

## BOROUGH OF KETTERING

<b>Committee</b>	<b>Full Planning Committee - 22/10/2019</b>	<b>Item No: 5.6</b>
<b>Report Originator</b>	<b>Sean Bennett Senior Development Officer</b>	<b>Application No: KET/2019/0534</b>
<b>Wards Affected</b>	<b>Burton Latimer</b>	
<b>Location</b>	<b>Builders Yard, Church Lane, Burton Latimer</b>	
<b>Proposal</b>	<b>Full Application: 1 no. dwelling</b>	
<b>Applicant</b>	<b>Ms C Hull</b>	

### 1. PURPOSE OF REPORT

- To describe the above proposals
- To identify and report on the issues arising from it
- To state a recommendation on the application

### 2. RECOMMENDATION

THE DEVELOPMENT CONTROL MANAGER RECOMMENDS that this application be APPROVED subject to the following Condition(s):-

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.

REASON: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended) and to prevent an accumulation of unimplemented planning permissions.

2. The development hereby permitted shall not be carried out other than in accordance with the approved plans detailed below.

REASON: In the interest of securing an appropriate form of development in accordance with Policy 2 and 8 of the North Northamptonshire Joint Core Strategy

3. The development shall not be carried out other than in accordance with the recommendations and opportunities for biodiversity enhancement described at sections 6 and 7 of the 'Preliminary Ecological Appraisal' compiled by Reid Eco dated 29th June 2019 version A.

REASON: In the interests of protecting ecology in accordance with Policy 4 of the North Northamptonshire Joint Core Strategy.

4. Works audible at the site boundary will not exceed the following times unless with the written permission of the Local Planning Authority. Monday to Friday 08.00 to 18.00 hrs, Saturday 08.30 to 13.30 and at no time whatsoever on Sundays or Public/Bank Holidays. This includes deliveries to the site and any work undertaken by contractors and sub-contractors.

REASON: In the interests of safeguarding residential amenity in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

5. No development shall take place until a plan showing details of existing and intended final ground and finished floor levels has been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details.

REASON: Finished Floor Levels are necessary prior to commencement to protect the privacy of the occupiers of adjoining properties in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

6. Prior to site clearance a Demolition and Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall avoid HGV movements to the site and include arrangements associated with protection of the site's watercourse. The approved Plan shall be adhered to throughout the construction period and the approved measures shall be retained for the duration of the demolition and construction works.

REASON: Details are required prior to the commencement of development because demolition and construction management occur early in the construction process and in the interests of safeguarding highway safety, residential amenity and protection of watercourse in accordance with Policy 8 of the Northamptonshire Joint Core Strategy

7. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.

This written scheme will include the following components, completion of each of which will trigger the phased discharging of the condition:

- (i) fieldwork in accordance with the agreed written scheme of investigation;
- (ii) post-excavation assessment (to be submitted within six months of the completion of fieldwork, unless otherwise agreed in advance with the Planning Authority);
- (iii) completion of post-excavation analysis, preparation of site archive ready for deposition at a store (Northamptonshire ARC) approved by the Planning Authority, completion of an archive report, and submission of a publication report to be completed within two years of the completion of fieldwork, unless otherwise agreed in advance with the Planning Authority.

REASON: To ensure that features of archaeological interest are properly examined and recorded, in accordance with NPPF paragraph 199 and is precommencement approval is fundamental to the protection of archaeology, should it exist.

8. 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 parts A to D 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 D has been complied with in relation to that contamination.

#### A. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of 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;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11 (or any model procedures revoking and replacing those model procedures with or without modification)'.

#### B. Submission of Remediation Scheme

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 must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, 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.

#### C. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

#### D. 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 immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition A, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition B, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition C.

REASON: Contaminated land investigation is required prior to the commencement of development 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 offsite receptors in accordance with Policy 15 of the NPPF and Policies 6 & 8 of the North Northamptonshire Joint Core Strategy.

9. The development shall not proceed above slab level until a scheme of landscaping which shall specify species, planting sizes, spacing and numbers of trees and shrubs to be planted and any existing trees to be retained shall be submitted to and approved by the Local Planning Authority. The scheme shall include the provision of a native hedgerow and trees along the site's boundary with the adjoining cemetery land. The approved scheme shall be carried out in the first planting and seeding seasons following the occupation of the building, unless these works are carried out earlier. Any newly approved trees or plants which, within a period of 5 years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

REASON: To improve the appearance of the site in the interests of visual amenity in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

10. The development shall not proceed above slab level until a scheme for boundary treatment (along all boundaries) has been submitted to and approved in writing by the Local Planning Authority. The dwellings shall not be occupied until the approved scheme has been fully implemented in accordance with the approved details, which shall remain in place thereafter.

REASON: In the interests of visual amenity in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

11. The development shall not progress above slab level until details of the types and colours of all external facing and roofing materials to be used and details of the hard-surfacing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details and shall remain in that form thereafter.

REASON: In the interests of the visual amenities of the area in accordance with Policy 2 and 8 of the North Northamptonshire Joint Core Strategy.

12. All external walls shall be constructed in natural stone and shall not be laid, coursed or pointed other than in accordance with a sample panel which shall have been constructed on site and approved in writing by the Local Planning Authority prior to the commencement of construction of any such external walls. As approved, the sample panel shall be retained on site and kept available for re-inspection throughout the construction period.

REASON: In the interests of the character and appearance of the Conservation Area in accordance with Policy 2 and 8 of the North Northamptonshire Joint Core Strategy.

13. No works shall proceed above slab level until full details of all windows, doors (including their surrounds), porch, rooflights, chimney, verge detailing, and rainwater goods have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details and shall remain in that form thereafter.

REASON: In the interests of visual amenity in accordance with Policy 2 and 8 of the North Northamptonshire Joint Core Strategy.

14. The rooflight shall be flush with the adjacent roof plane.

REASON: In the interests of visual amenity in accordance with Policy 2 and 8 of the North Northamptonshire Joint Core Strategy.

15. The area of root protection shown on approved drawing TCTC-17433-PL-01 in association with tree labelled T10 shall be clearly demarked on site during the construction period and tree protection measures put in place to ensure its protection.

REASON: In the interest of tree protection.

16. The access arrangements shown on approved drawing KET/2019/0534/7 shall be put in place and made available for use prior to first occupation and shall remain in that form thereafter.

REASON: To provide satisfactory access in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

17. All dwellings shall be constructed to achieve a maximum water use of no more than 105 litres per person per day in accordance with the optional standards 36(2)(b) of the Building Regulations 2010 (as amended) as detailed within the Building Regulations 2010 Approved Document G - Sanitation, hot water safety and water efficiency (2015 edition).

REASON: In the interests of water efficiency in a designated area of water stress in accordance with Policy 5 of the North Northamptonshire Joint Core Strategy 2016.

18. The new dwelling shall be constructed to meet M4(2) Accessible and Adaptable Dwellings of schedule 1 part M of the Building Regulations 2010 (as amended) unless otherwise approved in writing by the local planning authority.

REASON: In the interests of ensuring that the development caters for both the current and future needs of the population and in the interests of sustainable development in accordance with Policy 30 of the North Northamptonshire Joint Core Strategy 2016.

## **Officers Report for KET/2019/0534**

This application is reported for Committee decision because there are unresolved, material objections to the proposal

### **3.0 Information**

#### **Relevant Planning History**

##### *Front part of the site*

KE/1984/0742 – One dwelling – REFUSED – 05/09/1984 on the basis of it involving development unrelated to the built-up area of Burton Latimer detrimental to the character and the conservation area and inadequate access arrangements

#### **Site Visit**

Officer's site inspection was carried out on 28/08/2019 and 24/09/2019

#### **Site Description**

The 0.6ha L-shaped site consists predominantly of kempt grass with trees to its boundary including a mature-tree belt to its south-eastern edge with a footpath beyond with a 'Builders' Yard' together with a collection of associated ramshackle buildings to its south-western edge fronting Church Lane. There is also a small seasonal watercourse that passes through the site flowing east to west and for a time is below ground.

Surrounding land-uses include garden land and cemeteries with footpath UA/007 beyond the sites south-west boundary.

#### **Proposed Development**

The application seeks full planning permission for a stone dwelling with dormers and would involve removal of the site's 'Builders' Yard'. Access would be taken from Church Lane via an existing access.

#### **Pre-application**

Pre-application advice was sought earlier this year. The Officer was broadly in support of the proposal subject to some certain design changes, the need for the site to include the 'Builders' Yard' and the provision of tree and biodiversity surveys. In addition, during the course of this application relatively minor amendments were secured involving changes to the porch and the addition of chimney.

The proposal therefore has been submitted with full regard to the pre-application advice given and is considered on that basis.

#### **Any Constraints Affecting the Site**

Within conservation area

### **4.0 Consultation and Customer Impact**

**Burton Latimer Town Council:** Say that: “*full council supports the application*”

**KBC – Environmental Protection Department:** No objection subject to the imposition of a contaminated land condition.

**NCC – Archaeological Advisor:** No objection subject to the imposition of a condition requiring approval of a written scheme of investigation.

**NCC – Lead Local Flood Authority:** Say that the extent of the proposal is not within their remit for comment

**Environment Agency:** Say that it does not meet their criteria for comment

**Neighbours:** Two letters of objection received from a resident nearby at 30 Church Street and another at 22 Hollands Drive, Burton Latimer. Summarised grounds for objection are as follows:

- Area has woodland, which attracts wildlife including bats
- It is a quiet area which reflects the nearby cemetery use
- Construction traffic using the narrow lane would be disrespectful to the community, to users of the cemetery, disturb burials and would not be suitable
- The area should only be used as an extension to the existing cemetery, which is nearly full
- Loss of an undeveloped site within the Town
- Church Lane is narrow and does not allow for opposing pedestrians and vehicles to pass one another easily and is not a suitable for emergency vehicle access
- The proposal would not have a positive impact on the conservation area
- The site and adjacent sites have been subject to applications for housing development in the past and they have been refused – this one should be considered in the same way
  
- The site notice was not displayed for the required time period [*Officer Comments: discussed in ‘Preliminary Matters’ below*]

## **5.0 Planning Policy**

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

2. Achieving sustainable development
6. Building a strong, competitive economy
8. Promoting healthy and safe communities
9. Promoting sustainable transport
11. Making effective use of land
12. Achieving well-designed places
14. Meeting the challenge of climate change, flooding and coastal change
15. Conserving and enhancing the natural environment
16. Conserving and enhancing the historic environment

Section 66 and 72 - Planning (Listed Buildings and Conservation Areas) Act 1990

### **Development Plan Policies**

#### **North Northamptonshire Joint Core Strategy (JCS):**

1. Presumption in favour of sustainable development
2. Historic environment
4. Biodiversity
5. Water environment
6. Development on brownfield land
8. Place shaping
11. The network of urban and rural areas
28. Housing requirements
29. Distribution of new homes
30. Housing mix and tenure

#### **Saved Policies in the Local Plan for Kettering Borough**

35. Housing: Within Towns

#### **Other Documents**

Burton Latimer Conservation Area Appraisal (November 2009)

### **6.0 Financial/Resource Implications**

None

### **7.0 Planning Considerations**

#### **Preliminary Matters**

With regard objectors' comments received concerning the display of a site notice on the site. There is no reason to believe that any party was prejudiced as a result of the site notice being removed an unspecified number of days before its 21-day expiration date on 18<sup>th</sup> September 2019. However, as a precautionary measure a further 14-day site notice was displayed at the site on a palisade fence close to the access of the site on the 24<sup>th</sup> September 2019 to run until the 8<sup>th</sup> October 2019. The application was also advertised in the 'Evening Telegraph' and adjoining occupiers were notified by letter. As such any comments received before the 9<sup>th</sup> October 2019, and incidentally any received prior to noon on the day of the Planning Committee, shall be considered.

These arrangements and subsequent measures are considered to comply with the requirements of Part 3 (15) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The application therefore has been publicised in the correct way to enable a secure decision to be issued.



The key issues for consideration in this application are: -

1. The principle of the development
2. Impact on character and appearance
3. Impact on residential amenity
4. Impact on highway safety
5. Impact on trees
6. Impact on biodiversity
7. Impact on archaeology
8. Impact on drainage and flooding
9. Sustainable buildings
10. Impact of possible ground contamination
11. Response to objectors

1. The principle of the development

The site lies within the designated Town Boundary defined by Saved Policy 35 of the Local Plan. As such the proposal is consistent with Policy 11 and 29 of the JCS which looks to focus development within existing settlement boundaries.

In addition, part of the site toward its western extent consists of a 'Builders' Yard' and therefore is considered to be previously developed land. The re-development of such unused and underutilised land is encouraged by Policy 6 of the JCS consistent with Chapter 11 of the NPPF. Much of the site, however is garden land and therefore is not considered to be previously developed.

The basic tenet of the site's development for housing is considered to be acceptable subject to the proposal being acceptable in all other respects. The other matters will be discussed below.

2. Impact on character and appearance

Policy 8 (d) of the JCS, consistent with Chapter 12 of the NPPF seeks to create development that responds to a site's immediate and wider context.

Policy 2 of the JCS consistent with Chapter 16 of the NPPF seeks development to conserve and enhance the historic environment.

The site is within the notional setting of Listed Buildings to the north; notably the Grade I Listed Church of St. Mary. As such the proposal falls to be considered under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that "in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses".

Due to separation distances and intervening landscape and topography, including a significant drop in land levels down toward the site there is no

significant inter-visibility between the proposal and nearby Listed Buildings. The significance to the settings of nearby Listed Buildings are thereby preserved.

In addition, as the proposal is located within Burton Latimer Conservation Area it also falls to be considered under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”.

The site and the surrounding land combine to provide a tranquil rural setting to the historic edge of the town and a transition to the agricultural fields and open countryside beyond. The cemeteries either side of Church Lane also in-still this tranquil and reflective character. The site is fairly prominent in the Conservation Area with views along Church Lane and the public right of way (PROW) (UA/007) which runs along the southern edge of the site from Church Lane to Wold Road. Whilst somewhat detached from the built-form of the Town it has a relationship with houses to the south-west, which are visible from the site.

There are a number of corrugated tin sheds within the front part of the development site, which form part of a ‘Builders Yard’. There is also palisade fencing and corrugated sheets on the boundary with Church Lane and the adjacent PROW. The rear of the site is undeveloped and has a covering of trees and grass. Also lying within the site is a stream and seasonal pond with treed edges and the occasional tree within the grassed area.

The ‘Builders Yard’ as a land-use and its associated ramshackle structures, boundary treatments and paraphernalia are discordant and prominent unattractive features within the conservation area that are harmful.

The 1984 refusal related to re-development of the ‘Builders Yard’ for a dwelling, whereas this application site is much larger with a materially different siting to the dwelling. The nature of this proposal and the refused are thereby significantly different and therefore, as implied conversely by an objector, it does not automatically follow that the previous refusal would predicate this proposal for refusal. Every application should be considered on its own merits.

The application would involve the removal of the site’s ‘Builder’s Yard’ use with its proposed change of use to garden together with demolition and removal of the ‘Builder’s Yard’ structures and associated equipment and paraphernalia. In addition, an existing access close to the cemetery to the north would be stopped-up and the corrugated sheeting and palisade fencing along its boundary replaced with vertical railing to a height of 1.8m with brick pillars. These aspects of the proposal would have an immediate positive impact to the areas character and would result in an open green area of land adjacent to Church Lane in place of the unattractive dilapidated industrial use. The proposal thereby would significantly enhance this part of the

Conservation Area and the way the site is experienced particularly from the Church Lane approach and the PROW.

The proposed dwelling is positioned over 55m from site's Church Lane frontage beyond the front landscaped area which notably includes retention of a 20m high walnut tree, which is high quality, and thereby the built form of the proposal will be softened by planting. The proposal has been carefully designed as a modestly-scaled cottage so as not to appear particularly out of place within its sylvan environment to the edge of the Town. The design respects a simple rural vernacular typology with dormers, a very narrow deep-plan width, light-weight porch and car-port, chimney, oak window lintels and is to be constructed in natural stone under a slate roof with a subordinate rear element. Whilst the dwelling is somewhat detached from the built-up area of the Town it is within its defined boundary and given its scale and traditional design would sit comfortably within its context, integrate well with the site and be relatively inconspicuous. Conditions shall be applied requiring approval of a detailed landscape plan and boundary treatment together with approval of materials (including provision of a stone sample panel) and architectural detailing. The rooflight shall also be conditioned to be conservation grade flush with the roof plane.

Moving on to the impact of the proposal to the surrounding cemeteries and particular the adjoining cemetery to the north; as a prospect for the proposal to have an effect on their tranquillity and quiet reflective nature. The opposers to the proposal in particular fear that construction at the site would compromise that tranquillity. Whilst Church Lane is closed to through traffic it does experience a significant, albeit modest, level of vehicular traffic (including vans) associated with the maintenance and upkeep of the cemetery, mourners and owners of nearby paddocks. Once constructed the level of traffic and comings and goings and domestic activity associated with the proposed modestly-sized dwelling would not have an adverse impact to the tranquillity experienced at neighbouring cemetery land. In particular the boundary to the adjacent cemetery has a planted boundary with trees and the proposed house has been carefully positioned 35m distance from that cemetery so as to limited impacts and the existing access adjacent to the cemetery shall be closed-off. The proposed house would be largely inconspicuous from the cemetery and therefore would pose no overlooking or overbearing impacts that may compromise the use of the cemetery as a place for quiet reflection. As an added measure the landscape condition shall include requirement for planting to the sites northern edge with the cemetery.

Yes, a small amount of disturbance and nuisance may be felt within the locality during the construction phase of the development however the provision of a construction management plan (including a restriction to HGV's) by condition and an hours of work condition shall limit any impacts. In any event the construction activity associated with a single property would not likely be excessive and would be short-lived over the life of the permission. As such any impacts in this regard are not considered to sustain a reason for withholding planning permission.

In addition, it is worth mentioning that the re-opening of the site in association with its lawful use as a builder's yard could have severe impacts to the tranquillity of its surroundings with no planning controls in place. Change of use of the land to garden removes that prospect and therefore is betterment in that respect.

Moreover, the Council's Environmental Protection Department have no concerns on this matter.

Consequently, and in light of the immediate foregoing findings the proposal is considered to result in a polite and relatively innocuous form of development that would respect the character and appearance of the area whilst also preserve and enhance the conservation area. The proposal is therefore consistent with JCS Policy 2 and 8 (d) and NPPF guidance at chapter 12 and 16 which look to secure development that respects its context and heritage assets.

### 3. Impact on residential amenity

Policy 8 (e) of the JCS consistent with paragraph 127 (f) of the NPPF seeks development to provide quality of life for existing and future users of land and buildings.

Due to the location of the proposed dwelling, at least 110m from the closest neighbouring dwelling together with the site's boundary planting the proposal would not cause impacts to surroundings occupiers' residential amenity, including that experienced within their outside spaces.

The proposal would also remove the land use conflict that re-opening of the site as a 'Builders' Yard' would have to neighbouring residential receptors.

The internal space meets National Space Standards required by policy 30 (b) of the JCS and provides generous outside space and would provide a pleasant place for future occupiers to live.

The proposal would therefore provide a good standard of living for existing and future occupiers of land and building and thus is acceptable in this regard.

### 4. Impact on highway safety

Policy 8 (b) in the JCS consistent with Chapter 9 of the NPPF seeks to ensure a satisfactory means of access and provision for parking and resists development that would prejudice highway safety.

As mentioned above Church Lane does receive a significant, albeit modest level of vehicular traffic including works vans associated with the cemeteries. Whilst Church Lane is narrow it does not pinch below a width of 4.5m and is consistently 5m in width with parts where it is up to 8m wide and has good

visibility. The width of the road allows for emergency and refuse vehicle access and the traffic using the Lane, given its nature, travel with care and at low speeds. Nevertheless, and considering the narrow nature of the road a construction management plan shall be required by condition, which in particular shall look to resist the use of HGV's for construction.

The addition of one dwelling would not significantly intensify the use of the Lane which would continue to allow for safe shared use by pedestrians and vehicles in the way in currently does.

The access has good visibility in either direction and also provides a space to front to enable a vehicle to park safely whilst the inward opening gates are opened or closed. The access arrangements together with the closing of an existing access shall be required to be provided prior to occupation and to remain thereafter by condition.

The proposal would also remove the builders yard use as a source for traffic and rationalise the highway accesses to one.

The application therefore would maintain highway safety at current levels and therefore is acceptable in this regard.

#### 5. Impact on trees

Overall, the site's trees, particularly those within the wooded area to the site's south-east boundary are of low quality as demonstrated by the provided 'tree survey'. This area will be subject to selective retention, which is likely to have a positive impact to the tree species retained. The site has one notable Category A Walnut tree (high quality) to the front of the proposed dwelling and some Category B trees. These are retained and would provide instant maturity to the landscape scheme.

The proposal therefore retains the site's prime tree specimens and would have a positive impact to the site's wooded area. A condition shall be attached requiring approval of a detailed landscape scheme and also a condition requiring the proposal to be implemented in accordance with measures that safeguard the root protection areas shown on the submitted 'tree survey'. The proposal is thereby acceptable in this regard.

#### 6. Impact on biodiversity

Paragraph 99 of Circular 06/05 states that: *it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.* Likewise section 40 of the Natural Environment and Rural Communities Act 2006 (NERC 2006) states that: *every public authority must in exercising its functions, have regard ... to the purpose of conserving (including restoring / enhancing) biodiversity.*

This matter has been highlighted by objectors as a concern and is addressed in a 'Preliminary Ecological Appraisal' that accompanied the

drawing which included the findings of a Phase 1 Habitat Survey. The survey commentary concluded that the proposal would have *“no direct impacts to protected and/or notable species (if present) and/or habitats are currently predicted”*. The survey, in adopting a precautionary approach, then goes on to recommend avoidance of light spill toward the edges of the site and for any scrub or trees which are suitable for nesting birds should only to be removed outside of the bird nesting season (March to August inclusive) and survey of ponds in the event that they are removed. The survey finishes by recommending biodiversity enhancements including the provision of native tree and shrub species, hedgehog corridors and bird, bat and bee boxes.

As such the implementation of the measures and enhancements provided in the survey would safeguard biodiversity including its enhancement. The survey shall be required to be adhered to by condition. As such the proposal is acceptable in this respect.

#### 7. Impact on archaeology

Policy 2 of the JCS consistent with Chapter 16 of the NPPF seeks development to conserve and enhance the historic environment, including archaeological remains.

Due to the undeveloped nature of much of the site and proximity to the historic core of the Town the County Archaeological advises that *“there is potential for remains of archaeological interest to survive on the site”*.

As such and in accordance with the County Archaeologist a condition shall be attached requiring approval of a written scheme of investigation prior to commencement, post excavation assessment and publication reports. The imposition of this condition would safeguard and record any archaeology that may existing on the site. The proposal therefore is acceptable on this matter.

#### 8. Impact on drainage and flooding

Policy 5 of the JCS, consistent with Chapter 14 of the NPPF states that development *should contribute towards reducing the risk of flooding and to the protection and the improvement of the quality of the water environment.*

The proposal is located within floodzone 1 (least prone to flood risk) with no reason to believe that the area experiences significant localised flooding issues. The proposal site does however include a watercourse. Given the modest nature of the proposal and the routing of this watercourse through the site passing to the front and then the north of the proposed dwelling, the development would not pose adverse impacts to the areas water environment. The construction management plan however should discuss methods that shall be put in place to protect the watercourse.

As such and with no objection forthcoming from the Environment Agency or the Lead Local Flood Authority the proposal is considered to be acceptable in this regard.

#### 9. Sustainable buildings

Policy 9 of the JCS seeks development to incorporate measures to ensure high standards of resource and energy efficiency. Policy 30(c) of the JCS requires new dwellings to meet Category 2 of the National Accessibility Standards as a minimum.

Subject to the imposition of appropriate conditions to ensure that the dwellings employ measures to limit water use to no more than 105 litres per person per day and to comply with the mentioned Accessibility Standards the proposal is considered to be acceptable in this regard.

#### 10. Impact of possible ground contamination

Policy 6 of the JCS seeks development to be safe in this respect.

The Council's Environmental Protection Department recommends the imposition of a contamination related condition to deal with this matter. As such subject to the imposition of that condition the proposal has the appropriate safeguards in place and is acceptable in this regard.

#### 11. Response to objectors

The third-party points of objection with respect to wildlife, character and appearance of the conservation area (including the quiet nature of the cemeteries), construction nuisances, principle of developing the site, access arrangements (including for emergency vehicles) and the ramifications associated with previous refusals are discussed above. The proposal has been found to be acceptable on these matters for the reasons outlined.

The application has also been advertised in the correct way having had full regard to regulatory processes as discussed above.

Lastly, a comment from an objector suggests that the site would be best used as an extension to the adjacent cemetery. Such a prospect may or may not be possible, however that is not the application being considered with no reason to believe that this site has been reserved specifically for that purpose with any new burials occurring in a different part of the cemetery to the south. In any event such a prospect would not likely be possible due to the site's watercourse likely to prevent it from coming forward for that land-use.

#### **Conclusion**

In light of the above the application is considered to comply with the Development Plan with no other material considerations or persuasive evidence coming forward that would justify coming to an alternative view. Thereby the application is considered to be sustainable development and therefore consistent with paragraph 11 of the NPPF should be approved

without delay. As such the application is recommended for approval subject to the imposition of the safeguarding conditions laid-out.

**Background Papers**

Title of Document:

Date:

Contact Officer: Sean Bennett, Senior Development Officer on 01536 534316

**Previous Reports/Minutes**

Ref:

Date:



