

Application:	2023/0947/FUL	ITEM 2	
Proposal:	Proposed demolition of existing agricultural barn and erection of 1 no. new dwelling to same site location.		
Address:	Black Hovel Oakham Road Whissendine Rutland LE15 7HA		
Applicant	Duffin	Parish	Whissendine
Agent:	Mr Mark Abell	Ward	Whissendine
Reason for presenting to Committee:	Departure from the Development Plan		
Date of Committee:	16 January 2024		
Determination Date:	13 November 2023		
Agreed Extension of Time Date:	19 January 2024		

EXECUTIVE SUMMARY

The principle of residential development here has been established through the granting of a Class Q Prior Approval. The design of the new dwelling has evolved from discussions and meeting as part of the prelim process undertaken by the agent and his clients with the Local Planning Authority. The proposed design scale and form of the dwelling is considered to be a significant improvement on the appearance of the Class Q prior approval that could be implemented. The development would not be contrary to local and national planning policies or have a detrimental impact upon the amenities of the surrounding area.

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; 2302-06 Revision e 'Site Location Plan', 2302 - 03 Revision c 'Proposed Plans & Elevations', 2302-04 Revision g 'Existing & Proposed Site Block/Landscaping Plan, 2302 -05 Revision a 'Site Sectional Elevations', 2302- 07 'Root Protection & Site Mitigation', 2302-08 Revision b 'Visibility Splays & Hedge maintenance', 2302-09 'Sections & Sectional Elevations', Landscape and Character Assessment (R Heathcote Garden) received 11 September 2023 and Speed Survey (Bancroft Consulting) November 2021.

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

3. No development above ground level shall be commenced until
- a) precise details of the manufacturer and types and colours of the external facing materials,
 - b) roofing materials
 - c) rooflight details
 - d) description of the joints proposed
 - e) Details of the mortar mix, profile and finish
 - f) timber cladding
- to be used in construction have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.

Reason: To ensure that the materials are compatible with the surroundings in the interests of visual amenity and because no details have been submitted with the application.

4. No development above ground level shall be commenced until drawings to a scale of not less than 1: 50 fully detailing the new windows, rainwater goods, doors, and surrounds to be used and indicating precise details of the materials, manufacturer and types and colours shall be submitted to and approved in writing by the Local Planning Authority. The approved works shall be installed/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 no details have been submitted with the application.

5. Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the nearside edge of the carriageway.

Reason: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed in the interest of highway safety.

6. Prior to commencement of the development, the hedgerow to the south must be reduced in width by half on the public highway side for a distance of 40m from the edge of the access, and thereafter maintained at that width.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety.

7. Prior to commencement of the development, the hedgerow to the north must be reduced in width by a quarter on the public highway side for a distance of 20m from the edge of the access, and thereafter maintained at that width.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety.

8. No unbound material shall be used in the surface treatment of the vehicular access within 5 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety.

9. The design of the access should incorporate measures to ensure that no loose surfacing material or surface water can cross from the access onto the public highway, and this work will be completed prior to commencement of the site development.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.

10. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 1 to 4 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied with in relation to that contamination.

1. Site Characterisation

No development shall take place until an assessment of the nature and extent of contamination has been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a competent person as defined by annex 2 of the National Planning Framework. The assessment shall assess any contamination on the site, whether or not it originates on the site. Moreover, it must include:

- (i) a survey of the extent, scale and nature of contamination;
(ii) develop the conceptual site model to assess and evaluate the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments.

This must be conducted in accordance with the Environment Agency's 'Land Contamination Risk Management' Guidance.

2. Submission of Remediation Scheme

No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing

unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, an appraisal of remedial options, and proposal of the preferred option(s), and a timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

This must be conducted in accordance with the Environment Agency's 'Land Contamination Risk Management' Guidance.

3. Implementation of Approved Remediation Scheme

The remediation scheme shall be implemented in accordance with the approved timetable of works. Within 3 months of the completion of measures identified in the approved remediation scheme, a validation report must be submitted to the Local Planning Authority. The validation report must clearly demonstrate through the provision of clear and unambiguous evidence that the approved remediation scheme has been completed as stated.

This must be conducted in accordance with the Environment Agency's 'Land Contamination Risk Management' Guidance.

4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing within 5 days to the Local Planning Authority and once the Local Planning Authority has identified the part of the site affected by the unexpected contamination development must be halted on that part of the site.

An assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary, a remediation scheme, together with a timetable for its implementation, must be submitted to and approved in writing by the Local Planning Authority in accordance with the requirements of condition 2.

The measures in the approved remediation scheme must then be implemented in accordance with the approved timetable. Following the completion of measures identified in the approved remediation scheme, a validation report must be submitted to and approved in writing by the Local Planning Authority in accordance with condition 3.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property, and ecological systems, and to ensure that the

development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors.

11. No occupation of the development approved by this permission shall take place until such time as surface water and foul water drainage schemes have been submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site.

12. No occupation of the development approved by this permission shall take place until such time as details in relation to the long-term maintenance of the foul and surface water drainage systems within the development have been submitted to and approved in writing by the Local Planning Authority.

Reason: To establish a suitable maintenance regime that may be monitored over time; that will ensure the long-term performance, both in terms of flood risk and water quality, of the foul and surface water drainage systems (including sustainable drainage systems) within the proposed development.

13. Prior to occupation of the development, the applicant will provide to the Local Planning Authority evidence of sufficient water pressure to service the development to be agreed in writing by the Local Planning Authority.

Reason: To ensure an adequate and safe water supply to service the development.

14. No development shall take place until the existing trees/hedgerows on the site, agreed with the Local Planning Authority to be retained and shown on Drawing No 2302 -07 have been protected by the erection of temporary protective fences in accordance with BS5837:2012. The protective fences shall be retained throughout the duration of building and engineering works in the vicinity of the trees to be protected. Within the areas agreed to be protected, the existing ground level shall be neither raised nor lowered, and no materials or temporary building or surplus soil shall be placed or stored there. If any trenches for services are required in the protected areas, they shall be excavated and back-filled by hand and any tree roots encountered with a diameter of 5cm or more shall be left unsevered.

Reason - The trees/hedgerows 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.

15. Prior to the occupation of the dwelling, the hedgerows that have been thinned to the north and south in order to provide adequate visibility splays to the vehicular access in accordance with details in condition 6 and 7 above shall be reinforced with additional native hedgerow planting species to the rear of the existing hedge. The precise details of the additional hedgerow planting shall first be submitted to and agreed in writing with the Local

Planning Authority and shall be implemented in full in the agreed manner during the next planting season.

Reason: 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.

16. No development shall take place (including ground works or vegetation clearance) until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the LPA. The LEMP shall include the following details:

- A) description and evaluation of the features to be created/managed
- B) aims and objectives of management
- C) appropriate management options for achieving aims and objectives
- D) prescriptions for management actions
- E) work schedule
- F) species/seed mixes to be planted/sown
- G) ongoing monitoring and remedial measures

The approved plan will be implemented in accordance with the approved details.

17. No development above ground level shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, which shall include any proposed changes in ground levels, boundary treatments and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in Relation to Construction."

Reason: To ensure that the landscaping is designed in a manner appropriate to the locality and to enhance the appearance of the development.

18. All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species.

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

19. Nesting birds and bats, their roosts and their access to these roosts are protected under the Wildlife and Countryside Act 1981. Vegetation clearance must either take place outside the bird-nesting season (March to July

inclusive), or within 24 hours of the 'all-clear' from an appropriately qualified ecologist following a negative bird-nesting survey. Netting to prevent bird nesting may only be done with prior approval of the LPA. Should the evidence of bats of any species be detected before or during the proposed works to the hedgerow, all works shall cease immediately, and the applicant/agent shall contact the Local Authority to secure the implementation of a programme of mitigation for protected species. Should nesting birds be present in the hedgerow works should be deferred until late summer/autumn.

Reason: To ensure that any species present which are legally protected under the Wildlife and Countryside Act 1981 are not compromised by the work hereby approved

20. There shall be no external lighting on the site, any external lighting required, either temporary lighting during building work, or permanent lighting post development, must be in line with the BCT lighting guidelines (Bats and Lighting in the UK (Bat Conservation Trust, 2018) (<https://www.theilp.org.uk/documents/guidance-note-8-bats-and-artificial-lighting/>). Full details of any proposed external lightning shall be submitted to and approved in writing by the Local Planning Authority prior to the installation of any external lighting. To reduce the impact of lighting on bats, lighting should consist of LED light sources fitted with downward deflectors (i.e. hoods, cowls, shields, louvres) at a low level, and, ideally, be on PIR sensors. No up-lighting should be used.

Reason: To ensure that any protected species which are legally protected under the Wildlife and Countryside Act 1981 are not compromised by the work hereby approved.

21. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A-E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling, and no provision of buildings, enclosures, swimming or other pool, shall be erected or carried out except with prior planning permission.

Reason: In the interests of the character and appearance of the open countryside and surrounding residential amenity.

22. The residential curtilage of the dwelling and associated annex shall be limited to the area outline in green and labelled 'residential curtilage' shown on drawing No 2302-04 Revision g. The remainder of the application site shall not form part of the residential garden and shall be managed in perpetuity thereafter in accordance with details agreed within the Landscape and Ecological Management Plan and Landscaping scheme.

Reason: To protect the character and appearance of the surrounding open countryside.

23. Temporary facilities shall be provided clear of the public highway for the parking, turning, loading and unloading of all vehicles visiting the site during the construction period.

Reason: In the interests of highway safety in accordance with Policy SP15 in the Adopted Rutland Local Plan Site Allocations & Policies DPD 2014, Design Guidelines for Rutland (SPD), The National Design Guide (2021) and Paragraph 112(d) of the National Planning Policy Framework (2021).

24. The post and rail timber boundary fence details (detailed in The Landscape and Character Assessment (R Heathcote Garden) received 11 September 2023 and as shown on drawing No 2302-04 g) shall be erected prior to the first occupation of the dwelling and maintained in perpetuity thereafter.

Reason: To protect the character and appearance of the rural area.

INFORMATIVES

Section 184 Highways Act 1980

The development involves the construction of a new vehicular access within the public highway. These works must be carried out under strict accordance with the requirements of Rutland County Council under the provisions of Section 184 of the Highways Act 1980. Prior to commencing any work within the highway, a licence must be obtained from the Local Highway Authority. The application form and guidance notes can be found on Rutland's website or contact can be made with Highways by email at highways@rutland.co.uk.

Section 148 Sub-Sec C Highways Act 1980

It is an offence under Section 148 Sub-Sec C of the Highways Act 1980 to deposit anything including building materials or debris on a highway which may cause interruption to any user of the highway (including footways or verges). In the event that a person is found guilty of this offence, a penalty may be imposed in the form of a fine. It is the responsibility of the developer and contractor(s) to ensure that no building materials or debris are placed on or remain within the highway during or after the construction period.

Section 149 Highways At 1980

If anything is so deposited on the highway as to constitute a nuisance, under Section 149 of the Highways Act 1980 the Local Highway Authority may by notice require the person responsible to remove it forthwith and if not complied with the Local Highway Authority may make a complaint to a Magistrates Court for a Removal and Disposal Order. In the event the deposit is considered to constitute a danger the Local Highway Authority may remove the deposit forthwith and recover reasonable expenses from the person who made the deposit.

Naming & Numbering - Section 17 - 18 Public Health Act 1925

The development will result in the creation of new street(s) and/or new dwelling(s) and/or allocate appropriate street names and property numbers. This procedure is applicable to the sub-division of premises, which will provide multiple occupancy for both residential and commercial buildings. Before development is commenced

an application should be made, allowing 8 weeks to complete. Details are available on our website at the following link:- <https://www.rutland.gov.uk/my-services/planning-and-building-control/planning/street-name-and-numbering/> Should you require assistance please email snn@rutland.gov.uk. Please note this is not a function covered by your planning application but is a statutory obligation of the Local Authority, and must be dealt with as a separate matter following planning approval.

Utility Services - Section 50 NRSWA 1991

The development is likely to involve works within the public highway in order to provide services to the site or which will affect existing services. Such works must be licenced under the New Roads and Street Works Act 1991. It is essential that, prior to the commencement of such works, adequate time be allowed in the development programme for; the issue of the appropriate licence, approval of temporary traffic management and booking of road space. Further details can be obtained by emailing highways@rutland.gov.uk.

Nesting birds are protected under the Wildlife & Countryside Act 1981 (as amended); therefore all removal of trees/shrubs/hedges and building demolition should take place outside the breeding season (March to August inclusive) unless carefully checked beforehand by a suitably qualified person.

The responsibility for providing information on whether the site is contaminated rests primarily with the developer; where Planning Permission is granted for a site on which the presence of contamination is known or suspected, the responsibility for safe development and secure occupancy of the site rests with the developer; and that the response has been determined on the basis of the information available, but this does not mean that the land is free from contamination.

Rutland County Council became a Community Infrastructure Levy (CIL) Charging Authority on 1st March 2016. Full details of CIL are available on the Council's website www.rutland.gov.uk. The approved development may be subject to a Community Infrastructure Levy (CIL) liability. IMPORTANT NOTE: The required CIL forms must be submitted to cil@rutland.gov.uk and acknowledged prior to commencing the development. Failure to do so could result in additional financial penalties. If you have not received an acknowledgement by the time you intend to commence development, then it is imperative that you contact cil@rutland.gov.uk. If the development hereby approved is for a self- build dwelling, residential extension or residential annexe you may be able to apply for relief from CIL. Further details can be found on the Planning Portal: https://www.planningportal.co.uk/info/200126/applications/70/community_infrastructure_levy/2

Site & Surroundings

Proposal

1. The application building is existing large agricultural steel framed building with an asymmetrical roof located in an isolated location on the eastern side of

Oakham Road between Langham and Whissendine. The building is divorced from the existing farm complex located on the opposite of Oakham Road. The existing building is set back approximately 170m from the road with access to the barn being via an existing agricultural track. The surrounding area is predominately agricultural in nature.

2. The application site and building is open to a number of vantage points from views Oakham Road, Footpath E143 that is located on the opposite side of the water course parallel with the eastern boundary of land in the applicants ownership and Bridleway E145 located on the ridge line that follows the parish boundary overlooking the site further to the east.
3. The land slopes quite significantly west to east. The eastern boundary of the site is 6.5m approximately lower than that of the site access gate from Langham Road. Due to the topography of the site the ground floor elevation of the proposed new dwelling is likely to be screened from views from the west.as the first-floor level would be circa 3.0m lower than that of Langham Road, effectively concealing the ground floor from the western views and site access.
4. The new dwelling is positioned to the rear of the existing barn, in line with an existing hedgerow line running north to south across the site. The proposed design is a 'U' shaped form comprising living accommodation and double garage. The approach adopted to the project has been to create a traditional form of 'converted barn appearance' in both scale and form as found within the Leicestershire/ Rutland landscape. Significant consideration has also been given to mitigate the visual impact of the dwelling in comparison to how the existing barn would appear if the existing Class Q Approval was to be implemented. This includes a sensitive landscaping solution along with the authentic and traditional design proposal.
5. The residential curtilage of the property is shown to be restricted in size in relation to the overall area of land in their ownership of the applicant. It is proposed to provide sympathetic boundary treatment in the form of timber post and rail fencing, metal estate fencing coloured black and native mixed species hedgerows. A detailed landscaping strategy has been provided in support so that the property to illustrate how the development would be integrated into the existing landscape and provide biodiversity improvements of the land in the applicants ownership.
6. The overall habitable footprint of the proposed, new dwelling would be approximately 38m² less than that of the existing Class Q approval (422m² vs 460m², or an 8% reduction in habitable floor area).

Relevant Planning History

7. Prior Approval Consent was granted under reference No 2021/1018/PAD for the change of use of agricultural building to form 1 No. Dwelling; and building operations reasonably necessary to convert the building to a dwelling.
8. An application submitted under reference No 2022/0918/FUL for a proposed dwelling house, redesign of dwelling permitted Class Q determination Ref: 2021/1018/PAD was withdrawn.
9. A prelim was submitted under reference No 2023/0516/PEC. In which feedback was provide from statutory consultees and additional information required to support future planning application.

Planning Guidance and Policy

National Planning Policy Framework (NPPF)

Chapter 2 – Achieving Sustainable Development

Chapter 5 - Delivering a sufficient supply of homes

Chapter 9 - Promoting sustainable transport

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)

SP6 - Housing in the Countryside

SP15 - Design and Amenity

SP19 - Biodiversity and Geodiversity Conservation

SP23 - Landscape Character in the Countryside

SP20 – The historic environment

Core Strategy DPD (2011)

CS03 – Settlement Hierarchy

CS04 - The Location of Development

CS19 - Promoting Good Design

CS21 - The Natural Environment

CS22 -The historical and cultural environment.

Whissendine Neighbourhood Plan (draft submission version)

WH1: Housing

WH4: Design

WH5: Landscape and Heritage

WH7: Surface Water

WH8: Infrastructure

Supplementary Planning Document

Supplementary Planning Document - Design Guidelines for Rutland SPD (2022)

Main issues

10.
 - i) The principle of the development,
 - ii) the impact on the character and appearance of the area,
- i) Highway safety
 - ii) Contaminated land
 - iii) Ecology
 - iv) Archaeology

Officer Evaluation

Principle of the use

11. The Development Plan, specifically Policies CS4 and SP6, restricts new housing in the countryside to that which is necessary, usually for agriculture or forestry. This is supported by the advice in Paragraph 83 and 84 of the National Planning Policy Framework (NPPF).
12. CS4 states that conversion will only be permitted where the building is close to sustainable settlements and where there is no environmental impact. Policy SP6 builds on the Core Strategy and sets out where residential conversion might be allowed.
13. Since the introduction of Class Q permitted development rights, with no consideration of sustainability, this can be a material consideration in the determination of an application to convert a rural building, i.e. where there is a clear possibility and intention to use the Class Q rights. There was a Class Q approval granted here, and case law has established that a fallback position should be lent considerable weight.
14. Given the above, it is considered that the principle of residential development here has been established, and as such the proposal would not be in conflict with Section 5 of the NPPF, Policy CS04 of the Rutland Core Strategy (2011), and Policy SP6 of the Site Allocations and Policies Development Plan Document (2014).

Impact of the use on the character of the area

15. The design of the dwelling and residential curtilage has been amended between the time application No 2022/0918/FUL was withdrawn and the preliminary submission. It is considered that the new dwelling, by reason of its design, scale, form, layout and alignment in a gap within a mature hedge running north-south across the site, would represent a significant visual improvement over the

dwelling that could be implemented as part of the prior approval scheme to the barn which is of no particular architectural merit.

16. By virtue of the design, ecological and landscaping improvements, it is considered that the proposal would have significant reduced impact upon the character or appearance of the open countryside including views of the site from Oakham Road, Footpath E143 and Bridleway E145. It is considered that the development would be in accordance with the NPPF (Sections 5 9, 12 & 15), Policies CS04, CS19 & CS21 of the Rutland Core Strategy (2011) and Policies SP6, SP15, SP19 & SP23 of the Site Allocations and Policies Development Plan Document (2014) Adopted SPD and Policies WH4, WH5 of the Whissendine Neighbourhood Plan (draft submission version).

Impact on the neighbouring properties

17. None

Heritage

18. The senior Planning Archaeologist has stated that having reviewed the application against the Leicestershire and Rutland Historic Environment Record (HER), we do not believe the proposal will result in a significant direct or indirect impact upon the archaeological interest or setting of any known or potential heritage assets. We would therefore advise that the application warrants no further archaeological action (NPPF Section 16).

Highway issues

19. The LHA have reviewed the application and raise no objection to the proposal subject to the appending of conditions and informatives to the decision notice if Members are minded to approve the application.

Contamination

20. Environmental Protection have stated that they have no objection after reviewing the updated Phase 1 Land Contamination Risk Assessment by Castledine Environmental, September 2023, (ref 1581D P1 Duffin-Rutland.), stating that there are little changes to the site since the previous report from 2021 other than some removal of vegetation and the recommendations remain, therefore the comments and conditions previously submitted 25th September 2023 are still relevant to the proposed development insofar as "It is recommended that a Phase 2 Intrusive Site Investigation is planned and carried out on site. This should take the form of at least 3 No. near surface environmental samples taken from onsite exterior areas, within the barn and in the area located north of site (multiple heaps noted here over time arising from construction/demolition wastes). Due to the noted heaps of construction/demolition wastes noted here, at least 6 near surface No. asbestos samples should be taken from here, along with at least one from within the site boundaries, to prove or disprove the possibility of airborne asbestos contaminating site, arising from the nearby heaps. In addition, it is

recommended that radon protective measures are installed in the development, due to the sites location in a known Radon Affected Area."

21. An appropriately worded condition is proposed.

Ecology

22. Ecology have raised no objections to the proposals as the current site is of low ecological value and there are areas of wildflower and hedgerow creation within the proposals. A condition is recommend requiring the submission of a Landscape and Ecological Management Plan (LEMP) and informatives.

Trees & Hedgerows

23. A drawing has been submitted to showing the retention and protection of nearby trees and hedgerows during construction works.

Parish Council

24. No response received.

Section 106 Heads of Terms

25. Not applicable

Community Infrastructure Levy

26. Notwithstanding any specific requests from consultees for contributions to be paid towards infrastructure provision, should permission be granted for this development payments made towards provision of infrastructure from the Community Infrastructure Levy must be approved separately by the Council as CIL collecting authority.

Crime and Disorder

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

Human Rights Implications

28. 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.
29. It is considered that no relevant Article of that act will be breached.

Consultations

Below is a summary of the comments. Full details can be viewed on the Council's website. (https://publicaccess.rutland.gov.uk/online-applications/?_ga=2.69299920.1503643438.1693558555-1954588303.1693558555)

30. **Design Officer**

This looks to have addressed the comments made in January 2023.

31. **RCC Highways**

Further to our discussion this morning regarding the above application, where you raised concerns due to ecology impacts about the LHA's previous recommendation for the hedgerow to be maintained at a height of 1m for visibility. On streetview and at the time I visited site, the height of the hedgerow was not significantly above 1m and the hedgerow appeared well maintained. That said, as discussed and agreed, the LHA have no objections to the two visibility splay conditions to be used from the previous prior approval application, 2021/1018/PAD, instead of the recently recommended one.

The one provided on 21/09/2023 :-

Prior to commencement of the development, the first 40m of hedgerow to the south of the access and the first 20m of hedgerow to the north of the access must be reduced to a maximum height of 1m above ground level and thereafter maintained at that height or less in perpetuity.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety.

Can be replaced with the following two conditions :-

Prior to commencement of the development, the hedgerow to the south must be reduced in width by half on the public highway side for a distance of 40m from the edge of the access, and thereafter maintained at that width.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety.

Prior to commencement of the development, the hedgerow to the north must be reduced in width by a quarter on the public highway side for a distance of 20m from the edge of the access, and thereafter maintained at that width.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety.

Comments: The LHA have reviewed the application and raise no objection to the proposal subject to the appending of the following conditions and informatives to the decision notice if you are minded to approve the application :-

CONDITIONS

Gates

Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the nearside edge of the carriageway.

Reason: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed in the interest of highway safety.

Provision and retention of visibility splay

Prior to commencement of the development, the first 40m of hedgerow to the south of the access and the first 20m of hedgerow to the north of the access must be reduced to a maximum height of 1m above ground level and thereafter maintained at that height or less in perpetuity.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety.

Surface Material

No unbound material shall be used in the surface treatment of the vehicular access within 5 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety.

Design of access

The design of the access should incorporate measures to ensure that no loose surfacing material or surface water can cross from the access onto the public highway, and this work will be completed prior to commencement of the site development.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.

INFORMATIVES

Section 184 Highways Act 1980

The development involves the construction of a new vehicular access within the public highway. These works must be carried out under strict accordance with the requirements of Rutland County Council under the provisions of Section 184 of the Highways Act 1980. Prior to commencing any work within the highway, a licence must be obtained from the Local Highway Authority. The application form and guidance notes can be found on Rutland's website or contact can be made with Highways by email at highways@rutland.co.uk.

Section 148 Sub-Sec C Highways Act 1980

It is an offence under Section 148 Sub-Sec C of the Highways Act 1980 to

deposit anything including building materials or debris on a highway which may cause interruption to any user of the highway (including footways or verges). In the event that a person is found guilty of this offence, a penalty may be imposed in the form of a fine. It is the responsibility of the developer and contractor(s) to ensure that no building materials or debris are placed on or remain within the highway during or after the construction period.

Section 149 Highways Act 1980

If anything is so deposited on the highway as to constitute a nuisance, under Section 149 of the Highways Act 1980 the Local Highway Authority may by notice require the person responsible to remove it forthwith and if not complied with the Local Highway Authority may make a complaint to a Magistrates Court for a Removal and Disposal Order. In the event the deposit is considered to constitute a danger the Local Highway Authority may remove the deposit forthwith and recover reasonable expenses from the person who made the deposit.

Naming & Numbering - Section 17 - 18 Public Health Act 1925

The development will result in the creation of new street(s) and/or new dwelling(s) and/or allocate appropriate street names and property numbers. This procedure is applicable to the sub-division of premises, which will provide multiple occupancy for both residential and commercial buildings. Before development is commenced an application should be made, allowing 8 weeks to complete. Details are available on our website at the following link:- <https://www.rutland.gov.uk/my-services/planning-and-building-control/planning/street-name-and-numbering/> Should you require assistance please email snn@rutland.gov.uk. Please note this is not a function covered by your planning application but is a statutory obligation of the Local Authority, and must be dealt with as a separate matter following planning approval.

Utility Services - Section 50 NRSWA 1991

The development is likely to involve works within the public highway in order to provide services to the site or which will affect existing services. Such works must be licenced under the New Roads and Street Works Act 1991. It is essential that, prior to the commencement of such works, adequate time be allowed in the development programme for; the issue of the appropriate licence, approval of temporary traffic management and booking of road space. Further details can be obtained by emailing highways@rutland.gov.uk.

32. **Environmental Protection**

Revised

We have reviewed the updated Phase 1 Land Contamination Risk Assessment by Castledine Environmental, September 2023, ref 1581D P1 Duffin-Rutland.

There are little changes to the site since the previous report from 2021 other

than some removal of vegetation and the recommendations remain, therefore the comments and conditions previously submitted 25th September 2023 are still relevant to the proposed development.

Original response

The Phase 1 Land contamination Risk Assessment by Castledine & Co., September 2021 (ref 1581D P1 Duffin - Rutland) recommends:

"It is recommended that a Phase 2 Intrusive Site Investigation is planned and carried out on site. This should take the form of at least 3 No. near surface environmental samples taken from onsite exterior areas, within the barn and in the area located north of site (multiple heaps noted here over time arising from construction/demolition wastes). Due to the noted heaps of construction/demolition wastes noted here, at least 6 near surface No. asbestos samples should be taken from here, along with at least one from within the site boundaries, to prove or disprove the possibility of airborne asbestos contaminating site, arising from the nearby heaps. In addition, it is recommended that radon protective measures are installed in the development, due to the sites location in a known Radon Affected Area."

Therefore, the following condition is applicable should planning permission be granted:

1. Site Characterisation

No development shall take place until an assessment of the nature and extent of contamination has been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a competent person as defined by annex 2 of the National Planning Framework. The assessment shall assess any contamination on the site, whether or not it originates on the site. Moreover, it must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) develop the conceptual site model to assess and evaluate the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;

This must be conducted in accordance with the Environment Agency's 'Land Contamination Risk Management' Guidance.

2. Submission of Remediation Scheme

No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, an appraisal of remedial options, and proposal of the preferred option(s), and a timetable of works and site management procedures. The scheme must ensure that the site 3333 will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

This must be conducted in accordance with the Environment Agency's 'Land Contamination Risk Management' Guidance.

3. Implementation of Approved Remediation Scheme

The remediation scheme shall be implemented in accordance with the approved timetable of works. Within 3 months of the completion of measures identified in the approved remediation scheme, a validation report must be submitted to the Local Planning Authority. The validation report must clearly demonstrate through the provision of unambiguous evidence that the approved remediation scheme has been completed as stated.

This must be conducted in accordance with the Environment Agency's 'Land Contamination Risk Management' Guidance.

4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 5 days to the Local Planning Authority and once the Local Planning Authority has identified the part of the site affected by the unexpected contamination development must be halted on that part of the site.

An assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme, together with a timetable for its implementation, must be submitted to and approved in writing by the Local Planning Authority in accordance with the requirements of condition 2.

The measures in the approved remediation scheme must then be implemented in accordance with the approved timetable. Following completion of measures identified in the approved remediation scheme a validation report must be submitted to and approved in writing by the Local Planning Authority in accordance with condition 3.

This response is made on the understanding that the responsibility for

providing information on whether the site is contaminated rests primarily with the developer; where Planning Permission is granted for a site on which the presence of contamination is known or suspected, the responsibility for safe development and secure occupancy of the site rests with the developer; and that the response has been determined on the basis of the information available, but this does not mean that the land is free from contamination.

33. Ecology

I have no objections to the proposals as the current site is of low ecological value and there are areas of wildflower and hedgerow creation within the proposals.

I recommend the following condition is attached to any planning permission:

No development shall take place (including ground works or vegetation clearance) until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the LPA. The LEMP shall include the following details:

- A) description and evaluation of the features to be created/managed
- B) aims and objectives of management
- C) appropriate management options for achieving aims and objectives
- D) prescriptions for management actions
- E) work schedule
- F) species/seed mixes to be planted/sown
- G) ongoing monitoring and remedial measures

The approved plan will be implemented in accordance with the approved details.

I recommend the following informative is attached to any planning permission:

Nesting birds are protected under the Wildlife & Countryside Act 1981 (as amended); therefore all removal of trees/shrubs/hedges and building demolition should take place outside the breeding season (March to August inclusive) unless carefully checked beforehand by a suitably qualified person.

34. Senior Planning Archaeologist

Having reviewed the application against the Leicestershire and Rutland Historic Environment Record (HER), we do not believe the proposal will result in a significant direct or indirect impact upon the archaeological interest or setting of any known or potential heritage assets. We would therefore advise that the application warrants no further archaeological action (NPPF Section 16, para. 194-195).

35. Forestry Officer

No objections

Neighbour Representations

Below is a summary of the comments. Full details can be viewed on the Council's website. (https://publicaccess.rutland.gov.uk/online-applications/?_ga=2.69299920.1503643438.1693558555-1954588303.1693558555)

36. None

Conclusion

37. Taking the above into account, it is considered that the proposal is in accordance with the NPPF (Sections 5, 9, 12, 15 & 16), Policies CS04, CS19, CS21 & CS22 of the Rutland Core Strategy (2011) and Policies SP6, SP15, SP19, SP20 & SP23 of the Site Allocations and Policies Development Plan Document (2014). Policies WH4, WH5, WH7, WH8 of the Whissendine Neighbourhood Plan (draft submission version) and Adopted SPD.
38. There are no material considerations that indicate otherwise although conditions have been attached.