

## **Rutland County Council**

Catmose, Oakham, Rutland, LE15 6HP  
Telephone 01572 722577 Email: governance@rutland.gov.uk

Ladies and Gentlemen,

A meeting of the **PLANNING AND LICENSING COMMITTEE** will be held in the Council Chamber, Catmose, Oakham, Rutland, LE15 6HP on **Tuesday, 23rd August, 2022** commencing at 7.00 pm when it is hoped you will be able to attend.

Yours faithfully

Mark Andrews  
**Chief Executive**

Recording of Council Meetings: Any member of the public may film, audio-record, take photographs and use social media to report the proceedings of any meeting that is open to the public. A protocol on this facility is available at [www.rutland.gov.uk/my-council/have-your-say/](http://www.rutland.gov.uk/my-council/have-your-say/)

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

#### **1) APOLOGIES**

To receive any apologies from Members.

#### **2) MINUTES**

To confirm the minutes of the Planning and Licensing Committee held on (19 July 2022) and receive an update on actions agreed in the minutes of the previous meeting.

(Pages 3 - 6)

#### **3) 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.

#### **4) 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)

**5) PLANNING APPLICATIONS**

To receive Report No. 141/2022 from the Strategic Director of Places.  
(Pages 7 - 10)

- a) 2022/0469/FUL  
(Pages 11 - 20)
- b) 2021/0319/OUT  
(Pages 21 - 42)

**6) APPEALS REPORT**

To receive Report No.142/2022 from the Strategic Director of Places.  
(Pages 43 - 46)

**7) ANY OTHER URGENT BUSINESS**

To consider any other urgent business approved in writing by the Chief Executive and Chairman of the Committee.

**8) DATE OF NEXT MEETING**

Tuesday 20<sup>th</sup> September 2022

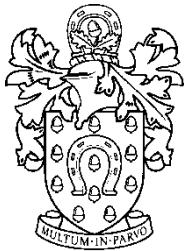
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**DISTRIBUTION**

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

Councillor E Baines (Chair)	Councillor P Browne (Vice-Chair)
Councillor N Begy	Councillor D Blanksby
Councillor K Bool	Councillor A Brown
Councillor G Brown	Councillor W Cross
Councillor J Dale	Councillor A MacCartney
Councillor R Wilson	Councillor R Payne

**OTHER MEMBERS FOR INFORMATION**



## Rutland County Council

Catmose Oakham Rutland LE15 6HP.  
Telephone 01572 722577 Email: governance@rutland.gov.uk

Minutes of the **MEETING of the PLANNING AND LICENSING COMMITTEE** held in the Council Chamber, Catmose, Oakham, Rutland, LE15 6HP on Tuesday, 19th July, 2022 at 7.00 pm

<b>PRESENT:</b>	Councillor E Baines (Chair) Councillor N Begy Councillor K Bool Councillor A MacCartney Councillor R Payne	Councillor P Browne (Vice Chair) Councillor D Blanksby Councillor J Dale Councillor R Wilson
<b>ABSENT:</b>	Councillor A Brown Councillor W Cross	Councillor G Brown
<b>OFFICERS PRESENT:</b>	Justin Johnson David Ebbage Sherrie Grant	Development Manager Governance Officer Planning Solicitor

### **1 APOLOGIES**

Apologies for absence were received from Councillor A Brown, G Brown and Cross.

### **2 MINUTES**

Consideration was given to the minutes of the meeting held on 21<sup>st</sup> June 2022.

### **RESOLVED**

- a) That the minutes of the meeting on 21<sup>st</sup> June be **APPROVED**.

### **3 DECLARATIONS OF INTERESTS**

There were no declarations of interest.

### **4 PETITIONS, DEPUTATIONS AND QUESTIONS**

In accordance with the Planning and Licensing Committee Public Speaking Scheme, the following deputations were received:

In relation to Item 5a – Planning Applications, application 2022/0469/FUL, Amanda Wright-Kluger would be speaking as a member of the public opposed to the recommendation and Jenny Dodman would be speaking as the applicant.

## **5 PLANNING APPLICATIONS**

Report No.137/2022 was received from the Strategic Director of Places.

Item 5a – 2022/0469/FUL - Two storey side and rear extension and associated works to existing dwelling. Detached garage.

(Parish: Langham; Ward: Langham)

## **6 2022/0469/FUL**

Justin Johnson, Development Manager, addressed the Committee and gave an executive summary of the application and additional information set out in the addendum, recommending approval.

Prior to the debate the Committee received deputations from Amanda Wright-Kluger as member of the public opposed to the recommendation and Jenny Dodman as the applicant.

During debate several Members expressed concern with the size of the proposed recommendations and the encroachment it would have on the neighbouring properties. The impact would be the two-storey extension which would run the length of the garden at the rear of the dwelling.

It was pointed out that the approved ridge height and the size of the proposed extension was in line with the surrounding properties and with it being set back, it was well screened from public vantage points.

Members agreed that the applicant was enlarging their existing property to be more of a size to the new builds which surrounded the dwelling.

Several Members did think a loss of light would occur to the neighbouring property with the two-storey element. Members sympathised with the applicant with their expanding family but felt there were better ways of achieving an extra bedroom than the proposed extension.

The highways report did recommend refusal as the proposal did not provide adequate parking and turning which was contrary to Policy SP15 of the Rutland Local Plan Site and Allocations DPD 2014. The applicant did indicate that they would do away with the garage to facilitate that aspect and if deferred, Members wanted that aspect to be considered in the deferral.

Members felt a site visit would be more appropriate and defer rather than refuse as there was a previous approval on this particular site.

The Committee raised concerns around the materials that were proposed for the extension. They felt the applicant should be pushed towards using more traditional building materials to match the surrounding area.

It was moved by Councillor Baines and seconded that the application be deferred and for it to be brought back to a future meeting. The reasons for deferral were:

- To negotiate with the applicant for a reduced scheme for the increase in the ridge height but to have the extent of the rear projection, an element of that to be single storey only
- To look at the materials being used
- The parking at the front of the property

Upon being put to the vote, the motion was unanimously agreed.

### **RESOLVED**

- a) That planning application 2022/0469/FUL be **DEFERRED** to a future meeting.

## **7 APPEALS REPORT**

Report No. 138/2022 was received from the Strategic Director for Places. Justin Johnson, Development Manager, presented the report which listed for Members' information the appeals received since the last ordinary meeting of the Planning & Licensing Committee and summarised the decisions made.

### **RESOLVED**

- a) That the contents of the report be **NOTED**.

## **8 ANY OTHER URGENT BUSINESS**

There were no items of urgent business.

## **9 DATE OF NEXT MEETING**

23<sup>rd</sup> August 2022

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**The Chairman declared the meeting closed at 8.02pm**

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**REPORT NO: 141/2022**

**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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**Rutland County Council**

**Planning & Licensing Committee – 23 August 2022**

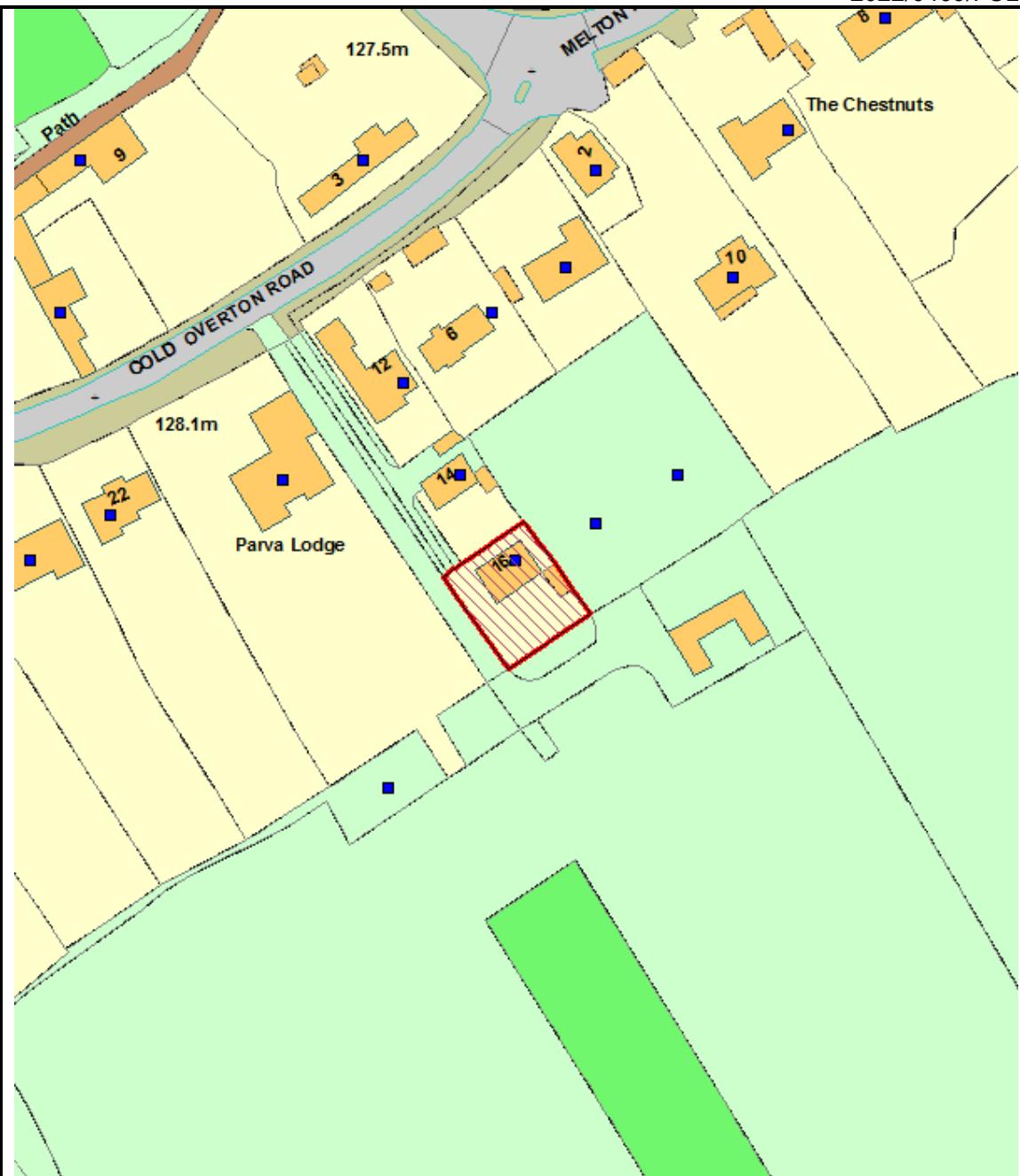
**Index of Committee Items**

Item	Application No	Applicant, Location & Description	Recommendation	Page
1	2022/0469/FUL	<b>Ms J Dodman Serendene, 16 Cold Overton Road, Langham Two storey side and rear extension and associated works to existing dwelling. Detached Garage</b>	Approve	11-20
2	2021/1319/OUT	<b>Mr Robert Jeynes C/O Andrew Clover Planning &amp; Design Ltd Rear of 8A Reeves Lane, Wing</b>	Refuse	21-42

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# Agenda Item 5a

2022/0469/FUL



**Rutland County Council**

Catmose,  
Oakham,  
Rutland  
LE15 6HP

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Application:	<b>2022/0469/FUL</b>	<b>ITEM 1</b>			
Proposal:	<b>Two storey side and rear extension and associated works to existing dwelling.</b>				
Address:	<b>16 Cold Overton Road, Langham</b>				
Applicant:	<b>Ms J Dodman</b>	Parish	<b>Langham</b>		
Agent:	<b>Mr Chris Froggatt</b>	Ward	<b>Langham</b>		
Reason for presenting to Committee:	<b>Referral by Chairman</b>				
Date of Committee:	<b>23<sup>th</sup> August 2022</b>				

## EXECUTIVE SUMMARY

**This is a minor household development for a two-storey side and rear extension and detached garage. The proposal would sit within the residential curtilage, and there is no material planning consideration to object this type of development in already managing land.**

## RECOMMENDATION

### APPROVAL, 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, numbers unmarked Site Location Plan dated 28.04.2022, unmarked Block Plan dated 09.08.2022 Rev A, 1660-04 REV F Proposed Elevations, 1660-03 REV F Proposed Floor Plan, 1660/06 Section Y-Y Plan Rev A, 1660/07 Section Z-Z Plan Rev A, and details specified on the application form.  
Reason: For the avoidance of doubt and in the interests of proper planning.
3. Before the work above the ground level begin a sample of the external material shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.  
Reason: To ensure that the materials are compatible with the surroundings in the interests of visual amenity and because final details have not been agreed during the lifetime of the application.
4. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015(or any Order revoking and re-enacting that Order with or without modification); the new first-floor windows in the north-east elevation and the first floor bathroom window in the northern elevation shall be obscurely glazed and fixed-opening where any part of the window is below 1.7metres in height when measured from the internal floor level. The development hereby permitted shall not be occupied until these measures have been implemented and they shall thereafter be permanently retained in this approved form.  
Reason: To protect the privacy and amenities of the occupiers of adjoining property.

### INFORMATIVES

1. This permission shall not be construed as granting rights to development on, under or over land not in the control of the applicant.
2. The attached planning permission is for development which will involve building up to, or close to, the boundary of the site. Your attention is drawn to the fact that, if you should need access to neighbouring land in another ownership in order to facilitate the construction of the building and its future maintenance, you are advised to obtain permission from the owner of such land for such access before work is commenced.

## **Introduction**

1. This application was reported to the planning committee on the 19 July 2022. At the meeting Members resolved to defer the application for the following reasons:
  - To negotiate with the applicant for a reduced scheme for the increase in the ridge height but to have the extent of the rear projection, an element of that to be single storey only
  - To look at the materials being used
  - The parking at the front of the property

## **Site & Surroundings**

2. The application site is located within Langham Conservation Area. The existing property comprises a two-storey detached dwelling, situated within a residential area.

## **Proposal**

3. The development seeks permission to amend the scheme approved under reference 2020/0665/FUL. The proposals include a rear extension with room in the roofspace and a detached garage. The ridge height of the dwelling would be increased from approximately 6.1m to approximately 6.9m.
4. Following the Committee Meeting on the 19 July 2022 the applicant has amended the scheme to take into account the concerns Members raised. The amended scheme has reduced the two storey element to the rear of the application site so that there is a single storey projections as well. This helps to reduce the impact on the neighbour to the east of the application site.
5. The ridge height of the proposed dwelling is approximately 6.8m this similar to the neighbouring property to the east which has a ridge height of approximately 6.7m.
6. The applicants have also removed the detached garage from the application.

## **Relevant Planning History**

<b>Application</b>	<b>Description</b>	<b>Decision</b>
2016/1105/FUL	Extension and alterations to existing dormer bungalow	Approved
2020/0665/FUL	Extension and alterations to existing dormer bungalow. Proposed detached garage	Approved

## **Planning Guidance and Policy**

### **National Planning Policy Framework**

NPPF (2021) Section 12  
NPPF (2021) section 16

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

CS19 – Promoting Good Design

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

SP15 – Design and Amenity

SP20 – The historic environment

## **Langham Neighbourhood Plan**

Section D Character of Landscape

## **Supplementary Planning Guidance**

Design Guidelines for Rutland 2022

## **Representations**

### **Langham Parish Council**

The property is within both the Article 4 Direction and the Conservation Area of Langham.

The DAS is rather low on detail, and both the Block Plan and aerial view picture are out of date and do not show the development of 3 houses on Cold Overton Road. This house, 10 Cold Overton Road, seems to be missing from the Notified Neighbours list, but likely to be most affected by the extension, and therefore attention should be given to the windows facing east. The first-floor windows of the extension on the east side have the landing dormer window of obscured glass on drawing 1660/04 but not the bathroom window, contradicting what is in the DAS. The agricultural building mentioned in the DAS is in fact south of the neighbouring property to the east. It is worth noting that this building is actually an equestrian building rather than an agricultural building, without planning permission and situated on the Green Separation Zone as described in Langham's Neighbourhood Plan.

Although the property cannot be seen from the road, the proposed garage will be, so it is pleasing that the plan states the materials for the garage will be 'facing brick and tiled roof to local authority approval' and this should be adhered to and match nearby properties.

The house has been extended a number of times, and the layout and external appearance will benefit from what is proposed. Plan 1660/04 shows the size of the extension compared to the existing dwelling, and our concern is that the size of the two-storey extension seems to be tripling the size of the property. Although currently RCC is lacking a Local Plan, consideration should be given to Design Guidelines for Rutland and South Kesteven SPD (2021) which states under 6G Extensions: Scale/size - The extension is expected to respect the scale and character of the existing dwelling.

Recommend Approval if clarity is given to the large size if the extension meeting the Design Guidelines for Rutland mentioned above, and other points raised above acted upon.

## **Consultee Comments**

The following consultee comments have been received from relevant professional bodies and advisors and have been taken into consideration by Officers in the assessment of this application.

## **Ecology**

Please just add the following note to applicant re bats for this planning application (2022/0469/FUL):

'The property may be suitable for roosting bats, which are protected by law from harm. The applicant should ensure that all contractors and individuals working on the property are aware of this possibility, as works must cease if bats are found during the course of the works whilst expert advice from a bat ecologist is obtained. Bats are particularly associated with the roof structure of buildings, including lofts, rafters, beams, gables, eaves, soffits, flashing, ridge-tile, chimneys, the under-tile area, etc. but may also be present in crevices in stone or brickwork and in cavity walls'.

## **Highways**

I have now reviewed the application and provide the following comments on behalf of the LHA:-

There is no existing site block plan showing where parking and turning currently occur and the proposed block plan shows no detail in relation to parking, turning or shows dimensions to demonstrate what level of parking/turning will be made available post development. However, the proposed floor plan does show the garage and wording for parking, which would appear to be suitable for only one additional vehicle plus the garage, and it would appear that turning is not achievable to ensure all vehicles enter and leave the site in forward gear.

The proposed floor plan shows 9 habitable rooms and as such would require a minimum of 3 allocated parking spaces in accordance with Appendix 2 of the Site Allocations & Policies DPD 2014. 3 parking spaces are unachievable within the site with the garage in the proposed location. Even assuming that turning is achievable for one vehicle the LHA suspects that provision of 3 parking spaces would result in an under-provision of amenity area for a dwelling of this size. In any event, given the constraints of the site, it would not appear feasible for independent manoeuvring and turning of vehicles.

The site edged red does not abut the public highway, but clearly the existing house has at minimum a right of access along the shared access track. Personally, I would request an updated site location plan to include the shared access track and notice should be served accordingly.

Based on the above assessment the LHA would recommend refusal on the basis that the proposal does not provide adequate parking and turning for the proposed development, which is contrary to Policy SP15 of the Rutland Local Plan Site Allocations & Policies DPD 2014.

## **Langham Parish Council**

"Langham Parish Council are concerned that the planning application for 16 Cold Overton Road is now going to the RCC Planning Committee for a decision on 19 July, but the report to be presented at that meeting does not answer the queries we raised in our response to the application. We would like to highlight the following points:

- The map on the front of the report to the Committee is out of date and does not show the relatively new houses immediately adjacent to the east of 16 Cold Overton Road with just an access drive between the two properties. A similar out of date location map, and also an aerial view, have been used in the application giving the incorrect impression that there is no immediate house to the east. One of these houses is most likely to be affected by the proposed

extension and does not appear to be on the Notified Neighbours list as mentioned in the LPC response. Has this house been notified now?

- 'Planning Guidance and Policy' refers to several fairly dated documents, but does not mention Design Guidelines for Rutland and South Kesteven SPD (2021), 6G Extensions Scale/size which is mentioned in the LNP comments. Why not, as it is very relevant, particularly in the absence of a Local Plan?
- LPC queried the size of the proposed extension in our response. It is appreciably bigger than that put forward and approved in 2020/0665/FUL and not 'modest' as expressed under 'Planning Assessment'. This is obvious if you look at both sets of plans. A precedent was set by Meadow Edge, Burley Road, Langham LE15 7HZ when the size of the work in the original application was significantly cut back after concern expressed by LPC.
- The height and length of the extension may well break the rules on visibility for the glass-backed home next door to the east (not shown on the out-of-date map mentioned above).

In addition, the report states under 'Neighbours and Members of Public' that 'other issues not relating to this application or the applicants land have also been raised and passed on to the enforcement officer'. This should include the Equestrian building in the Green Separation Zone which has no planning permission and is contrary to LNP and should be removed. It is important that this is included in what has been passed on to the enforcement officer by RCC, and we would appreciate confirmation that this is the case."

### **Ward Member Comments (Cllr Hemsley)**

"I as ward member have been contacted by the applicant and a neighbour, there have been issues that Justin Johnson will address either prior or at the meeting regarding the use of out of date maps, and the reality of the size of the extension in relation to the neighbouring houses, Langham parish Council have commented on this, I would urge all of you to give careful consideration to such things as the 25 Degree test:

"If a new building or extension breaches a perpendicular line at an angle of 25 degrees above the horizontal taken from a point 2 metres above ground level on an existing house, it is likely that windows in the existing house will be overshadowed."

This test is clearly aimed at the rural development communities and we should consider this as part of the decision making process?

Langham is a Rural village and the properties on the whole reflect the heritage of this, and these include Ruddle Way, we are only the custodians of the county at this time and we need to make sure that the decisions that we arrive at meet the needs of the community and we can with a clear conscience say we did our best to protect our county.

I hope that you Arrive at the right decision and maybe a site visit could help prior to a final decision?"

## **Neighbours and Members of Public**

7. Two representations have been received objecting to the proposal and the points raised can be summarised as follows:
- Site is in a conservation area,
  - The existing properties in area are bungalows and provide accommodation for over 55's this proposal is contrary to that aim,
  - Overbearing and adverse impact on residential amenity,
  - Impact on biodiversity,
  - Concerns about over shadowing / loss of light,
  - Concerns about other enforcement issues not relating to this application, including allotment to rear of site, installation of drainage plant and removal of hedgerow

Other concerns raising issue not relating to this application or the applicants land have also been raised and passed on to the enforcement officer.

## **Planning Assessment**

8. The proposed development is a revised scheme of the proposal reference 2020/0665/FUL. The proposed amendments would modestly increase the height of the dwelling. The proposed alterations would not have a significant impact on the appearance of the already approved development although the rear elevation would be two storey for its full length.
9. The site is set back from the main road and its visibility from the public scene is limited. As such, the development would not affect the character and appearance of the conservation area of Langham and would not be contrary to the relevant planning policy. The overall height of the proposed dwelling would be similar to the new development adjacent to the site.
10. Concerning the comments about boundary disputes. The plans of the proposal indicate that the development would be located within the residential curtilage. The boundary dispute is not a material planning consideration.
11. The comments from the Local Authority Highways have been full considered. However, the proposed garage has been approved under the reference 2016/1105/FUL and 2020/0665/FUL. The amended proposal would not increase demand for parking space above that which the property has and the already approved scheme. There whilst the highway authority comments are noted it would be unreasonable to use as a reason for refusal in this instance given the previous approvals. Following the previous committee meeting the applicant has now omitted the proposed detached garage as requested by Members in order to provide additional turning space on site.

## **Impact on the neighbouring properties**

12. The proposed amendments would not lead to any unacceptable impact on the neighbouring properties. Conditions have been recommended to avoid overlooking by obscure glazing windows on the north eastern boundary. The two storey element running the full length of the rear garden has now been amended and reduced in length with a single storey element as well. This reduces the impact on the neighbour and is similar to a previously approved scheme. It is considered that the amended scheme is acceptable and takes on board the comments made at the previous Planning Committee Meeting by Members.
13. Given the above, it is considered that the proposed amendments would comply with Section 12 of the NPPF (2019), Policy CS19 of the Rutland Core Strategy (2011), Policy

SP15 of the Site Allocations and Policies Development Plan Document (2014) and Supplementary Planning Document – Extensions to Dwellings (2015).

## **Conclusion**

14. Given this, the proposal by virtue of the design and scale would be in keeping with the host dwelling, street scene and surrounding in accordance with Section 12 of the NPPF (2021), Policy CS19 of the Rutland Core Strategy (2011), Policies SP15 and SP20 of the Site Allocations and Policies Development Plan Document (2014) and Supplementary Planning Document – Extensions to Dwellings (2015). The proposal would not be contrary to the Langham Neighbourhood Plan (2017) or the Design Guidelines for Rutland.

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2021/1319/OUT



**Rutland County Council**

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Application:	<b>2021/1319/OUT</b>	<b>ITEM 2</b>			
Proposal:	<b>Outline application for 5 no. dwellings with All Matters Reserved.</b>				
Address:	<b>Rear Of 8A Reeves Lane Wing Rutland</b>				
Applicant:	<b>Mr R Jeynes</b>	Parish	<b>Wing</b>		
Agent:	<b>Andrew Clover Planning and Design Ltd</b>	Ward	<b>Braunston &amp; Martinsthorpe</b>		
Reason for presenting to Committee:	<b>Ward Member request</b>				
Date of Committee:	<b>23 August 2022</b>				
Determination Date:	<b>5 January 2022</b>				
Agreed Extension of Time Date:	<b>26 August 2022</b>				

## EXECUTIVE SUMMARY

1. The “tilted balance” refers to the presumption in paragraph 11(d) ii of the NPPF that, where the presumption applies, planning permission should be granted unless there are “adverse impacts which would significantly and demonstrably outweigh its benefits.”
2. Whilst Para 11d of the Framework states that proposals should be approved in the event of a lack of 5YHLS, this does not give a carte blanche for any development. The scheme has to be weighed up in terms of the harm that it would cause compared to the benefits of providing housing. If the harm outweighs the benefits then permission should still be refused.
3. In this case the site is outside the PLD where development would not be permitted in the event that a 5YHLS was intact.
4. The provision of 5 houses, whilst adding to the requirement, does not make significant contribution to the current deficit.
5. The scheme under-develops the site to avoid the need for affordable housing contributions. This means the scheme fails the social test of sustainability and is contrary to the polices set out above. The indicative layout of 5 large detached houses, whilst being of a similar density to the surrounding area under-develops the site and is thereby an inefficient use of land.
6. The access to the site is over private land with inadequate width and visibility onto the narrow public highway. The scheme would cause harm to highway safety. Without a satisfactory access there has been little merit in seeking to improve the indicative layout to a suitable level of design and density.
7. These negative issues clearly outweigh the limited benefit of providing a small element of housing on this site in which case Para 11d is not engaged and permission should be refused.

## RECOMMENDATION

### REFUSAL, for the following reasons:

1. Due to the lack of information on how the proposal would impact the character and appearance of the conservation area, it has been impossible to assess the impact. This is contrary to the advice in the Para 194 of the NPPF, and Policy SP20 of the Site Allocations DPD. The provision of 5 large detached houses on the edge of the village and the Conservation Area does not pay special regard to preserving or enhancing the character of the area, contrary to policies CS22, SP15, SP20 and the advice in Chapter 16 of the NPPF (2021).

2. The development would constitute an inefficient use of land by under providing the number of units that it is possible to provide on site whilst still maintaining local character and making the requisite contributions to affordable housing. This would be contrary to Policies CS10 and SP9 and the advice in Paras 124 and 125 of the NPPF (2021).
3. The proposed access to the site is inadequate and below the standard required for the intensification of use by reason of substandard vehicle to vehicle visibility and vehicle to pedestrian visibility. As a consequence, the manoeuvring of vehicles associated with the proposed development would have an adverse effect on the safety of users of the adjoining public highway, contrary to policy SP15.

Informative

Any permission granted on this site would not grant approval for access over 3rd party land.

## **Site & Surroundings**

8. The site is located on the western edge of the village behind existing dwellings on Reeves Lane. The southern portion of the site comprises utilitarian buildings that have been used mainly for poultry rearing with some commercial use of the eastern leg.
9. The majority of the site is greenfield paddock land, surrounded by trees and hedges beyond which on the eastern side is other residential property.
10. The site is reasonably well screened from the public realm except the existing buildings which are visible when entering the village from the south, forming a backdrop to allotments.
11. Access to the site is along a narrow track owned by the Parish Council. There is no public right of way over the track. Regardless of the outcome of this planning application, the Parish Council has stated it will not allow access over its land for this development.
12. There has been a long history of refusals of planning permission and prior approvals, including dismissed appeals, on this site, mainly for residential use.
13. No pre-application advice or consultation with the Parish was sought before submission of this application, contrary to Para 132 of the Framework.

## **Proposal**

14. The application is in outline form and the illustrative material indicates 5 large detached houses. All matters are stated as reserved but it is necessary to assess the access to the site as a main issue.

## **Relevant Planning History**

There is a long history of refusals of permission on this site.

<b>Application No.</b>	<b>Description</b>	<b>Decision</b>
------------------------	--------------------	-----------------

84/0365	Extension to agricultural building (The westernmost part of the buildings)	Approved
99/0835	Certificate of lawfulness for use of land as garden (for adj bungalow), 10 Reeves Lane	Approved
99/0836	Retrospective application for use of buildings for storage of tools and machinery in connection with an agricultural coatings/flooring business (easternmost building only) (Retrospective)	Approved (Personal permission to applicant – Mr Jeynes)
2001/0579	Demolition of agricultural buildings and erection of 2 dwellings	Refused
2001/1073	Change of use of redundant buildings from agriculture to B1 office	Refused – Appeal dismissed – ‘unsustainable location’ (APP/A2470/A/02/108 5534)
PRE/2008/0195	Erection of holiday chalets (prelim)	Advised planning permission unlikely to be granted on policy grounds
2009/0641	Demolition of Industrial building and Site for erection of 10 holiday chalets (Outline)	Refused (Application form described existing use as ‘Light Industrial’)
2011/0471	Outline application for erection of 4 No. single storey dwellinghouses following demolition of chicken sheds, and amendments to access lane from Reeves Lane.	Refused – Appeal Dismissed – (inc ‘unsustainable location’) APP/A2470/A/12/2170 811
2014/0548/PAD	Prior Notification for change of use of buildings from Agriculture to 3 residential units (Class MB [now Class Q])	Refused - Appeal dismissed. APP/A2470/W/15/300 2788
2014/0714/PAD	Details of design & appearance for 2014/0548	Withdrawn
2014/1188/CLU	Certificate of lawful use to convert to dwellings under Class Q	Refused – Appeal dismissed APP/A2470/X/15/3005 722.

2018/0017/PLD	Prior approval for a proposed change of use from light industrial (B1c) to residential (C3).	Refused
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## Planning Guidance and Policy

### National Planning Policy Framework (NPPF) 2021

Chapter 2 – Achieving Sustainable Development (inc Para 11(d))

Chapter 5 – Delivering a sufficient supply of homes

Chapter 11 – Making efficient use of land

Chapter 12 – Achieving well designed places

### Site Allocations and Policies DPD (2014)

SP6 - Housing in the Countryside

SP9 - Affordable Housing

SP15 - Design and Amenity

SP20 - The Historic Environment

### Core Strategy DPD (2011)

CS04 - The Location of Development

CS03 - The Settlement Hierarchy

CS10 - Housing Density & Mix

CS11 - Affordable Housing

CS19 - Promoting Good Design

CS22 - The Historic and Cultural Environment

### Supplementary Planning Guidance

Design Guidelines for Rutland 2022

### Neighbourhood Plan

The Wing NP area was designated in 2017. There is no current made NP for Wing, although evidence is being gathered at present. The NP Group has carried out an assessment of this site in its consideration of other sites in the village. Despite being invited to submit the site for inclusion the applicant did not do so. The assessment concludes that the site is not suitable for development. The assessment resulted in 8 Red Flags, 12 Amber and only 4 Green. The assessment appeared to relate to a potential 19 dwellings.

### Officer Evaluation

15. The main issues to be considered in this case are policy, highway safety, residential amenity, the impact on the character of the conservation area and the potential need to provide affordable housing.

### Principle of the use/Planning Policy

16. Wing is classified as a Smaller Service Centre in the Core Strategy (CS3). CS4 states that these settlements can accommodate a minor level of development (identified as 5 units) within the Planned Limit to Development (PLD), mainly on previously developed

- land for affordable housing, infill and conversions, where it is appropriate to the needs and character of the village.
17. In the now withdrawn Local Plan Review, the settlement hierarchy had been re-assessed and would have seen Wing designated as a 'smaller village'. Within such villages development would be limited to 'small scale development on infill sites, redevelopment on previously developed land and the conversion or re-use of existing buildings'.
  18. The site adjoins the PLD on its western edge and comprises a series of old utilitarian buildings used primarily for agriculture and some use for a business. The majority of the land in the northern part of the application site is a separate paddock. This may have been in agricultural use but is not classified as previously developed land, as is the case with agricultural buildings anyway. The buildings nearest the access, i.e. the eastern wing, has been used for commercial purposes in the past so may partly lay claim to being previously developed. However this is only a small proportion of the overall site and brownfield status is irrelevant if Para 11d of the NPPF is engaged (see below).
  19. The site is outside the PLD for Wing. It is thereby in open countryside. Policies are restrictive in such locations and CS4 and SP6 would suggest that the development should be refused.
  20. However, in view of the lack of a 5 year housing land supply (5YHLS) consideration needs to be given to Para 11d of the NPPF to see if the development would be justified. The lack of a 5YHLS means that the locational policies of the development plan are to be considered out of date.
  21. Para 11d states
  22. 'Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
    - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
    - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'
  23. In this case sub para (ii) is relevant. From a policy point of view, the principle is likely to be acceptable given the lack of 5 year housing supply ('brownfield' is not a consideration with lack of 5 year supply); the site adjoins the planned limits of development. To refuse planning permission the Council will need to be satisfied the impacts outweigh the presumption in favour of sustainable development. Members will note that previous appeals have found that the site is in an unsustainable location.
  24. The main consideration therefore is will the proposal impact on the environment, the character of the area and any other interests of planning importance?

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

25. The site is well screened from most of the public realm save for the view across the allotments on approaching the village from the south where the existing agricultural building stand, albeit at slightly lower level. The development, if well designed, would not harm the character of the area such that it would outweigh the presumption in favour.
26. However, the illustrative design comprising 5 large detached properties has not been well thought out in terms of how it could relate to the edge of the village. Plot 1 has its rear elevation facing the road across the allotments in the most prominent of all the

plots. Plots along this southern side should really face south to give a better view on entering the village. A design has clearly been devised to avoid affordable housing requirements whilst not paying proper attention to the character of the area.

27. On that basis, whilst the development is reasonably discreet, it nevertheless lacks character which could be improved by a better overall design, layout and density, thereby being contrary to Para 130 of the Framework and policy SP15. This is not a 'locational policy so is not impacted by Para 11d. This issue follows on into the following issue.

## Need for affordable Housing

28. Policy CS10 – Housing Density & Mix should be taken into consideration. The policy states sites of more than 0.3 ha or more, will be expected to achieve 30 dwellings per hectare in the villages. The site area is given as 0.89Ha so there is scope to go back to the applicant to get a revised scheme at an increased density with improved layout etc if the other outstanding issues including access etc can be resolved.
29. The site extends to 0.89Ha which results in a proposed housing density of c5.6dph. The scheme purports to reflect the prevailing local density. Policy SP9 of the development plan states that schemes which seek to under develop or split sites in a way that reduces affordable housing requirements may be refused. A contribution for affordable housing would be required on schemes of 6 to 10 dwellings for Wing, in the way of a Commuted Sum, so they'd have to pay a contribution on 6 or above. It would not be out of character to seek 6 or more units on this site. It would be relatively easy to provide possibly 9 without impacting the character of the area by utilising a variety of house types and creating more of a village 'Lane' design.
30. Paras 124 and 125 of the Framework set out the Governments approach to density v character etc. This states that the desirability of maintaining an areas prevailing character should, be taken into account, potentially overriding CS10 as it is later advice. However, it also states that it is especially important that polices and decisions avoid homes being built at low densities and ensure that development makes optimal use of the potential of each site.
31. In terms of polices, the Core Strategy sets out a requirement for densities which calls for 30dph in the villages. That would see 27 units on this site which does seem to be an overly dense proposition here.
32. The Housing Strategy Officer states that there would not be an Affordable Housing Requirement for 5 units but this situation is covered by Policy SP9 which states:
33. "The Council may refuse development proposals which, in its opinion, seek to under-develop or split sites in a way that is likely to reduce the affordable housing contribution and/or promote off-site provision" or if the density is too low and it should be 6 or more.
34. On this basis the scheme does under provide in terms of number of units and could comfortably provide for an appropriate density whilst still making a contribution towards affordable housing. The scheme is thereby contrary to Policy CS10, SP9 and the advice in Paras 124 and 125 of the Framework. The scheme also therefore fails to meet the 'social' objective in Para 8 of the Framework by avoiding affordable housing contributions.

## **Impact on Heritage Assets**

35. As the site adjoins a conservation area, there is a requirement to pay special attention to the desirability of preserving or enhancing the character or appearance of the area, in accordance with Section 72 (1) of The Act. There is also a Listed Building, Westcott (No.6), fronting the western side of Reeves Lane although this does not adjoin the site.
36. Furthermore, the importance of considering the impact of development on the significance of designated heritage assets is expressed in the NPPF. This advises that development and alterations to designated assets and their settings can cause harm. These policies ensure the protection and enhancement of the historic environment. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance should be treated favourably.
37. The Conservation Officer comments are set out in consultation responses below.
38. Due to the lack of information on how the proposal would impact the character and appearance of the conservation area, it has been impossible to properly assess the impact. This is contrary to the advice in the Para 194 of the NPPF, and Policy SP20 of the Site Allocations DPD.
39. However, it is clear that the illustrative layout does not reflect anything of the historic form or character of the village.
40. In reaching its conclusion and recommendation the local authority has 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 or enhancing heritage assets any features of special architectural or historic interest which they possess.

## **Ecology**

41. The Council's Ecology advisor recommends that the recommendations in the submitted report (v2, Feb 2022) are followed in the event that permission is granted.

## **Impact on the neighbouring properties**

42. The proposed dwellings in whatever form (as illustrated, or as could be subsequently designed) would not impinge unduly on the amenities of adjacent residents by virtue of the distances involved.
43. Taking into account the likely nature of the proposal 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).

## **Highway issues**

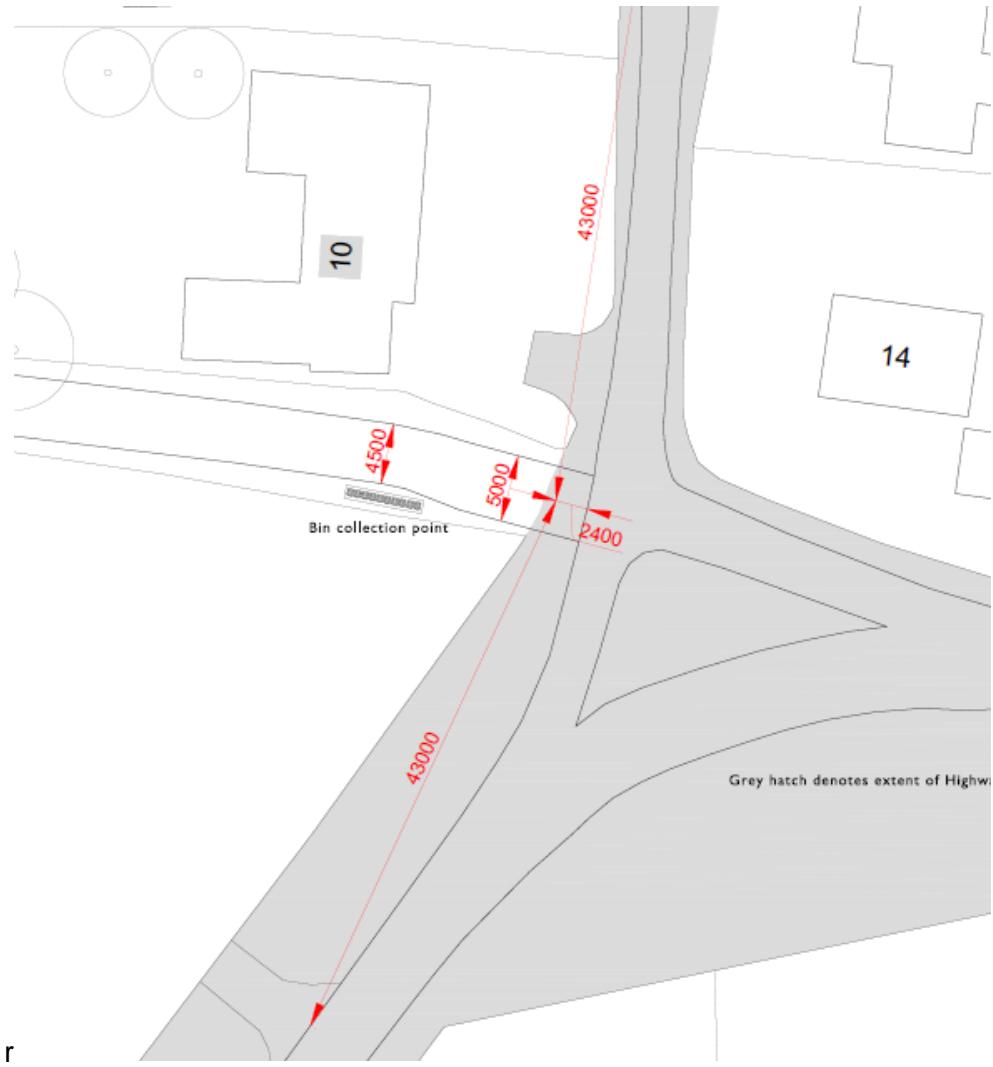
44. Notwithstanding any comments from the highway authority, the Parish Council as owner of the access has stated it will not give permission to use it to access the development. This however is a private issue and cannot influence the planning merits of the scheme.
45. The HA originally objected to the proposal and the agent sent in a response to the objection. Highways then looked at the site again and commented as follows:

46. I had visited site on 22nd February 2022 and have now reviewed the additional information.
47. Letter from Andrew Clover Planning & Design dated 10th February 2022
48. The letter refers to a permission from Leicester County Council in 1983 to construct the access. Whilst it does demonstrate that an access was considered acceptable at that time for whatever the use was, it does not necessarily mean that that access would be acceptable for the proposed use now. I am not sure what point is being made here, but I can assure you that Leicestershire's requirements, like most other authorities, have changed dramatically as guidance has developed over the last 40 years.
49. Whilst the letter states that visibility is shown on the plan and is achievable to the south, the plan does not show street furniture, signs and the trees or shrubbery or the topography, all of which in reality reduces the current available visibility to that shown in the photo below. The verge area in which these items sit slopes up from the carriageway level quite considerably. From my site survey at least one tree will be lost, significant shrubbery will need to be cleared, and the salt bin and sign will need relocating to obtain clear visibility over 600mm above carriageway level. Whilst the salt bin and sign could be relocated at the cost of this applicant/development, the loss of the tree and shrubbery will need to be considered by our forestry team and if found acceptable, the cost for clearance could be funded by the applicant/development. In terms of the speed of vehicles travelling from the south and being seen, they were observed travelling at least 30mph if not more along Wing Hill, with only the sound of engines making me aware of their presence before seeing them at the last minute. I was surprised to observe one vehicle entering Reeves Lane travelling at least 30mph with no apparent recognition of the road they were entering, which was a great concern. Whilst the weather was fine enough for me to have my windows open that day, and could hear vehicles approaching, this cannot be relied upon in lieu of adequate vehicle to vehicle visibility.
50. The letter states that vehicles travelling southbound would not go over the centre of the road (Reeves Lane). Reeves Lane is a typical village road being very narrow geometrically, which would not allow 2 vehicles to pass one another without one vehicle giving way and pulling in to either a driveway entrance or over the verge. As such, a vehicle travelling southbound along Reeves Lane would be forced to position itself centrally and by virtue of this, it would be impossible to not cross the centre of the road. I note the points made about vehicle speeds, but from my observations on site, vehicles were not travelling that much slower than 30mph approaching the site access. Furthermore, the approaching vehicles did not come into my sight line whilst sitting in my car (which has a higher than normal sight line) until the last second, and the only way I knew they were approaching was from hearing the car engine. Likewise, from the comment above, having windows open to hear approaching vehicles is not acceptable. The view from my vehicle is shown in the photo below, which happened to be bin collection day, with the adjacent property having 4 bins out, but even on days when they would not be out, visibility could be obstructed by their hedgerow and vegetation. It is also worth bearing in mind that the eye sight line in my vehicle is higher than average, but if I were in a lower vehicle with the standard 1.050m sight line, this situation would be even worse.
51. (Photos removed for convenience – see original consultation)
52. It is noted that the plans have been updated to show a revised site edged red on the location plan and the minimum width of 5m at the entrance followed by a 4.5m wide access beyond. Swept path analysis would need to be undertaken to show that an emergency vehicle can enter and leave the site in forward gear, plus that 2 large family vehicles can pass one another along the entire length of the access road, which is likely to demonstrate that widening around the bends will be required. It is also vital that

forward visibility splays are available of 20m at a 1m channel kerb offset, particularly as this is a shared access with pedestrians using the route.

53. The comment about the lack of highway objection or recommendation of refusal of prior applications for this is not a consideration for the LHA currently, however this may be a material consideration for the LPA.

### **Revised Plan:**



Shows vis to north over 3rd party land (No.10)

### **Plan 8421-03 Proposed Site Plan**

- The dimensions of the access and the visibility splays are noted, which demonstrates that the splay to the north encroaches on to third party land. It has not been demonstrated that reduced splays are acceptable.
  - The vehicle to pedestrian splays of 2m x 2m mentioned in the LHA comments previously have not been shown and are not achievable within the site edged red.
  - Forward visibility and swept path analysis comments as mentioned in the letter response above also need to be addressed.
  - Whilst the splay to the south appears to be achievable within the public highway, it does not take in to account existing features or topography which in reality does not permit this splay to be achievable without works in the public highway.
  - The addition of the refuse bins is noted, however it is likely that this area will not be sufficient based on the number of bins put out by the neighbouring property. That said, there is scope to extend this area.
  - The plan is not to scale shown on the title block and when printed at A3 it would appear to be a non-typical engineering or architectural scale. Scale should be corrected and a scale bar added if revised again.
54. In addition to the above, it became apparent from my site visit how narrow Reeves Lane and the short spur from Reeves Lane to Wing Hall are, which are only wide enough to accommodate one vehicle, which is evidenced by significant overrunning of the verge areas. The addition of the development traffic to this whole junction would further

exacerbate what is already a junction of poor geometry, which I will report to my colleagues within the Highways Department.

55. In summary, whilst some elements of the previous concerns have been satisfactorily addressed, the LHA cannot support this application and remain of the view that this should be refused permission for the following reason:-
56. The proposed access to the site is considered to be inadequate and below the standard required for the intensification of use by reason of substandard vehicle to vehicle visibility and vehicle to pedestrian visibility. As a consequence, the manoeuvring of vehicles associated with the proposed development would have an adverse effect on the safety of users of the adjoining public highway. Contrary to policy SP15.
57. Revised photos of the visibility from the access were received from a third party on 19 July, purporting to show highway compliant visibility. Notwithstanding these, the visibility splay to the north is still across third party land and it is not clear how the visibility to the south is any different. There is no more information that would lead to a different conclusion on access. It was argued that the wheelie bins were not usually placed in that location. This is however a red herring as visibility would be across 3<sup>rd</sup> party land not under the developers control.
58. The Parish Council was contacted regarding further plans and information submitted and to ascertain if there were any circumstances in which they might allow access to the site if all other issues were acceptable. Notwithstanding that they are not acceptable, the Parish stated their position as set out above.

## **Crime and Disorder**

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

## **Human Rights Implications**

60. 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.
61. It is considered that no relevant Article of that act will be breached.

## **Consultations**

### **62. Wing Parish Council**

Wing Parish Council OBJECT on the following grounds:-

- The proposal utilises an unadopted access track NOT owned by the applicant. This track is owned by Wing Parish Council who have NOT given any permission for this type of access for development utilising their land.
- A previous planning application (OUT/2009/0641/NH) for the development of this site was refused with one of the basis for refusal being that the access track was not owned by the applicant. This situation has not changed and that reason for refusal still applies.
- The proposal includes the use of an unadopted access track that is unsuitable for the number of dwellings proposed and is located on Reeves lane where a different application (2020/1126/FUL) was refused at both the initial and appeal stages due to unsuitable access, notably Appeal Decisions APP/A2470/W/21/3267468, APP/A2470/W/21/3267469 section 34 'Highway safety':- 'Whilst the Lane takes the

form of a rural route that I observed to accommodate infrequent traffic/pedestrian flows, it provides direct or indirect access to a variety of different properties. It is thus important, in the interests of highway safety, to guard against the intensified use of an existing access that offers sub-standard visibility. This is a view shared by the Council's Highways Officer in his/her role as the Highway Authority, which is a matter of importance as they are responsible for the safety of users of the local highway network.' Whilst this application is for a different location, it is on the same lane ' Reeves Lane ' and the same relevant matters pertain. Additionally, the access track mentioned in this application enters the highway on a sharp blind bend opposite a traffic island further creating a safety hazard at the location.

- The application makes mention of the development on a 'brownfield site'. The only part of the site that may be considered 'brownfield' is the area encompassed by the existing buildings. The rest of the site ' the majority of the site ' is green space ' a field that has never had any development. It is clearly not a 'brownfield site'. A previous planning application refusal decision (OUT/2009/0641/NH) specifically stated under Part II ' particulars of decision, section 1:- 'part of the site is a paddock, which is Greenfield land" It goes on to state further reasons for refusal which are still extant and pertinent to this application.
- The proposal is outside of the village's planned limit of development. This was noted in the refusal notice previously issued and detailed above in item 4. There has been no change to the planned limit of development for Wing and therefore the previous refusal notice on this aspect is still extant.
- The proposal does not provide any indication of developer contributions to cater for the impact which the development would have on local infrastructure, the scheme being contrary to Policies CS8 and CS11 in the adopted core strategy and the guidance in the adopted Developer Contributions (2010).
- Very significantly, the proposal does not meet the identified housing needs in the emerging neighbourhood plan. These needs have been assessed and qualified through the rigorous process of a Community questionnaire analysis leading to the Parish Council adopted housing position statement.
- There has been a 'call for land' for development as part of the Neighbourhood Plan development, and the responses are due to be considered soon in tandem with a review of both the current Planned Limit of Development and the Conservation Area for Wing. Approving this application would undermine this process and the development of the Wing Neighbourhood Plan.

63. Further Comments 7 March 2022
64. Wing Parish Council's response to further documents submitted to Rutland County Council Planning Department for outline planning approval for land to the rear of 8A Reeves Lane, Wing. Application Reference Number 2012/1319/OUT – Erection of 5 No. Dwellings
65. Wing Parish Council note the additional documents and make the following ADDITIONAL response to the previous response made to the application, which should be read in conjunction with this response:-

Wing Parish Council OBJECT to the application on the following additional grounds in response to the additional supporting information submitted by / on behalf of the applicant:-

- The ecology survey is considered to be inadequate, in that it was only made on 21st January 2022 and represents a single point in time. This deficiency was noted in point 2.6 in the document and the survey is considered to be insufficient as it is not possible to determine the extent of species present in one survey at one point in time in the year. Further surveys should be carried out during a minimum period of 12 months to more thoroughly determine what species occupy the site. Further,

- ponds located to the north of the site (within 100m) and now filled in, allegedly did contain newts and thus their presence on the site in question is a distinct probability - further surveys should be able to determine if this is the case.
- There is an active badger set within approx. 100m due West of the site - thus the recent Badger sets identified on the site are likely to be part of the same Badger group and habitat. This should be explored further in a more thorough ecological survey.
- The Department of planning and Transportation document No. 0732 dated 29/12/83 provided does not specify a location on Reeves Lane and is therefore considered to be irrelevant as it cannot be directly associated with the Parish Council owned lane over which the applicant considers they have right of way. Without the surrounding and supporting information, dated back to 1983, this cannot be a relevant consideration on a residential/road reconfiguration proposal in 2022. As submitted, it does not validate a move from 'right of access,' at that time, to a right to reconstruct the line, width's, splays, and purpose, for a new use.
- Access for the fire service requires that the fire engine can get to within 45m of the house furthest from the highway - this doesn't appear to be possible. Are the Fire Service content with the proposals as presented?
- There is still no affordable housing included in the proposal, which was a key outcome aspect of the survey for the neighbourhood plan. The supporting letter discussion focuses on why the development is suitable for 5 dwellings, placing obstacles such as roadside paths, street lighting, access within the site for refuse vehicles etc... as reasons why affordable housing is not included. These aspects, together with the reason provided for 5 dwellings of this size (such as character, existing urban form) further undermine the suitability of the site for development.
- Access for refuse vehicles presents an issue noted in the supporting letter, which supports the Parish Council's concern over the access for Fire Service vehicles - if refuse vehicles cant access the site, how can fire service vehicles in an emergency? The need to construct a bin store on the access road, presumably because the Refuse Vehicles couldn't access the site, is another aspect supporting the poor site access. Additionally, it is restated here that although the applicant may have access rights, they do not own the lane and do not have the right - or permission - from the Parish Council to construct any such bin store on the land owned by the Parish Council.
- The applicant is requested to provide any relevant and applicable legal documents, deeds, land registry titles etc...supporting their right of access in order that the degree and nature of access rights can be formally recorded.
- The applicant was invited - by personal letter - to submit his land for development as part of the 'Call for Land' in the developing neighbourhood plan. No such submission was received by the Neighbourhood Planning Group. However, as the land in question is part of a current publicly available application for outline planning permission, the Neighbourhood Planning Group conducted a Site Sustainability Assessment (SSA) to determine its suitability for development to meet the identified future housing needs of the village. A copy of that SSA in support of the Parish Council's objection to the application, as the result of the SSA was that the site was NOT suitable for development - is attached. A copy of the scoring matrix used to determine the site sustainability is also attached for information.
- The aspects relating to highways in the supporting letter and plan drawing number 8421-03 dated 28.10.2021 infer that the applicant has the right to cut back vegetation and potentially grass verges in order to obtain the highways' required widths. As the lane is not owned by the applicant he does not have the right or permission to undertake any work to these aspects, and he has previously been written to by the Parish Council informing him of such, following unauthorised destruction of Parish Council owned trees alongside the track in question. Removing or cutting back any vegetation will detrimentally impact the setting of the area and cause harm to the environment.

- The speed of vehicles approaching the site is of great concern. There have been concerns over vehicle speed in the village for some time as noted in Parish Council meeting minutes. This is a sharp bend on a narrow road (Top Street) with vehicles observed to be regularly travelling at speeds estimated in excess of the legal limit. There is a real concern for public safety by the Parish Council with additional vehicle movements out of Reeves Lane exacerbating the risk. This is a congested (by landscape) junction with poor visibility and a traffic island preventing vehicles turning without mounting the verges. Further traffic in this location will make a bad situation worse.
- The comment in the supporting letter about vehicles heading south along Reeves Lane towards the site not going over the centre of the road is totally misleading. They cannot do anything other than straddle the centre of the road as it is a single track road. The driver would be closest to the verge on the side of the site access lane and would therefore have considerably reduced visibility to see vehicles approaching the exit of the site access lane.
- The site access lane, owned by the Parish Council, provides access to the site as well as a field at the end of the lane. There is no mention of this in the supporting letter, rather it indicates that the development would stop the access use of the lane for large commercial or agricultural vehicles - this is not the case as there is also understood to be a right of access to the field at the end of the lane too. Additionally, the lane has not been used for access by large commercial or agricultural vehicles for many years - if ever. Therefore there is no 'betterment' being made in terms of highways safety - rather a detriment caused by the addition of 5 large dwellings that will most likely have a minimum of two cars per household.
- The statement in the supporting letter is therefore totally misleading, in that there will be increased vehicle movements and subsequent increase in noise and disturbance to neighbouring properties should this development go ahead.

**66. Conservation Officer**

67. The site is on the western edge of the existing built-up limits to Wing and is adjacent to the Conservation Area. There is also a Listed Building, Westcott, fronting the western side of Reeves Lane. The site, apart from the access track are outside the Planned Limits for Development.
68. The majority of the site is currently in agricultural use although at the southern part are portal framed industrial buildings and a concrete/aggregate apron that are accessed via a track off Reeves Lane.
69. To the south of the site are allotment gardens and to the west there is open agricultural land. The site and surrounding land slope steadily downwards from south to north. The proposal is to erect five detached houses on the site, all served via the existing access track.
70. The application seeks Outline Planning permission and only a layout plan has been submitted, there are not even indicative elevations. As development in this location needs to be considered in terms of its impact on the Conservation Area I would have expected at least some sketch elevations to confirm that the design and materials of the houses.
71. The removal of the industrial buildings and the accompanying traffic and activities associated with their authorised use would represent an enhancement of the Conservation Area. However, I am unable to assess whether the proposed development of the site as a whole would preserve and enhance the Conservation Area without details of the design of the proposed houses and of the materials of which they would be constructed. Sections through the site, showing how the houses would sit in relation to

nearby houses and an analysis of how the development would impact on views of the Conservation Area are also required for a proper assessment to be made.

72. Paragraph 194 of the NPPF requires an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. I cannot see that the current submission satisfies this requirement.

73. **RCC Highways**

See text above

74. **Archaeology**

75. Thank you for your consultation on this application. We recommend that you advise the applicant of the following archaeological requirements.
76. The Leicestershire and Rutland Historic Environment Record (HER) notes that the application area, lies within the Historic Settlement Core of Wing. Although part of the area has been disturbed by modern development, there is an impact on the area which has not been disturbed.
77. In accordance with National Planning Policy Framework (NPPF), Section 16, paragraph 194, the development area is of archaeological interest and also has the potential for further unidentified archaeological deposits. Based upon the available information, it is anticipated that these remains whilst significant and warranting further archaeological mitigation prior to the impact of development, are not of such importance to represent an obstacle to the determination of the application (NPPF paragraph 195).
78. While the current results are sufficient to support the planning decision, further post-determination trial trenching will be required in order to define the full extent and character of the necessary archaeological mitigation programme.
79. NPPF paragraph 205, states that Local Planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact of development, and to make this evidence (and any archive generated) publicly accessible.
80. In that context it is recommended that the current application is approved subject to conditions for an appropriate programme of archaeological mitigation, including an initial phase of exploratory trial trenching, followed, as necessary by intrusive and non-intrusive investigation and recording. The Historic & Natural Environment Team (HNET) will provide a formal Brief for the latter work at the applicant's request.
81. If planning permission is granted the applicant must obtain a suitable written scheme of Investigation (WSI) for both phases of archaeological investigation from an organisation acceptable to the planning authority. The WSI must be submitted to the planning authority and HNET, as archaeological advisors to your authority, for approval before the start of development. They should comply with the above mentioned Brief, and with relevant Chartered Institute for Archaeologists 'Standards' and 'Code of Practice'. It should include a suitable indication of arrangements for the implementation of the archaeological work, and the proposed timetable for the development.
82. We therefore recommend that any planning permission be granted subject to the following planning conditions (informed by paragraph 37 of Historic England's Managing

Significance in Decision-Taking in the Historic Environment GPA 2), to safeguard any important archaeological remains potentially present:

- No demolition/development shall take place/commence until the necessary programme of archaeological work has been completed. The programme will commence with an initial phase of trial trenching to inform a final archaeological mitigation scheme. 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 mitigation 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
- The Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor.
- The Historic and Natural Environment Team, as advisors to the planning authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the planning authority.

### 83. **Ecology**

84. There is a pond on site which may be suitable for Great crested newt, there are buildings on site that may support roosting bats, the site itself and adjacent land provides suitable habitat for badger. A Phase 1 Habitat Survey, bat, badger and GCN surveys need to be carried out.
85. Please note that ODPM Regulations require protected species surveys to be submitted prior to determination of a planning application. It is also essential that the extent that they may be affected by the proposed development is established before the planning permission is granted. (Reference: Paragraph 99 of ODPM Circular 06/2005 (Biodiversity and Geological Conservation ' Statutory Obligations and their Impact within the Planning System).
86. The hedgerows on site should be retained. A minimum 5 metre buffer should be provided between the hedgerow to the west and plot boundaries, the hedgerow should not form garden boundaries. If retained hedges form the boundaries to gardens and other private land, they will not be managed after development as single units. Piecemeal management by individual landowners is likely to lead to the removal of native species and replacement with x Cupressocyparis 'Leylandii' or other non-native hedging shrub, or close-board fencing. This will impair the hedgerow's value as a linear wildlife corridor and habitat, as well as harming landscape and appearance. Buffer zones of 5-10m, managed as natural or informal open space, are needed to allow proper management of the hedge, through periodic cutting and laying. Occasional vehicle access alongside will be needed to allow maintenance.

87. The NPPF (180. d)) states that 'opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate'. A biodiversity net gain calculation (using the DEFRA Metric 3.0) is required to demonstrate how a minimum 10% biodiversity net gain is to be delivered on the site (see Schedule 14 of the Environment Act 2021) and should be submitted with an accompanying outline biodiversity enhancement plan and a landscape plan. This is required to ensure that net gains/losses and the broad principles for addressing losses can be understood by the LPA when determining the application; this cannot be deferred to reserved matters or condition. The standard hierarchy of Avoidance-Mitigation-Compensation has to be followed; BNG does not bypass this. Applying the mitigation hierarchy means aiming to retain habitats in situ and avoiding or minimising habitat damage so far as possible, before looking to enhance or recreate habitats either on or off-site.
88. Ecology Further comments
89. The Ecological Assessment report (Parker Planning Services, February 2022) is not satisfactory. It is usual practice to include licence numbers alongside the details of class licences held by the surveyor, these haven't been included in section 1.5 of the report. A badger sett has also been identified on the site (see further comments below).
90. The report confirms that the pond has been filled in so not suitable for Great crested newt (GCN), and the site is predominantly mown modified grassland and hardstanding. The building on site is deemed as negligible for roosting bats.
91. Therefore further surveys are not required for GCN, bats and grassland. The badger sett has been found on the site boundary, section 4.4. of the report states "There is a potential badger sett on the site. This appears to be a secondary sett which has been recently excavated; presumably there is a main sett within vicinity of the site". Since the location of the main sett is 'presumed' and has not been located, this needs some further investigation. I am concerned that the main sett could be located in the adjacent area of woodland which hasn't been surveyed. Further badger surveys are needed before the planning application can be determined:
92. ODPM Regulations require protected species surveys to be submitted prior to determination of a planning application. It is also essential that the extent that they may be affected by the proposed development is established before the planning permission is granted. (Reference: Paragraph 99 of ODPM Circular 06/2005 (Biodiversity and Geological Conservation - Statutory Obligations and their Impact within the Planning System)).
93. Can you confirm whether a biodiversity net gain calculation is going to be submitted?
94. Ecology Further comments 29 March 2022:
95. It appears from the ecology reports that access has not been granted to the adjacent site. The ecologist has not been able to survey the site which is of course unfortunate, but there is nothing further to be achieved if access hasn't been granted.
96. The advice provided in the Ecological Assessment (Parker Planning Services, February 2022) should be followed (this should be made a condition of any planning permission granted) and a note to applicant added to any planning permission granted:
97. "The site and adjacent land provides suitable habitat for badger, the Ecological Assessment (Parker Planning Services, February 2022) has identified a badger sett on the site boundary. The applicant must be made aware that Badgers and their setts (tunnels and chambers where they live) are protected by law. Further information regarding badgers can be found here <https://www.gov.uk/guidance/badgers-protection-surveys-and-licences>

**98. CPRE (Rutland)**

99. On behalf of CPRE, Rutland Branch, I am writing to object to the scale of this proposal which is located beyond the planned limits of the village of Wing, a Small Service Centre.
100. It is accepted that the lower portion of the site could be categorised as "Brownfield" and be redeveloped, provided that the buildings thereon can no longer be used for business purposes.
101. The remaining, northern section, appears to be "Greenfield" which is important to the setting of this side of the village. CPRE Rutland would object to development on this part of the site because of the visual impact.

## **Neighbour Representations**

102. There have been 9 objections from local residents on the following grounds:

- Outside PLD
- Its not brownfield
- Inadequate access – road too narrow
- Increase in traffic close to a junction
- Right of way exists for agriculture only
- History of previous refusals
- NP Likely to call for a mix of houses
- 5 large houses do not meet future needs of the village
- Could prejudice the NP
- Loss of privacy
- Recent dismissed appeal on Reeves Lane for 1 dwelling on highway safety grounds
- Inadequate infrastructure
- Lack of ecological commitment

## **Conclusion – the Planning (Tilted) Balance**

103. The "tilted balance" refers to the presumption in paragraph 11(d) ii of the NPPF that, where the presumption applies, planning permission should be granted unless there are "adverse impacts which would significantly and demonstrably outweigh its benefits."
104. Whilst Para 11d of the Framework states that proposals should be approved in the event of a lack of 5YHLS, this does not give a carte blanche for any development. The scheme has to be weighed up in terms of the harm that it would cause compared to the benefits of providing housing. If the harm outweighs the benefits then permission should still be refused.
105. In this case the site is outside the PLD where development would not be permitted in the event that a 5YHLS was intact.
106. The provision of 5 houses, whilst adding to the requirement, does not make significant inroads into the deficit, currently set at 4.1 years (to be reviewed 6 monthly). Members are aware that the calculation of the figure is not straightforward and does not consist of simply adding house numbers to it.
107. The scheme under-develops the site to avoid the need for affordable housing contributions. This means the scheme fails the social test of sustainability and is contrary

to the policies set out above. The indicative layout of 5 large detached houses, whilst being of a similar density to the surrounding area under-develops the site and is thereby an inefficient use of land.

108. The access to the site is over private land with inadequate width and visibility onto the narrow public highway. This leads to the conclusion that the scheme would cause harm to highway safety. Without a satisfactory access there has been little merit in seeking to improve the indicative layout to a suitable level of design and density.
109. These negative issues clearly outweigh the limited benefit of providing a small element of housing on this site in which case Para 11d is not engaged and permission should be refused.

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REPORT NO:142/2022

## PLANNING AND LICENSING COMMITTEE

23<sup>rd</sup> August 2022

### APPEALS

#### Report of the Strategic Director of Places

Strategic Aim:	Delivering Sustainable Development	
Exempt Information	No	
Cabinet Member Responsible:	Councillor Rosemary Powell - Portfolio Holder for Planning, Highways and Transport	
Contact Officer(s):	Penny Sharp, Strategic Director of Places	Tel: 01572 758160 <a href="mailto:psharp@rutland.gov.uk">psharp@rutland.gov.uk</a>
	Justin Johnson, Development Control Manager	Tel: 01572 720950 <a href="mailto:jjohnson@rutland.gov.uk">jjohnson@rutland.gov.uk</a>
Ward Councillors	All	

#### DECISION RECOMMENDATIONS

That the Committee notes the contents of this report

### 1. PURPOSE OF THE REPORT

- 1.1. This report lists for Members' information the appeals received since the last meeting of the Planning & Licensing Committee and summarises the decisions made.

### 2. APPEALS LODGED SINCE LAST MEETING

- 2.1 APP/A2470/W/22/3298868 - Mr Hugh Burnaby-Atkins - 2021/1147/FUL  
Manton Lodge Farm, Lodge Lane, Manton  
Resubmission of refused application number 2021/0503/FUL, Change of use of part of a field to a tennis court with surrounding fence  
Delegated Decision

Reason - The change of use of agricultural land to extend the residential curtilage and create the tennis court is an undesirable extension of the domestic curtilage. The development would result in an intrusive and prominent incursion into the surrounding open countryside that would adversely affected the character of the open countryside. Therefore the current proposal, due to its area, location and encroachment into 'the open countryside' would fail to accord with Policy CS4 (The location of development), CS19 (Promoting good design), CS21 (Natural environment) and of the Core Strategy (2011), and Policies SP6 (Housing in the countryside, Policy SP7 (Non-residential development in the countryside), SP15 (Design and amenity) and Policy SP23 (Landscape character in the countryside) of the Site Allocations and Policies Development Plan Document(2014), and the adopted Supplementary Planning Documents 'Garden Extensions' (March 2015).

## 2.2 APP/A2470/W/22/3299719 – Mr Richard Drewnicki – 2020/0059/FUL

Land on the North East side of Pingle Lane, Morcott  
1 no. new Dwelling.

### **Committee Decision:**

Reason - The proposed dwelling is located adjacent to the village of Morcott so does not meet the requirement of Paragraph 80(e) of the NPPF in that it is not an isolated dwelling. The Local Planning Authority considers that there is insufficient evidence to demonstrate that the proposal would help to raise standards of design more generally in rural areas or that it would significantly enhance its immediate setting or be sensitive to the defined characteristics of the Conservation area within which it sits.

Furthermore the proposed dwelling does not meet the requirements of Paragraph 134 of the NPPF as it does not fit in with the overall form and layout of the village which is described in the Heritage Appraisal as being a compact settlement with a sense of enclosure. The proposal would be outside this compact form and open to views from the countryside, unlike other buildings in the village. The scale and character of the dwelling would be significantly different from those in the conservation area. The impact of the dwelling on the character of the village and conservation area would be less than substantial but this would not be outweighed by any public benefits.

The proposed construction route and compound would result in the loss of historic ridge and furrow, a non-designated heritage asset, which would never be replaced in its original form.

The proposal would thereby be contrary to Policies CS4 and CS19 of the Core Strategy (2011), Policies SP6, SP15, SP20 of the Site Allocations and Policies DPD (2014), the advice in paragraphs 80(e), 134, and 202 of the NPPF 2021 and Para 15.8 of the Morcott Conservation Area Appraisal and Management Proposals (2014).

## 3. DECISIONS

### 3.1 APP/A2470/W/21/3283970 – A Hinch - 2021/0479/FUL

Retrospective planning permission for the redevelopment of an agricultural building to form 1 no. dwelling.

Glebe Farm, Empingham Road, Tinwell

**Refused – Delegated Decision**

**Appeal Dismissed – 1<sup>st</sup> August 2022**

**4 APPEALS AGAINST ENFORCEMENTS LODGED SINCE LAST MEETING**

4.1 None

**5. ENFORCEMENT DECISIONS**

5.1 None

**6. CONSULTATION**

6.1 None

**7. ALTERNATIVE OPTIONS**

7.1 Alternatives have not been considered as this is an information report

**8. FINANCIAL IMPLICATIONS**

8.1 None

**9. LEGAL AND GOVERNANCE CONSIDERATIONS**

9.1 As this is only a report for noting it has not needed to address authority, powers and duties.

**10. EQUALITY IMPACT ASSESSMENT**

10.1 An Equality Impact Assessment (EqIA) has not been completed for the following reason; because there are no relevant service, policy or organisational changes being proposed.

**11. COMMUNITY SAFETY IMPLICATIONS**

11.1 There are no such implications.

**12. HEALTH AND WELLBEING IMPLICATIONS**

12.1 There are no such implications

**13. CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

13.1 This report gives details of decisions received since the last meeting for noting.

**14. BACKGROUND PAPERS**

14.1 There are no such implications

## **15. APPENDICES**

15.1 None

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