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## Rutland County Council

Catmose,  
Oakham,  
Rutland  
LE15 6HP

Application:	<b>2023/0892/FUL</b>	<b>ITEM 3</b>	
Proposal:	<b>Section 73 application to Remove or Vary Conditions 2, 3 and 6 of application 2023/0074/FUL in order to allow for the provision of 4 parking spaces on site (Retrospective approval for the erection of a two storey and single storey extension to dwelling, raising of the roof of the original house with a new thatch roof, addition of a window on the North East elevation, re-positioning of two windows on the South West elevation, the addition of an extra chimney and the raising of the height of the existing chimney with new rear door access, 2 no. garden sheds, parking and landscaping works).</b>		
Address:	<b>21, Main Street. Cottesmore. Rutland</b>		
Applicant	<b>Mrs J Burgess</b>	Parish	<b>Cottesmore</b>
Agent:	<b>Mr Timothy Bale</b>	Ward	<b>Cottesmore</b>
Reason for presenting to Committee:	<b>At the request of the Head of Development Control</b>		
Date of Committee:	<b>12<sup>th</sup> December 2023</b>		
Determination Date:	<b>23<sup>rd</sup> October 2023</b>		
Agreed Extension of Time Date:	<b>19<sup>th</sup> December 2023</b>		

## **EXECUTIVE SUMMARY**

**It is considered that the removal of Condition 6 and variation of Conditions 2 and 3 does not impact on residential amenity, highway safety and does not cause harm to adjacent listed buildings or the character of the Cottesmore Conservation Area in accordance with Sections 9, 12 and Section 16 of the NPPF (2019), Policies CS19 and CS22 of the Rutland Core Strategy (2011) and Policies SP15, SP20 and SP23 of the Site Allocations and Policies Development Plan Document (2014).**

## **RECOMMENDATION**

**APPROVAL** subject to the following conditions:

1. The development shall be begun before the expiration of three years from 11<sup>th</sup> August 2023.  
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: 3194/4 Rev B and 3194/5 Rev H.  
Reason: For the avoidance of doubt and in the interests of proper planning.

3. Should any of the new planting shown on the approved Drawing Number: 3194/5 Rev H within a period of 5 years of being planted die are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species.  
Reason: To ensure that the landscaping is carried out at the appropriate time and is properly maintained.
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 window in the first floor bathroom shall be non opening below a height of 1.7m measured from the floor of the room it serves and glazed in obscure glass before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.  
Reason: To protect the private amenity of neighbouring properties.
5. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A, B, C & D of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling shall be erected or carried out except with prior planning permission.

## Site & Surroundings

1. The site lies within the Cottesmore Conservation Area. The dwelling has been built from stone with a thatched roof.
2. The plot itself to which the dwelling lies is mainly level for the length of the building with higher ground to the rear with brick retaining walls to the amenity area.
3. The site has an existing access from Main Street. Access to the Cottesmore Sports Club runs alongside the rear of the property.
4. To the southwest of the site lies a mix of terrace, detached and semi-detached properties. To the north east of the site is the Sun Inn public house.

## Proposal

5. A retrospective application (2023/0074/FUL) was recently approved for the erection of a two storey and single storey extension to dwelling, raising of the roof of the original house with a new thatch roof, addition of a window on the North East elevation, re-positioning of two windows on the South West elevation, the addition of an extra chimney and the raising of the height of the existing chimney with new rear door access, 2 no. garden sheds, parking and landscaping works.

6. The building was previously occupied as a dwelling but had been vacant for many years and over time had come into serious disrepair. The works have been carried out to bring the building back into its permitted use.
7. This application is to remove Condition 6 of approval 2023/0074/FUL. Condition 6 was added at the request of the Members of the Planning Committee.

Condition 6 stated the following:

*‘Two cars shall only be parked at the site in the two designated spaces identified on drawing 3194/5 REV G at any one time. No vehicles are permitted to park elsewhere on the site. Notwithstanding the submitted plans within 1 month of the date of this decision a plan showing how the site will be limited to only provide for two off-street parking spaces will be submitted to and approved in writing by the Local Planning Authority. The plan shall include details of a physical barrier to ensure that the rest of the site is not used for additional parking.*

*Reason: To avoid the intensification in the use of the existing access and the potential for further conflict between vehicles reversing onto or off this site. In the interests of pedestrian and highway safety.’*

8. A new plan has been submitted which shows the parking for 4 vehicles on site. Though, based on the submitted information, it was considered appropriate at the time to add Condition 6 to 2023/0074/FUL approval, additional highways information has now been submitted as part of this application to the satisfaction of the Highways Department to justify the provision of 4 on-site parking spaces.
9. As a result of this new plan the reference number of the revised drawing has been added to the approved plans condition (Condition 2) and the landscaping condition (Condition 3). The reference to drawing Rev G in the existing conditions 2 and 3 has now been replaced with drawing Rev H.
10. So the application proposes to remove Condition 6 and to vary conditions 2 and 3.

## **Relevant Planning History**

11. Application 2020/0540/FUL for similar development was withdrawn at the request of the planning officer.
12. The extension did not appear subservient to the host property and was a large extension with a bigger footprint than the original house. This was considered over development of the site which is compounded by the close proximity of Nos. 17 & 19, Main Street. The mass of the building would have created a dominant and oppressive environment in relation to the rear elevations of these properties and their amenity spaces.
13. The position of the new build element would have also impacted on levels of light to the rears of these neighbours and create additional overshadowing.

14. Application 2020/0959/FUL was approved for proposed demolition of existing outbuilding and garage. Erection of a two and single storey extension to dwelling, raising of the roof on the existing house and clad with a thatch roof.
15. The proposal was to extend the cottage on the elevation opposite to the road (south east elevation) with a two storey and a single storey. The walls were to be repaired where necessary and built up over the ground floor windows to roughly half way up the first floor windows and a new Thatch roof was to be installed using reed over the two storey element with pantiles over the single storey element. The first floor windows had an eye brow style roof over as traditional thatch cottages.
16. Application 2022/0715/FUL was a Section 73 application to vary Condition 2 (Approved Plans) of 2020/0959/FUL to add a window on the north east elevation and slightly move two windows on the South west elevation. Addition of an extra chimney and raise the height of the existing chimney to satisfy fire regulations. This application was withdrawn.
17. Following a site visit and assessment of the submitted plans the dwelling was found to be built in variance with the proposed plans as submitted.
18. Furthermore, application 2022/0715/FUL was to amend condition 2 which relates to the approved plans. As part of approval 2020/0959/FUL the decision notice also included other conditions which had to be adhered to. These included tree conditions such as the following:

*7 Before construction works commence Tree Protection measures should be erected in accordance with the Tree Survey, Impact Assessment & Method Statement by RJ Tree Services Ltd dated 13th July 2020.*  
*Reason: To protect trees which make an important contribution to the character of the area.*

*8 The development hereby approved shall be carried out in strict accordance with the Tree Survey, Impact Assessment & Method Statement by RJ Tree Services Ltd dated 13th July 2020.*  
*Reason: To protect trees which make an important contribution to the character of the area*
19. From the information that the applicant provided regarding the loss of certain trees which should have been retained, conditions 7 & 8 were not complied with.
20. It was considered that with all the changes that the existing permission was not being and could not be complied with. The application was requested to be withdrawn. A new full application (not a Section 73 to vary the existing permission) was requested to be submitted which should include within the description the retrospective works which have been carried out to dwelling.

This has led to the submission of the most recent application which the committee approved. (2023/0074/FUL).

## **Planning Guidance and Policy**

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

Chapter 2 – Achieving Sustainable Development

Chapter 12 – Achieving well designed places

Chapter 16 – Conserving and enhancing the historic environment

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

SP5 – Built Development in the Towns and Villages

SP6 - Housing in the Countryside

SP15 – Design & Amenity

SP20 – The Historic Environment

SP23 – Landscape character in the countryside

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

CS04 – The Location of Development

CS19 – Promoting Good Design

CS22 – The Historic and Cultural Environment

## **Officer Evaluation**

### Heritage impact and impact on the character of the area

21. Listed Building Apps - The Local Planning Authority is required to ensure that special regard to preserving the Listed Buildings and their settings in relation to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act').
22. Conservation Area Apps - 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.

23. NPPF - Furthermore, the importance of considering the impact of development on the significance of designated heritage assets is expressed in the National Planning Policy Framework (NPPF 2019). The NPPF advises that development and alterations to designated assets and their settings can cause harm. These policies ensure the protection and enhancement of the historic buildings and environments. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance should be treated favourably.
24. The Conservation Officer was consulted as part of application 2023/0074/FUL and had no objections.
25. The development was found to be acceptable, in accordance with SP6 and in order to control extensions or replacement dwellings, a planning condition has been applied that removes the permitted development rights to further extend the dwelling.
26. Policy SP23 (Landscape character in the countryside), which requires that new development be designed so as to be sensitive to its landscape setting.
27. A plan has been submitted showing replacement planting. The Rutland Tree Officer was consulted and had no objections.
28. The further tree /planting provided to the rear maintains and protects the character and appearance this location.
29. A condition has been attached stating that should any of the new planting shown on the approved Drawing Number: 3194/5 Rev H within a period of 5 years of being planted die are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species. This condition (Condition 3) has been amended to include the new drawing number reference which shows the parking of 4 vehicles.
30. It is considered that the on-site parking provision as indicated on the revised plan will not impact adversely on the setting of nearby listed buildings or the character of the Cottesmore Conservation Area.
31. By virtue of the design and layout the proposal would be in keeping with the host dwelling, streetscene and surrounding context. The development would not cause harm to adjacent listed buildings or the character of the Cottesmore Conservation Area in accordance with Sections 12 and Section 16 of the NPPF (2019), Policies CS19 and CS22 of the Rutland Core Strategy (2011) and Policies SP15, SP20 and SP23 of the Site Allocations and Policies Development Plan Document (2014).

### Impact on the neighbouring properties

32. Taking into account the nature of the proposal and provision of suitable boundary treatments it is considered that there would be no unacceptable adverse impact on the residential amenities of the occupiers of adjacent properties in accordance with the Section 12 of the NPPF (2019), Policy CS19 of the Rutland Core Strategy (2011) and Policy SP15 of the Site Allocations and Policies Development Plan Document (2014).
33. Any issues regarding boundary disputes or rights of way are legal matters which should be addressed between the interested parties and do not impact on the determination of this planning application.

### Highway issues

34. Objections have been received regarding access and parking arrangements for the property.
35. Additional information within the accompanying Highways Report has been submitted for assessment which is in addition to the information which was considered as part of the determination of 2023/0074/FUL. The Highway Department consider the proposal to have a safe and suitable access with adequate parking provision.
36. The proposal would result in adequate access and parking facilities for 4 No. vehicles and would not have an unacceptable adverse impact on highway safety in accordance with the Section 9 of the NPPF (2019).
37. As a result, the Highway Department has no objection to the removal of Condition 6 of 2023/0074/FUL.

### Crime and Disorder

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

### Human Rights Implications

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

## **Consultations**

### Highways Department:

40. The additional information, Accompanying Highways Report, has been reviewed by the LHA. The following comments are made on behalf of the LHA: The above-mentioned report has made some very valid points in relation



to the impact of increasing the car parking spaces from 2 to 4 and increased vehicular activity at the access. To name a few, our parking standards are minimum, there is no evidence of accidents within the location of the access, planning history, history of the dwelling, the width of the access being wider than our minimum requirement for a shared access, comparison with the nearby access to the public house which is evidently much worse (with also no recorded accidents), the fact that not all the parking spaces will necessarily be used, the resulting benefit of less vehicles parking on the public highway, good visibility, etc.

In summary, the LHA are satisfied that the additional information has demonstrated that the access is adequate to accommodate the movements of all vehicles associated with the proposed 4 parking spaces, and therefore the LHA would be supportive of the removal of Condition 6 on planning application 2023/0074/FUL or variation of it.

Rutland Tree Officer:

41. No objections

Cottesmore Parish Council

42. The Parish Council notes the request to Remove or Vary Condition 6 of Application No. 2023/0074/FUL. We consider the matter was dealt with at some length within the assessment and discussion of this retrospective application at the planning and licensing committee meeting on 8th August 2023. It was clear why the committee wished to impose this condition and the reasoning is set out in the decision notice. The Parish Council see no sound planning reason to change or remove this condition.

**Neighbour Representations**

43. Mr Colin Smith, 17 Main Street (15<sup>th</sup> September 2023)      Cars reverse into this site from the adopted highway. It is a narrow residential access. It is unsafe, creates noise and friction with the constant movement of vehicles. I therefore would like the refusal of this application to remove condition 6 to which the committee agreed on. Condition 6 should remain, for only 2 cars entering this narrow access at all times.

44. Mr Colin Smith, 17 Main Street (28<sup>th</sup> November 2023)
- On 8th August 2023 this application came to the planning and licensing committee. It was dealt with in depth and concluded that condition 6 should be applied stating only two cars should be parked in this area.  
 The developer had 1 month to comply and a barrier was supposed to be erected restricting any other vehicles.  
 We are now 5 months on and nothing has changed  
 The drive is still narrow  
 It is still dangerous  
 It is still very noisy due to constant movement of vehicles reversing in  
 No. 19 and 17 still can't use their access safely  
 Condition 6 which was set in place by the committee should remain in place because nothing has changed.
45. George Weightman Planning Consultant (on behalf of 17 Main Street)
- Committee members requested the condition to be added. This was recommended by Highways and followed Astill Consultants letter (attached). Astill Consultants were called the following day by RCC due to the way the matter was handled.
- The reason for the condition in the first limb is the intensification of use. The intensification is a consequence of the permission granted.
- The previous level of parking, not in accordance plans, and associated problems/conflicts documented by objections are all considerations resulting in this condition. Now the scheme digresses to four spaces while five to six cars are still regularly parked at the site.
- The latest highway comments change again. They fail to consider all past events and the detrimental impact on the amenity of occupiers, the impact on their access, the damage to village green, safety of occupiers and all reported incidents to the council. The condition is necessary, relevant to both planning and the development permitted, enforceable and precise; while given the history of unauthorised works and use it is reasonable in all other respects.

## Conclusion

46. Taking the above into account, it is considered that the removal of Condition 6 and variation of Conditions 2 and 3 does not impact on residential amenity, highway safety and does not cause harm to adjacent listed buildings or the character of the Cottesmore Conservation Area in accordance with Sections 9, 12 and Section 16 of the NPPF (2019), Policies CS19 and CS22 of the Rutland Core Strategy (2011) and Policies SP15, SP20 and SP23 of the Site Allocations and Policies Development Plan Document (2014).