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Rutland County Council

Catmose,
Oakham,
Rutland
LE15 6HP

Application:	2022/1060/FUL	ITEM 2	
Proposal:	Construction of new detached dwelling.		
Address:	35 Main Street, Empingham, LE15 8PR		
Applicant	Russon Campbell	Parish	Empingham Parish Council
Agent:	RTK Stamford Ltd	Ward	Normanton Ward
Reason for presenting to Committee:	Application request to committee from Cllr Waller		
Date of Committee:	8 th August 2023		
Determination Date:	11 th November 2022		
Agreed Extension of Time Date:	9 th August 2023		

EXECUTIVE SUMMARY

The proposal is considered acceptable in principle. The proposed development would have no adverse impact on the character and appearance of the surrounding area or on the residential amenities of occupiers of neighbouring properties. The development would provide satisfactory amenities for future occupants and would be acceptable in terms of highway safety and ecology. Overall it is considered on balance that the application can be considered to be in accordance with local and national planning policies and guidance and is therefore recommended for approval.

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, 1444-03-12A Site Plan, 1444-03-11A Block Plan, 1444-03-13A Hard Landscaping, 1444-03-14A Soft Landscaping, 1444-03-15 rev B Proposed Floor Plans and Elevations, 1444-03-19 Site Sections, 1444-03-17A Street Scene Visualisation, and relevant details specified on the application form.
Reason - For the avoidance of doubt and in the interests of proper planning.
3. No unbound material shall be used in the surface treatment of the vehicular access within 5 metres of the highway boundary, but the construction details used must be porous.
Reason: In the interest of the highway's safety.

4. The construction works, and site clearance should not be carried out until the existing trees on the site which are agreed to form part of the agreed landscape scheme, have been protected by the erection of temporary protective fences under BS5837:2012. as shown on plan number 1444-03-12A Site Plan. The protective fences shall be retained during the entire period of the 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.

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.

Reason: To ensure that the landscaping is carried out at the appropriate time and is properly maintained.

6. No development shall take place, including ground preparation works or vegetation clearance, until an enhancement scheme for swifts has been submitted to and approved in writing by the LPA. This is to detail the location and make of 4 (four) integrated swift nest boxes on the northern elevation. The nest box locations are to be shown on all relevant elevation plans. All works are to proceed strictly in accordance with the approved scheme.

Reason: Swifts are protected under the Wildlife and Countryside Act 1981, and the site falls within a 'swift alert area'. Local Planning Authorities are required to promote the protection and recovery of priority species populations and encourage opportunities to incorporate biodiversity improvements in and around developments, as set out the National Planning Policy Framework (2021).

7. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A-E and Part 2 Classes A-B 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 dwelling shall be erected or carried out except with prior planning permission.

Reason: To ensure that the development remains in keeping with the rest of the street scene, and in the interest of surrounding residential amenity.

Informatives:

1. The driveway extension adjacent to the carriageway to be constructed out

of tarmac to tie into the existing carriageway. This will prevent the driveway extension and carriageway deteriorating at the joint.

2. Prior to occupation of the development the vehicular turning facility, shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.
3. The Applicant/Developer will need to obtain a Highways Licence from Rutland County Council Highways department before any work can commence on the new access. This will require that the access is built to a standard specification and that contractors are sufficiently insured against public liability whilst operating in the highway.
4. Road cleaning will need to be carried out during construction to ensure that the highway is kept clear of deleterious material.
5. Prior to the commencement of any work on the site, a joint inspection of the route to be used by construction vehicles should be carried out with the Highway Authority, including photographic evidence. The route should then be inspected again, after completion of the development and any damage to the highway resulting from traffic movements generated by the application site should be repaired to an acceptable standard and at no cost to the Highway Authority. The Area Highway Manager may also wish to secure a commuted sum for special maintenance to cover the damage caused to the existing roads used as access for vehicles accessing the application site.
6. Due to the site location, a construction traffic management plan is required to ensure that construction workers are parked off the highway, deliveries are scheduled and organised appropriately and all materials are stored off the highway.
7. Nesting birds are protected from disturbance under the Wildlife & Countryside Act 1981 (as amended); therefore all removal of trees/shrubs/hedges should take place outside the breeding season (March - July inclusive) unless carefully checked beforehand by a suitably qualified person.

1. CIL notes

Site & Surroundings

1. The site comprises a rectangular parcel of land to the south of Main Street, neighbours with residential properties to the north and south of the plot and village medical centre to the east.

Proposal

2. The proposed development is to construct a detached dwelling and a new access onto Crocket Lane.

Relevant Planning History

3. 2021/0997/FUL - Demolition of detached garden outbuildings and boundary fence and construction of new detached dwelling – refused.
 1. *The proposal development would result in the loss of a historically undeveloped space that contributes to the character and appearance of Crocket Lane and the setting of the Listed Buildings on land to the south. The design of the proposed dwelling would be of excessive proportions for such a restricted plot, both in terms of its footprint and massing, and the design also includes an excessive number rooflights and some elevations appear over-fenestrated. The development would also have an adverse impact on the setting of the neighbouring Listed Buildings (Nos.2 and 4 Crocket Lane) by removing the openness that the site in its undeveloped state affords to their setting and harmfully interrupts views of these buildings and have an overbearing presence. Consequently, the proposal would result in harm to the identified heritage assets. The degree of harm is assessed as being less than substantial, and therefore paragraph 202 of the NPPF (July 2021) requires that this harm to be weighed against any public benefits arising from the development. The proposed development would neither preserve nor enhance the character and appearance of the Empingham Conservation Area, contrary to the provisions of Sections 66 and 72 of the Town and Country Planning (Listed Building and Conservation Areas) Act 1990 and therefore would fail to preserve or enhance the character and appearance of the adjacent Conservation Area and setting of nearby listed building. As such the proposed development would be contrary to policies CS19 (Promoting good design) and CS22 (The historic and cultural environment) of the Councils Adopted Core Strategy (2011), and policies SP5 (Built development in the town and villages), SP15 (Design and amenity), SP20 (The historic environment) of the Site Allocations and Policies DPD (2014) and Chapters 12 and 16 of the NPPF (2021).*
 2. *The proposed access to the site is inadequate and below the standard required by reason of substandard vehicle to vehicle visibility and vehicle to pedestrian visibility splays. As a consequence, the manoeuvring of vehicles likely to be generated by the proposed development would have an adverse effect on the safety of users of the adjoining public highway. The proposed development would not provide adequate facilities within the curtilage of the site for turning of vehicles and the manoeuvring of vehicles likely to be generated by the proposed development would have an adverse effect on the safety and free flow of traffic on the adjoining public highway. It has not been demonstrated that vehicles can enter and egress the proposed access within the constraints of the narrow carriageway of Crocket Lane. The proposal is therefore contrary to Section 9 of the NPPF (2021) and policies SP5 and SP15 of the Site Allocations and Policies Development Plan Document (2014)*
 3. *The proposed new dwellings and car port block by virtue of their location, scale, design and form would result in a detriment impact of the*

residential amenities of existing and future neighbouring properties. In addition a large number of trees are proposed to be removed, including those in an existing orchard. No arboricultural and ecology reports have been submitted nor has any relevant information been submitted to show how the development would conserve and/or enhance biodiversity on the site. The proposal is therefore contrary to Sections 12, 15 and 16 of the NPPF (2021), Policy CS19 (Promoting good design), CS21 (The natural environment) and C22 (The historic and cultural environment) of the Core Strategy, Policy SP5 (Built development in the towns and villages), SP15 (Design and amenity), SP19 (Biodiversity and geodiversity conservation) and, SP20 (The historic environment) of the Site Allocations and Policies Development Plan Document.

4. 2021/0023/APPEAL (APP/A2470/W/21/3285313) - Demolition of detached garden outbuildings and boundary fence and construction of new detached dwelling – dismissed. In refusing this appeal the Inspector concluded:
“31. The proposal would harm the character and appearance of the area, the living conditions of adjacent occupiers, fail to enhance biodiversity and would conflict with the development plan when taken as a whole. Therefore, for the reasons given, I conclude that the appeal should not succeed.”

Planning Guidance and Policy

National Planning Policy Framework (NPPF) 2021

Chapter 2 – Achieving 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 15 - Conserving and enhancing the natural environment

Chapter 16 – Conserving and Enhancing the Historic Environment

Site Allocations and Policies DPD (2014)

SP1 - Presumption in Favour of Sustainable Development

SP5 – Built Development in the Towns and Villages

SP15 – Design and Amenity

SP19 – Biodiversity and Geodiversity Conservation

SP20 – The Historic Environment

Core Strategy DPD (2011)

CS01 - Sustainable Development Principles

CS04 – The Location of Development

CS19 – Promoting Good Design

CS21 - The Natural Environment

CS22 – The Historic and Cultural Environment

Supplementary Planning Documents

Design Guidelines for Rutland (2022)

Neighbourhood Plan

The site is not within any relevant neighbourhood plan.

Officer Evaluation

5. The application site is located within the village centre, and forms part of the original curtilage of the no35 Main Street.
6. The evaluated land sits to the south of the No 35 and the proposed development seeks planning permission to construct a residential dwelling through sub-division of the garden plot.
7. The present development represents a revised scheme of the refusal ref 2021/0997/FUL and subsequently dismissed appeal. The applicants have sought to address the reasons for the refusal and the concerns raised by the Planning Inspector.

Principle of the use

8. The site is within Planned Limits of Developments. Policies CS4 of the Core Strategy, SP5 of the Site Allocations and Policies SPD, as such the development is in general accordance with the requirements of these policies.

Impact of the use on the character of the area

9. The site is in Empingham conservation area where special regards is given to the historic significance of the area and the impact of the proposal on the local streetscape.
10. The Local Planning Authority is required to ensure that special regard is given to preserving listed buildings and their settings in relation to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act').

11. The Local Planning Authority is required to ensure that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area, through the Planning (Listed Buildings and Conservation Areas) Act 1990 at Section 72.
12. The NPPF refers to the importance of considering the impact of development on the significance of designated heritage assets and advises that development and alterations to designated assets and their settings can cause harm.
13. Policy CS22 of the Rutland Core Strategy (2011) and Policy SP20 of the Site Allocations and Policies Development Plan Document (2014) both seek to protect historic assets and their settings and their character and special features. Policy CS19 and SP15 refer to visual amenity.
14. The Conservation Officer has advised that the historic environment hereabouts is covered by the Empingham Conservation Area, an area defined by its local distinctiveness, the local vernacular is dictated by quality architecture and a consistent palette of materials, many listed buildings contribute greatly to the area. In the immediate vicinity of the application site are two listed buildings to the south, known as Grey Barn and Honey Cottage, the proposal has the potential to harm the 'setting' of the neighbouring listed buildings.
15. When assessing the impact of the application proposal on the historic environment then Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, 'the Act', requires to Local Planning Authority to pay special attention and have regard to the desirability of preserving the setting of listed buildings. Furthermore Section 72(1) requires of 'the Act' requires that special attention be paid to the desirability of preserving or enhancing the character and appearance of a conservation area.
16. The Empingham Conservation Area Appraisal and Management Proposals defines the special interest of the Conservation Area drawing on its significance, which derives from its traditional vernacular in a countryside setting, together with the number of historic buildings, whereby the buildings are at a low density with wide plots and mature trees and greenery, all features contribute greatly to the *street scene and the distinctiveness of the area*.
17. The site appears to have formed the garden land to No. 35 Main Street, which has recently benefitted from a permission and has been implemented. There appears to be space to accommodate a small-scale development and it would appear a garage has occupied the parcel of land, though development here this should not be at the harmful detriment to the historic environment, which contains many Heritage Assets, as harm can dilute the significance of the 'setting' to the neighbouring listed buildings and erode the character and appearance of the Empingham Conservation Area.
18. The historic environment does not preclude development; however, any proposal needs to sympathetically fit the context of the site in terms of considering how development may be suitable to the spatial, visual and

architectural character of the area. Looking at the planning history, it is noted that the Appeals Inspector concluded that the site 'still makes a positive contribution to the character and appearance of the Conservation Area on account of its open nature and spacious character, with trees (to its frontage) contributing to the spacious and verdant appearance of the CA in that part of the village'.

19. Therefore, the main consideration is whether the present proposal harms the character and appearance of the Conservation Area and the immediate setting of the listed buildings contained therein.
20. The Conservation Officer advised that the scheme as originally submitted would dilute the Conservation Area, albeit that the proposal had been set-back into the site and provided a perpendicular form of development off Crocket Lane, it was considered that the design had been contrived to fit into the plot rather than preserving and enhancing the significance of the Conservation Area and therefore amounted to over-development of the site. Furthermore, it was considered that the development would have a harmful impact on the 'setting' of the neighbouring listed buildings as a result of the enclosing effect brought about by the over-development of this limited infill plot. It was considered that Landscaping may not mitigate this harmful effect of the originally proposed scheme on the significance of the Heritage Assets given the proposal appears to over-develop the site and is inconsistent with the spatial grain of development in this location and as a result would appear discordant, in terms of the build to plot ratio, in the context of the historic *environment*.
21. *The Conservation Officer therefore concluded that the original proposal was not considered to provide a layout, character or form that would fit into the immediate context, as sought by design policies and would amount to a large footprint which contrasts with the spatial grain of local development. The Council's Conservation Area appraisal recognises the importance of the space between buildings and the proposal would over-develop this limited infill site. Thus, the proposal would be out of character when considering the local distinctiveness of Empingham, where part of its character is wide plots and leafy green spaces between building. This proposal would harm the character and appearance of the Empingham Conservation Area and would not be considered to preserve the setting of the neighbouring listed building given its enclosing effect.*
22. The applicant has therefore amended the scheme in order to address the concerns raised by the Conservation Officer. The amendments include the removal of the single-storey extension, carport, and simplifying the design of the front elevation. Following the revisions the Conservation Officer has advised:
"From a design perspective, the elevation plan shows 4 rooflights, though the first floor/roof plan shows 2 rooflights, presumably only 2 conservation roof lights would be designed on the roof slope. The dormers appear to be improved and are all limited to two panes. Overall, the scale and massing of the proposal is considerably reduced, such that the proposal should be able to sit

spaciously within the plot with a reasonable gap around the building, as per the comments in the paragraph above. Landscaping would be necessary to ensure that the impact on the character of the Conservation Area and the setting of the neighbouring listed building can be mitigated.

When considering the requirement of Section 16 of the NPPF, the harm on the historic environment would be reduced by the present and with the addition of a spatial presence around the building - given the results of the sun path analysis, the proposal here would likely have the potential to result in 'less than substantial harm' on the significance of the Heritage Assets and thus the historic environment hereabouts. As such there would be no objections to the 'principle' of a reduced scheme based on the observations above. As such the scheme has the potential to comply with the requirements of Section 16 of the NPPF, the 'less than substantial harm' identified by the proposal should be demonstrated to be outweighed by the public benefit."

Impact on the neighbouring properties

23. The site demonstrates a sufficient parcel of land, facing inward with the dwellings placed around the carriageway. Separation distances between the proposed dwelling and neighbouring properties would ensure there would be no undue overlooking or loss of privacy between the dwellings. The proposed dwelling will not result in the unacceptable overshadowing of adjacent properties.
24. The proposed dwellings would be served via a new access, created within Crocket Lane. While this may generate a degree of noise and/or disturbance, vehicle movement/speeds would be low and it is not considered this would be unduly harmful to the residential amenities of occupiers of neighbouring properties.
25. The proposal is therefore acceptable in this respect, 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 Safety

26. While the Local Highways Authority originally objected to the proposed residential development, the Planning Inspector overruled the LHA comments, concluding: *"(...) the proposed access would not harm highway safety by virtue of the use of the access or on-site manoeuvrability. Consequently, the proposal would comply with policies SP5 and SP15 of the SADPD in relation to matters associated with highway safety. These seek, among other matters, for development to make safe provision for access by vehicles and to not have an adverse impact on the highway network. (...)"*
27. The present scheme has improved the design of a new access to allow widening of the carriageway, and the access itself.

28. The Highway Authority raised no objection to the present scheme based on the revised plans and the appeal decision. Conditions have been recommended.
29. Therefore, the proposal 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).

Section 106 Heads of Terms

30. Not applicable

Crime and Disorder

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

Human Rights Implications

32. 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.
33. It is considered that no relevant Article of that act will be breached.

Consultations

34. Empingham Parish Council object on the grounds that the application presents a number of issues relating to impact on the residential and public amenities. The development would result in loss of privacy, the development of the site would affect the natural drainage of surface water and consequently increases the risk of flooding.
35. Local Highway Authority raise no objection subject to conditions and informatives.
36. Forestry Officer raises no objection.
37. LCC Archaeology raise no objection.
38. LCC Ecology raise no objection subject to a condition for ecological mitigation, compensation and enhancement.
39. It should be noted the site is outside of flooding zones and there are no watercourse(s) in the surroundings that would directly or indirectly affect the local area flooding situation.

Neighbour Representations

40. Objections have been received from 5 households, comments object to the impact of the development on the character of the local area, the unsuitability of

the access, maintenance of abutting properties, ecology and increased flood risk.

Conclusion

41. Considering the above, the proposed development is appropriate for its context and is in accordance with the NPPF (Sections 2, 5, 9,11,12, 15 and 16), Policies CS4, CS19, and CS22 of the Rutland Core Strategy (2011), Policies SP5, SP15, and SP20 of the Site Allocations and Policies Development Plan Document (2014), There are no material considerations that indicate otherwise although conditions have been attached.
42. The Council as Local Planning Authority has had regard to the relevant policies of the development plan and considers that subject to compliance with the conditions attached to the permission, the proposed development would be in accordance with the development plan as set out above, would not materially harm the living conditions of neighbouring occupiers, result in any unacceptable highway safety impacts, harm the special interest of the surrounding Conservation Area and would be acceptable in all other planning considerations. The Council has taken into account all other matters, none of which outweigh the considerations that have led to its decision.