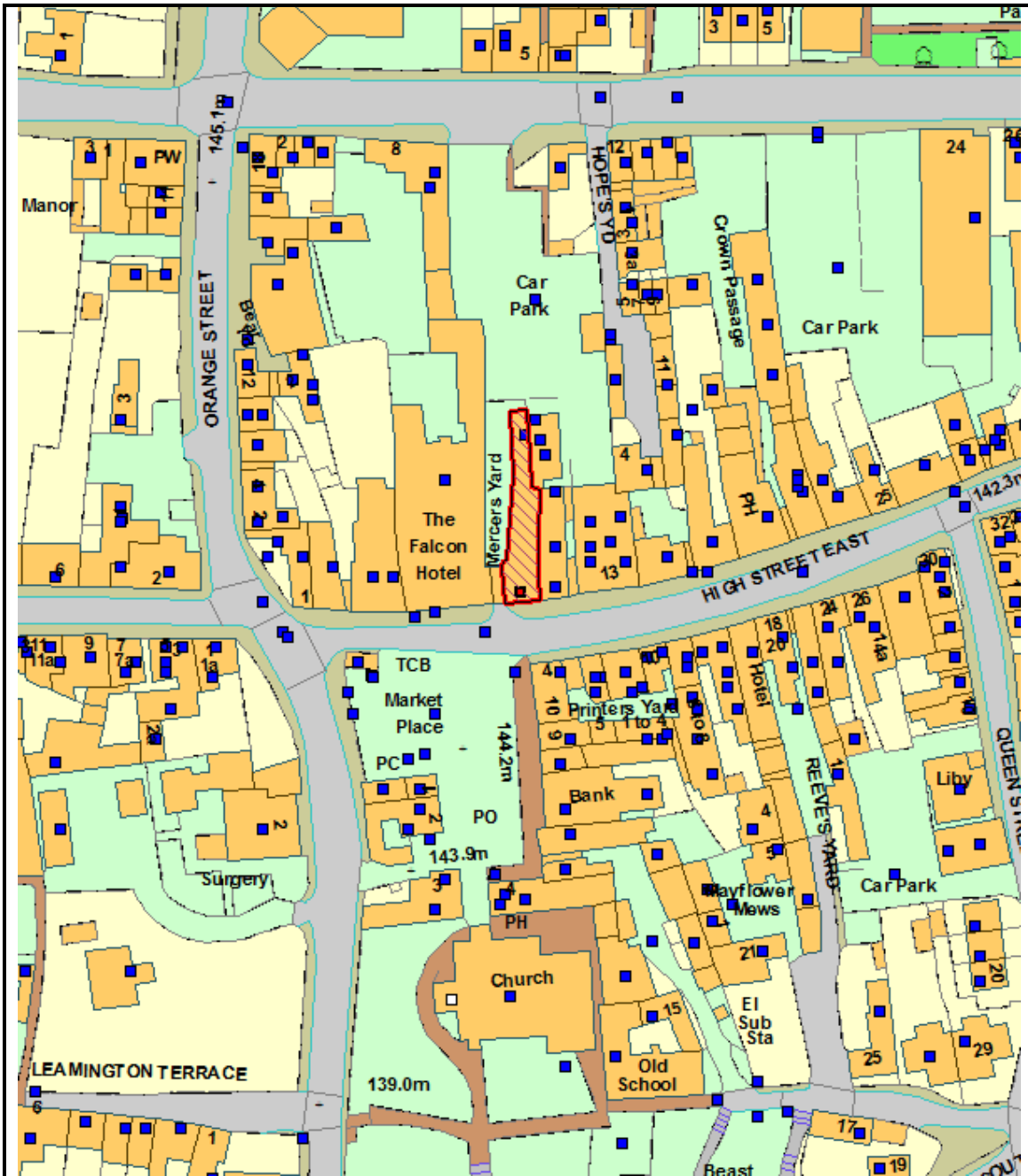
This also accords with the 'Presumption in favour of sustainable development' in the National Planning Policy Framework (NPPF) and Policy SP1 of the Site Allocations & Policies Development Plan Document which indicates that "where there is no policy or relevant policies are out of date at the time of making the decision the Council will grant permission unless material considerations indicate otherwise".

The Council intend to notify any applicants with pending planning applications where the exemptions now apply and a decision notice has not been issued about the change in policy. The Council will also update the information on its website to reflect the new situation.

The national changes do not directly affect any planning applications which already have planning consent; those s106 agreements have already been signed and remain valid. Applicants and developers who have paid contributions cannot receive refunds.

For clarity, the Council will bring forward an amended Planning Obligations SPD to update and consolidate these revised elements of section 106 policy. The SPD will continue to sit alongside the Community Infrastructure Levy which has been in force since 1<sup>st</sup> March 2016.

For further information on these changes, please contact the Council's Community Infrastructure and Planning Obligations Officer on Tel. no. 01572 758251 or email [planningpolicy@rutland.gov.uk](mailto:planningpolicy@rutland.gov.uk)



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**Rutland County Council**

Catmose,  
Oakham,  
Rutland  
LE15 6HP

Application:	<b>2021/0229/LBA</b>	<b>ITEM 3</b>	
Proposal:	<b>Change colour or wood work on front of shop window to DULUX MONARCH, including same on the window &amp; 2 doors to the side of the property. Also replace existing graphics to side window with graphics relating to the hospice and add graphic images to the front of the shop window.</b>		
Address:	<b>9 High Street East Uppingham Rutland LE15 9PY</b>		
Applicant:	<b>Mr Gary Dale</b>	Parish	<b>Uppingham</b>
Agent:		Ward	<b>Uppingham</b>
Reason for presenting to Committee:	<b>Chairman requested that the application be determined by committee</b>		
Date of Committee:	<b>4.10.2021</b>		
Determination Date:	<b>06.09.2021</b>		
Agreed Extension of Time Date:			

## EXECUTIVE SUMMARY

**The scheme has been amended so that a more appropriate heritage red paint is used and this will ensure that the proposed works would preserve the Listed Building and its settings. The Conservation Officer has raised no objections to the amended works.**

## RECOMMENDATION

**Recommendation:** Approve subject to the following conditions:-

1. The works shall begin before the expiration of 3 years from the date of this consent.  
Reason: To comply with the requirements of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.
2. The works hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers Site Location dated 18 March 2021, Proposed Graphics on the Side Alleyway Windows dated 24 June 2021, Proposed Graphics on the rear Door and Window, Proposed Location of the Graphics on the side Windows dated 24 June 2021, Proposed Front Windows dated 25 February 202, and details in the email dated 10 May 2021.  
Reason: For the avoidance of doubt and in the interests of proper planning.
3. Before the relevant signage hereby approved, is displayed, details of being fitted on the building shall be submitted to and approved in writing by the Local Planning Authority.  
Reason: For the avoidance of doubt and to safeguard the historic fabric of this listed building.

## Site & Surroundings

1. The property is a Grade II\* Listed Building in the centre of Uppingham conservation area. The building is C16/C17 and is constructed of ashlar with a Collyweston stone slate roof. The ground floor has a C20 alleyway to the left and shops front.



## **Proposal**

2. The proposal seeks consent to repaint the shopfront - both the principal elevation facing High Street and that facing onto the covered carriageway. The proposal is also for decals graphics.

## **Relevant Planning History**

LBA/2009/0180 – Removal of section of rotten timber floor and replace with concrete floor.

## **Planning Guidance and Policy**

### **National Planning Policy Framework (NPPF) 2019**

Chapter 12 - Achieving well-designed places

Chapter 16 - Conserving and enhancing the historic environment

### **Site Allocations and Policies DPD (2014)**

SP15 - Design and Amenity

SP20 - The Historic Environment

### **Core Strategy DPD (2011)**

CS19 - Promoting Good Design

CS22 - The Historic and Cultural Environment

### **Supplementary Planning Document**

Supplementary Planning Document - Shop Fronts including Signs and Shop Security

### **Neighbourhood Plan**

Policy 1 - Protect Central Conservation Area

## **Officer Evaluation**

### Neighbourhood Plan

3. The Uppingham Neighbourhood Plan requires that new development should reflect the character and appearance of the immediate environment. Policy 1 requires amongst other things that “All future development in the town centre conservation area should comply with the County Council’s conservation and heritage policies including those for listed buildings. Wherever possible, construction materials and finishes should complement the surrounding area and the character and heritage of the immediate environment. Where approved, modern replacement/new build materials should also visually complement the immediate environment.”

### Principle of the use

#### 4. Business

##### Impact of the use on the character of the area

5. The Local Planning Authority is required to ensure that special regard to preserving the Listed Buildings and their settings about Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act').
6. Furthermore, the importance of considering the impact of development on the significance of designated heritage assets is expressed in the National Planning Policy Framework (NPPF 2019). The NPPF advises that development and alterations to designated assets and their settings can cause harm. These policies ensure the protection and enhancement of historic buildings and environments. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance should be treated favourably.
7. The proposal by changing the existing colours and adding graphics to the ground floor premises would visually alter the appearance of the building. The property is prominent in the street scene and proposal should respect the historic character of the building itself and its surroundings. The originally proposed colour of paint and decal graphics were considered unsympathetic to the character and appearance of the building. Following the Conservation Officer comments, the proposal has been amended, and a new shade of the red paint and design of decal graphics has been considered acceptable.
8. The proposal also includes a hanging shop sign between first-floor windows. While there is no objection in principle to the sign, the details of its method of being fitted into the building have not been agreed upon during the lifetime of this application. Therefore, an appropriate condition will be attached to the decision.

##### Highway issues

9. The proposed development would not result any unacceptable impact on the highway safety and adopted parking standards.

##### Crime and Disorder

10. It is considered that the proposal would not result in any significant crime and disorder implications.

##### Human Rights Implications

11. Articles 6 (Rights to fair decision making) and Article 8 (Right to private family life and home) of the Human Rights Act have been taken into account in making this recommendation.
12. It is considered that no relevant Article of that act will be breached.

## **Consultations**

### **Conservation Advisor**

13. I have several concerns, not least of which is the proposed colour scheme. These may be their corporate colours but they are too garish for a Listed building, in my opinion.
14. As for the stickers/decals on the shop windows, I can confirm that these do require Listed Building Consent, as they affect the appearance of the building. I doubt that I will be objecting to those shown on the front entrance doors but those on the windows under the archway are excessive a disfiguring to the appearance of the building.

### **Conservation Advisor**

15. The building is of C16/C17 and is constructed of ashlar with a Collyweston stone slate roof. The ground floor has a C20 carriageway to left and shop front by Albert Richardson (a leading English architect, teacher and writer about architecture during the first half of the 20th century) to the right.
16. The proposal to repaint the shopfront, both the principal elevation facing High Street and that facing onto the covered carriageway, in the strident red colour proposed and in combination with the yellow background to the signage, would be unsympathetic to the character and appearance of the building, giving the building undue prominence in the scene. It would, therefore, detract not only from the appearance of the Listed building itself but also the setting of neighbouring Listed buildings and the street scene of this part of the Conservation Area generally.
17. The degree of harm that would be caused is, in my opinion, less than substantial. In such circumstances paragraph 196 of the NPPF requires that any harm be weighed against the public benefits of the proposal. Although I am not the decision maker, I would suggest that there are no public benefits that could be considered to outweigh the harm.
18. The proposal is therefore contrary to the provisions of Sections 16 and 72 of Planning (Listed Buildings and Conservation Areas) Act 1990, Paragraph 193 of the NPPF and Policies CS22 of the Core Strategy and SP20 of the Site Allocations and Policies Development Plan.

### **Conservation Advisor**

19. The Dulux Monarch Red colour is much more preferable to the garish shade of red originally proposed.

### **Conservation Advisor**

20. - No objection to proposed position for projecting sign, between first floor windows, but we need confirmation of design of bracket and that it will be fixed into the mortar joints rather than the masonry itself.  
- New alley positioning - I am agreeable to this suggestion.  
- No objection to graphics on the rear exit door and one of the windows.

### **Parish Consultation**

21. The Town Council considers that the application is not in keeping with the Conservation Area, and urges that it be rejected.

### **Ecology Unit**

22. Thank you for consulting us on this planning application to which I have no objections.
23. The application site is within a 'Swift Alert Area', where opportunities for artificial nest sites should be taken within proposed development. However, this development does not provide an opportunity for this enhancement and no new nest boxes will be required.
24. Please let me know if you require any further information.

Kind regards

Donna Oxbrough

Senior Planning Ecologist  
Leicestershire County Council  
County Hall  
Leicester  
LE3 8RA

## **Neighbour Representations**

### **Mrs Gill Horton**

25. I am a business owner in Uppingham and also the owner of a listed building. I strongly feel that the planned change of colour to bright red on a listed building in a conservation area would very much detract from the historic street scene.
26. In the Design and Access Statement, it is misleading to say that "our red is similar to Post Office Red, so feel this will work within the area", because the only Post Office Red on the Post Office building is a small portion on their signs. The Post Office have shown restraint with their corporate colour to make sure their building sits well within a Conservation Area. Their windows are cream coloured and their door a heritage green.
27. I think a small area of Loros Red similar to that on the Post Office would be acceptable, but not the window and door paint which would not be in keeping in the historic market town setting.
28. Also, the addition of graphic images to the front of the shop window would not be appropriate for the same reason.
29. Heritage colours and restraint with signage and graphics is the key here, to maintain the character of the heritage street scene and also the courtyard/alleyway to the side of this shop -featured on Historic England <https://historicengland.org.uk/listing/the-list/list-entry/1073182>.

### **Sheila Love**

30. I was shocked to see the colours of LOROS are proposed to use for the frontage of their new shop in High Street East Uppingham.
31. This is a beautiful, old town centre, with many beautiful and historic buildings. High Street is in the middle of the Conservation area, and the new shop is in a very central position.
32. The colours which LOROS wants to use would spoil the character of this High street, and if this goes ahead there is a danger that other shops might follow and the look of the town centre would be spoiled for ever.
33. I hope that the council will consider this application and its effect on the town centre carefully and turn down these plans.

### **C S & K G Love**

34. We are pleased to see that the premises recently vacated by Uppingham School Bookshop at 9 High Street East Uppingham are to be taken by LOROS. The move will provide them with a far more spacious and more suitable area.
35. However, we would like to raise an objection to the proposed colours to be used on the woodwork of the front and side elevations of the building.

36. Having had business premises ourselves for many years on High Street East, we are fully aware that this building falls within the Uppingham Conservation Area and is also a Grade II\* listed building. As we found ourselves, the appearance of premises in this area and with Listings is considered important and constraints are in place to ensure that the area is enhanced, rather than spoiled, by any changes proposed to signage, colours etc.
37. We were surprised therefore to see the colours proposed for the repainting and rebranding of 9 High Street East, and would like to object in the strongest terms to the bright red and yellow colour scheme. Bright red paint for the entirety of the wooden window frames and doors is especially jarring in this historic town centre area.
38. If allowed, this repainting would provide a precedent for other frontages in the Conservation Area, which would be highly detrimental to the overall street view and the setting of these buildings.
39. We trust that due consideration will be given to this application and its effect on the historic town centre.

## **Conclusion**

40. Taking the above into account, it is considered that the proposal is appropriate for its context and is in accordance with the NPPF (Sections 9, 12 and 16), Policy CS19 and CS22 of the Rutland Core Strategy (2011), Policy SP15 and SP20 of the Site Allocations and Policies Development Plan Document (2014). The proposal would not be contrary to the Uppingham Neighbourhood Plan.

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