

# Public Document Pack




**Meeting:** Area Planning Committee Wellingborough  
**Date:** Wednesday 24th May, 2023  
**Time:** 7.00 pm  
**Venue:** Council Chamber, Swanspool House, Doddington Road, Wellingborough, Northants, NN8 1BP

To members of the Area Planning Committee Wellingborough

Councillors Paull Bell (Chair), Malcolm Waters (Vice-Chair), Scott Brown, Jonathan Ekins, Ken Harrington, Philip Irwin, King Lawal, Lora Lawman and Malcolm Ward

Substitute:  
Councillor Tim Allebone

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	carefully taken down, the land behind be regarded to a suitable slope and size and once the land has been regraded, the wall and pier are to be rebuilt to match existing prior to deconstruction. <b>Recommendation: Grant</b>		
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<p>Adele Wylie, Monitoring Officer North Northamptonshire Council</p>  <p><b>Proper Officer</b> <b>Tuesday 16 May 2023</b></p>			

\*The reports on this agenda include summaries of representations that have been received in response to consultation under the Planning Acts and in accordance with the provisions in the Town and Country Planning (Development Management Procedure) Order 2015.

This agenda has been published by Democratic Services.  
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ITEM	NARRATIVE	DEADLINE
Members of the Public Agenda Statements	Requests to address the committee must be received by 12 Noon on the day before the meeting. Speakers will be limited to speak for 3 minutes.	12 Noon Tuesday 23 May 2023
Member Agenda Statements	A request from a Ward Councillor must be received by 12 Noon on the day before the meeting. The Member will be limited to speak for 5 minutes.	12 Noon Tuesday 23 May 2023

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## **Minutes of a meeting of the Area Planning Committee Wellingborough**

Held at 7.00pm on Wednesday 26<sup>th</sup> April 2023 in the Council Chamber, Swanspool House, Doddington Road, Wellingborough, Northants, NN8 1BP

### **Present:-**

#### Members

Councillor Paul Bell (Chair)  
Councillor Scott Brown  
Councillor King Lawal

Councillor Malcolm Waters (Vice Chair)  
Councillor Lora Lawman  
Councillor Malcolm Ward

#### Officers

Ms J Sandhu (Interim Planning Management and Enforcement Lead Manager)  
Mrs D Kirk (Senior Development Management Officer)  
Mr C Law (Senior Development Management Officer)  
Mr N Bell (Legal Adviser)  
Miss L Tyers (Senior Democratic Services Officer)  
Mrs E Robinson (Democratic Services Support Officer)

### **8 Apologies for non-attendance**

It was noted that apologies for non-attendance were received from Councillors Jonathan Ekins, Ken Harrington and Philip Irwin.

### **9 Members' Declarations of Interest**

The Chair invited those who wished to do so to declare any interests in respect of items on the agenda.

Councillor Lora Lawman declared an interest in item 4.1 as a Ward Councillor for the proposed development.

### **10 Minutes of the meeting held on 7 December 2022**

#### **RESOLVED:**

That the minutes of the Area Planning Committee held on 7 December 2022 be confirmed as a correct record.

### **11 Planning Application NW/23/00071/FUL – 3 Aggate Way, Earls Barton**

The Committee considered an application for the demolition of an existing single garage and replacement with a double garage. New vehicular access from Aggate Way and demolition of a stone wall to create a 3 metres wide access and automatic single leaf sliding gate and formation of additional area of hardstanding.

The Senior Development Management Officer presented the report which detailed the proposal, description of the site, the planning history, relevant planning policies, outcome of consultations and an assessment of the proposal, providing full and comprehensive details.

It was recommended that planning permission be granted, subject to the conditions set out in the committee report.

Requests to address the meeting had been received from Colin Wells, an objector; Rosemary Smart, on behalf of Earls Barton Parish Council and Gavin Anderson, the agent and the Committee was given the opportunity to ask questions for clarification.

Colin Wells, an objector, made the following principal comments:

- (i) Over the years the street scene had changed with more vehicles now double parked in the evenings and weekends. Limited parking was available.
- (ii) He had no objection to the proposed development, but he did object to the loss of some on-street parking.
- (iii) There was a compromise to be had with the nearby grass area being converted or the proposed gate being moved to south of the pedestrian access.
- (iv) Without mitigation, the application was in breach of the Earls Barton Neighbourhood Plan.

Rosemary Smart, on behalf of Earls Barton Parish Council, made the following principal comments:-

- (i) Earls Barton Parish Council objected to the application due to the loss of parking and amenity.
- (ii) During consultation on the Neighbourhood Plan, parking issues had been highlighted as the greatest concern.
- (iii) Most houses now had more than one car and the limited parking was almost always in use.

Gavin Anderson, the agent, made the following principal comments:-

- (i) The proposed driveway would eliminate the existing driveway on Park Street. Vehicles regularly parked on Park Street and Park Lane. Park Lane was used, but as a cut through to the doctor's surgery opposite the site.
- (ii) Highways and conservation did not object to the application.
- (iii) Earls Barton Parish Council had submitted their objection after the deadline and therefore should have been ruled as inadmissible.

The Chair invited the Committee to determine the application.

During debate on the application, the following points were made:

- (i) A recent application had been refused which had a listed wall. The wall on this site was a beautiful, old wall and too much was being lost. It was accepted that the site was outside of the conservation area, but the application was contrary to the Earls Barton Neighbourhood Plan. In

- response, the Senior Development Management Officer clarified that the site did not contain any listed building or listed wall.
- (ii) The parking issues were understood but there did not appear to be any material planning objections to the application and it was not clear as to why it was before the Committee. The site was not within the area of constrained access so would not be contrary to the Earls Barton Neighbourhood Plan.
  - (iii) The Senior Development Management Officer confirmed that the site was not within the area of constrained access and anyone was able to park on the public highway. There were no material planning considerations for refusal, and if it went to appeal it would likely be upheld.

It was proposed by Councillor Malcolm Waters and seconded by Councillor Malcolm Ward that planning permission be granted.

On being put to the vote, the motion for approval was unanimously carried.

**RESOLVED:-**

That planning permission be granted, subject to the conditions (and reasons numbered) 1 to 6 in the report.

**12 Planning Appeal Decision Letters**

**RESOLVED:-**

That the Planning Appeal Decision Letters for the following be noted:

- (a) 21 Manor Road, Mears Ashby
- (b) Fronting Number 44, Gilletts Road, Wellingborough
- (c) 15 Oringbury Road, Little Harrowden
- (d) 60 Park Road, Wellingborough

**13 Appeal Information**

**RESOLVED:-**

That the Appeal Information be noted.

**14 Close of Meeting**

The Chair thanked members, officers and the public for their attendance and closed the meeting.

The meeting closed at 7.30pm.

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Chair

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Date

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## North Northamptonshire Area Planning Committee (Wellingborough) 24 May 2023

<b>Application Reference</b>	<b>NW/22/00888/FUL</b>	
<b>Case Officer</b>	Mr Graham Northern	
<b>Location</b>	Scrap Yard 304 Station Road Isham	
<b>Development</b>	Retrospective planning permission for a change of use of land for the storage and distribution of materials and machinery (and associated works).	
<b>Applicant</b>	Easimix Concrete & Screed Ltd	
<b>Agent</b>	Mr Oliver Clawson	
<b>Ward</b>	Earls Barton Ward	
<b>Overall Expiry Date</b>	14 February 2023	
<b>Agreed Extension of Time</b>	14 March 2023	
<b>Checked</b>	Senior Development Management Officer	Debbie Kirk

### Scheme of Delegation

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This application is brought to committee because it falls outside of the council's scheme of delegation as the proposals are the subject of enforcement complaints and deemed of a contentious nature and are therefore referred to the Wellingborough planning committee for determination.

The Ward Councillor (Councillor Lora Lawman) requested a site visit to enable members of the planning committee to view the site in the current condition and the proximity to the only 2 residential properties.

Having reviewed the issues concerning the site and the area around the site, the decision has been taken by agreement of the Chair, interim principal planning and enforcement manager and senior planning officer not to undertake a site viewing for this application.



North Northamptonshire Council




Scale: 1:1,250

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**Legend**

 NW/22/00888/FUL Scrap Yard, Station Road, Isham

## 1. Recommendation

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1.1 That planning permission be **REFUSED** for the following reasons:

1. The proposals due to their proximity and close relationship with the adjacent residential properties are considered an incompatible and conflicting land use which would result in significant detrimental impact on the residential amenity, quality of life and privacy of the adjacent residential property. The proposed development would be contrary to policy 8 (e) (i) and (ii) of the North Northamptonshire Joint Core Strategy and policy 130 (f) of the National Planning Policy Framework.
2. The site is within close proximity to the existing residential dwellings and it is considered that existing and future residents would suffer from adverse amenity and disturbance as a result of the noise from vehicles and the activity associated with the use. The noise survey and boundary treatment proposed fails to mitigate the noise impacts to the detriment of neighbouring amenity. The proposed development fails to comply with policy 8 (e) (i) and (ii) of the North Northamptonshire Joint Core Strategy and paragraphs 130 (f) and 185 of the National Planning Policy Framework.
3. The use on site is considered to result in activities that result in substantial dust and air quality degradation for adjacent residents resulting in them being unable to enjoy their private amenity space and open windows. Additionally, the activities proposed are also considered to result in disturbance through light pollution which have not been adequately addressed. The activities result in significant dust and light pollution generation which results in a severe air quality impact on the neighbouring residential properties. The proposed development would be contrary to policy 8 (e) (i) & (ii) of the North Northamptonshire Joint Core Strategy.
4. Given the previous historic uses on the site and dangerous materials stored or used on the site the applicant has failed to satisfy the Council that the site is safe and that contamination risks have been safely remediated. The proposed development would be contrary with policies 6 and 8 (e) (i) & (ii) of the of the North Northamptonshire Joint Core Strategy.
5. The development has eroded the rural character of the open countryside in the vicinity and the addition of a three-metre-high concrete fence along the boundary of the site would result in a visually oppressive feature to the detriment of the landscape visual character. The proposed boundary treatment to mitigate the effects from noise on neighbouring amenity fails to have due regard for the sites rural location and presents a hard commercial and prominent edge to the countryside. Vegetation has been removed and no landscape strategy or mitigation have been provided to mitigate the harm to the countryside resulting from the development. The proposed development would be contrary to the requirements of policies 3 (a), (b) and (e) and 8 (d) (i) and (ii) of the North Northamptonshire Joint Core Strategy and paragraph 130 (b) and (c) of the National Planning Policy Framework.

6. **The applicant has failed to provide a flood risk assessment and surface water drainage strategy as such the proposals have not been demonstrated that they would not lead to an increased risk of flooding. The proposed development would be contrary to policy 5 of the North Northamptonshire Joint Core Strategy.**
7. The applicant has failed to demonstrate a net biodiversity gain. A net gain should be evidenced using the new Department for agriculture 'Small Sites Metric' for biodiversity. The proposed development would be contrary policy 4 (a) (i), (iv) and (v) of the North Northamptonshire Joint Core Strategy and advice contained within paragraph 180 (a) and (d) of the National Planning Policy Framework.

## **2. The Application Proposal and Background**

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2.1 Retrospective planning permission is sought for a change of use of land to the present commercial concrete and screed supply business. The applicant is Easimix Concrete & Screed Ltd.

2.2 The applicant has applied for a B8 use which would be for the storage and distribution of materials/machinery. The supporting statement also implies the use may fall within a 'Sui Generis' category. The applicant has stated the following in support of applying for a B8 use class:

"The Site was purchased by the Applicant in November 2021. From that point onwards, the Applicant has operated their concrete and screed business from the Site. It is important to stress that no mixing or production of concrete, screed, or any other material occurs on Site. Instead, the Site solely serves to store the material necessary to mix the concrete once delivered to the respective customer's delivery location. In brief:

- Dry powder cement is stored in two silos on Site;
- Ballast and sharp-sand is stored in individual bays;
- One water tank is present on Site;
- Four volumetric vehicles are based on Site. These are loaded with the appropriate material(s) before departing and depositing the material at the respective customer's site;
- Shipping containers are utilised for ancillary purposes."

2.3 Site Deliveries: Raw material (ballast and sharp sand) is delivered to the site by tipper lorries. The lorries offload the product into the one of two appropriate open bays. There are also two cement silos which are loaded with cement up to two times per week.

2.4 Customer deliveries: There are four on-site volumetric tipper lorries which are used to load product from the site for deliveries. Lorries are loaded with cement in one compartment and either ballast or sand in another compartment depending on the customer's needs. Loading of product onto lorries takes place by a Wheel

Loader. The third lorry compartment is filled with water from the water tank on site. The three components are mixed to make concrete or screed at the customer's site.

2.5 Given that materials are stored on site, but the materials are mixed on route or at customers address to produce concrete and screed and not delivered to a customer in their original state the Council considers the use to fall outside the scope of B8 which would simply be storage and distribution. In the Councils view given a different product and process occurs irrespective of on or off site the use does not fall into B8. This is also made clear the fact that the company is a concrete business and not a raw materials business.

2.6 Typical business hours on the site are between 07:00 to 17:30 on weekdays, with occasional Saturdays operating between 08:00 and 13:00, depending on customer requirements.

### **Background**

2.7 In January 2022 NNC received complaints that work was taking place on the site without planning permission.

2.8 In March 2022 complaints were received that a concrete screed business was operating from the site.

2.9 NNC planning enforcement team investigated these matters and this application then followed.

## **3. Site Description and Surroundings**

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3.1 The site is located away from the built-up area of a Burton Latimer, which is located to the east over the railway line. The edge of the village of Isham is located approximately 100 metres to the south-west. The site is part of a small area of built development in otherwise open countryside, comprising two dwellings and the former scrap yard. The site is rectangular in shape and approximately 0.82 hectares in size. It fronts the verge of Station Road to the south, the dwelling 'Ranley' to the east, and open countryside to the north and west. The site has two access points onto Station Road, one has a dropped kerb and the other does not.

3.2 The site has operated as an unauthorised concrete mixing business, and substantial amounts of soil have been imported into the site which have changed the original ground levels.

## **4. Relevant Planning History**

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WP/16/00562/CND	Part discharged Details submitted pursuant to conditions 2 (external materials), 3 (screen fencing/walling), 4 (landscaping), 6 (contamination), 9 (surface water management strategy) and 15 (foul water) of planning permission ref: WP/2013/0420/F	11.11.2016
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WP/20/00606/LDE	Refused Development permitted pursuant to WP/2013/0420/F - Erection of workshop (B2) with ancillary offices (Unit A) together with separate office (Class B1) building (unit B), new access road and parking. This application is seeking a CLU in relation to material commencement of the above permission	19.11.2020
WP/2012/0419	Application withdrawn Erection of workshop with offices (Unit A) together with separate office building (Unit B), new access road and parking.	08.11.2012
WP/2013/0420	Approved with conditions Erection of workshop (Class B2) with ancillary offices (Unit A) together with separate office (Class B1) building (Unit B), new access road and parking	13.11.2013
WR/1972/0295	Refused Farmhouse	12.10.1972
WP/1998/0462	Approved with conditions Renewal of outline planning permission WP/95/0427/O for single storey office	17.02.1999
WP/1995/0427	Approved with conditions Renewal of outline planning permission WP/1991/0491/O for single storey office	29.11.1995
WP/1991/0491	Approved with conditions Site for single storey office building (Appeal allowed 6/10/1992)	15.01.1992
BW/1989/1177	Refused Two storey office building (appeal dismissed).	04.01.1990
WR/1962/0120	Approved Provision of WC & Wash house	26.07.1962
WR/1961/0051	Approved Site for 2 caravans	15.03.1961
WP/2008/0571	Application withdrawn by authority Erection of workshop with offices (Unit A) together with separate office building (Unit B), new access road and parking. (Proposed floor area = 1056.43sqm)	12.01.2011

WP/2005/0089	Approved with conditions Erection of boundary fence.	23.03.2005
WP/2001/0722	Approved with conditions Construction of single storey offices, carparking & highway access.	20.09.2002
WP/2002/0038	Application withdrawn Unrestricted B1 development comprised two single storey buildings with onsite servicing and parking for 30 cars and 6 lorries.	08.07.2002
WP/2004/0042	Approved with conditions Erection of workshop with offices together with separate office building, new access road and parking (proposed floor area = 1050 square metres).	31.03.2004

### **Appeal**

21/00001/REF Development permitted pursuant to WP/2013/0420/F - Erection of workshop (B2) with ancillary offices (Unit A) together with separate office (Class B1) building (unit B), new access road and parking. This application is seeking a certificate of lawful use existing in relation to material commencement of the above permission. The appeal was allowed 29 April 2021 by the Planning Inspectorate.

## **5. Consultation Responses**

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A full copy of all comments received can be found on the Council's Website  
<https://www.wellingborough.gov.uk/viewplanningapplications>

**Isham Parish Council** - strongly object to the proposed retrospective planning application for the following reasons:

Firstly, under health and safety grounds, especially taking into account the operating existence of the site and the effect that it is having on the residents who live close to the site. The neighbouring properties are directly, and adversely affected by the operation of the site, air pollution, noise. Having looked at the site from the boundary, there appears to be no prevention measure in place.

Complaints have been received from Isham residents, particularly about the development of the site for a different business purpose, additional heavy lorry movements, further potential damage to the river bridge, copious mud on the road causing a real hazard and a lack of landscape screening, the washing down of the vehicles in the road causing blockages to the drains, again causing issues for road users and for the residents such as flooding to the extent NNU has supplied them with sand bags.

The previous planning application 2013 permitted the erection of a workshop and office space on this land which was previously a scrap yard. The current owner has been using the area to store materials for loading vehicles for cement works. This is clearly a breach of planning conditions.

There are considerable amounts of soil, possibly contaminated, on the site, which is not conclusive to the production of concrete. The soil mounds are piled high around the pond which was originally there prior to occupation and this is now considerably smaller than before, with the possibility of rubble and soil being used to reduce its size.

The applicant is now applying for retrospective use of the land. It is unclear whether he has complied with the previous planning restrictions, for example workshop not to be used for any other purpose without express permission of the local planning authority, or a scheme for surface water management strategy. It is regrettable that reports for previous applications such as reference WP/16/005621/CND from the Environment Agency are not available, and their current response refers to their earlier one and even now that response is unavailable. We are therefore unable to check compliance and we have to rely upon NNU to check compliance.

There are now a number of developments beyond the original permissions; a hopper, hard standing for vehicles, a wash down facility for vehicles, stockpiles of soil/rubble that are not abiding by the previous applications and these, in our opinion, are breaches of planning conditions previously agreed.

In the section headed reasons, it is stated that in the National Planning Policy Framework that planning should contribute to, and enhance, the local environment and that there should be no unacceptable risk of water pollution.

The site offers no contribution to the natural environment and there is an unacceptable amount of mud being spread over a wide area of road, causing hazards to motorists, cyclists and pedestrians.

There remain legitimate concerns over contamination of the site due to historic uses. (3 sources of contamination).

The pond now seems to be banked by rubble piles.

In our opinion, it is clear that management of the site has breached a number of conditions. Due to the amount of soil now on the site, the site has increased in height which again has not been agreed by previous conditions.

The documents supplied by the application are quite large and it is difficult to identify exactly what measures they have or will be putting into place. From looking at the site there are no visible measures and concern for water pollution does not appear to be addressed. Having considered the Air Quality Constraints and Opportunities Appraisal statement, this reads like a desk produced document with little, or no evidence, of site evaluation. The report refers to slight adverse to negligible impact associated with the operation of the business and refers to weather conditions of potentially dusty winds as moderately infrequent. What is not taken into account is that we predominantly have west/north westerly winds, therefore increasing the potential of pollution without any measures specified as prevention.

The Dust Emissions Management Plan does list, under 3.5.4, a number of measures that would be needed and considering the fact that the owner already has two other sites and has been operating on this site for nearly a year, we would have expected



some, if not all, of these measures to be in place. We would expect that the site, if given permission, would have all these measures in place before operation restarts. Again, the report is relying on information on winds away from this site which does not in any way portray the actual wind direction or speed.

The measures also recommend the use of considerable amounts of water and there is no indication as to where that water is retained on site and where this water drains to.

The supporting 'Planning Statement' provided by Knights proposes the building of a 3 metre high concrete wall on the east side of the boundary which we find unacceptable to the IPC and we understand to the residents. The photos in the report bear no resemblance to the site at the present time.

## **Neighbours/Responses to publicity**

### **Objection**

12 letters of objection have been received which raise the following points:

Noise and Disturbance

Loss of Privacy

Loss of quality of life

Flood risk

Water running off site which blocks drains

Hazardous materials

Land contamination

Use not compatible next to residential dwellings

Site visually detrimental

Dust from the site means windows must always be closed and garden furniture covered

Site is an eyesore

Mud debris on road.

Harmful to health – breathing in dust

This road is not suitable for heavy lorries or any increase in vehicular traffic.

Weetabix lorries are not allowed so why should mix concrete vehicles travel along here.

Washing down concrete mixers on the road outside of his premises

Noise, odour, air quality impact

**Ward Councillor** (Councillor Lora Lawman) – Objects to the proposals raising the proximity of use to two residential properties. The planning application is contrary to good design and is not in keeping with the environment in the countryside. The silos are out of keeping and can be viewed from Isham. There is great concern over the power cables that are within close proximity to the overhead machinery.

The site and pond have PCB, arsenic and asbestos contamination, it was a previous requirement of decontamination prior to use. The pond that also fell under contamination has been filled into its original size.

The site has had approximately 1,200 tons of waste material deposited during the last 2 months. Concerns have been expressed over drainage and leakage of water from the pond and contaminants into the river Ise.

The Ward Councillor also conformed she has witnessed concrete mixing taking place on site and has expressed deep concern for the well-being of neighbouring residents suffering from air pollution, dust and noise as a result of the activities on the site.

Ward Councillor Clive Hallam has also expressed concern with regard to previous uses and land contamination of the site.

### **Support**

6 letters of support have been received which raise:

Job creation/ new business  
Use of land stops fly tipping  
Better use than previous scrap yard  
Site has been tidied up

**Local highway Authority (LHA)** - The justification for the use of a second access to the land as an emergency access is questioned. The use of further points of access create additional points of conflict between emerging vehicles and other highway users.

**Northamptonshire Police** – No formal objection to the application in its current form.

**Environment Agency** – have previously been consulted on the discharge of condition 6 (contamination) under approval of details reserved by condition reference WP/16/00562/CND (our reference: AN/2016/124550/01) in which supported the discharge of condition 6. It is understood that further contamination reports have been submitted in support of this application (reference NW/22/00888/FUL). Have reviewed the following reports:

- Preliminary (Geo-Environmental) Risk Assessment (PRA), ref EGE-22-09-06-01 by Evolve Geo-Environmental, dated 14 October 2022; and
- Contaminated Land Assessment, ref: EGE-22-09-06-01 by Evolve Geo-Environmental, dated 23 November 2022

As these reports do not change the Environment Agency's understanding of the risks posed to controlled waters, therefore have no further comments to make in respect of the proposed development.

### **NNC Lead Local Flood Authority (LLFA) – (15.05.2023)**

Having reviewed the applicant's submitted details located within:

1. Revised Flood Risk Assessment report reference RLC/1087/FRA+OSDS01 prepared by Roy Lobley Consulting Ltd dated 23 January 2023;
2. Supporting Planning Statement document reference: EAS4040/2 revision 1, prepared by Knights in December 2022,
3. Flood Risk Assessment report reference RLC/1087/FRA+OSDS01 prepared by Roy Lobley Consulting Ltd dated 31<sup>st</sup> October 2022
4. Plans as Existing with Heights of Existing Machinery. drawing reference: E157-01-A prepared by D B L ARCHITECTURAL DESIGN dated December 2022.
5. Plans as Proposed, drawing reference: E157-02-A prepared by D B L ARCHITECTURAL DESIGN dated December 2022.

NNC LLFA advise that there is still insufficient information available to comment on the acceptability of the proposed surface water drainage scheme for the proposed development.

The Supporting Planning Statement document reference: EAS4040/2 revision 1, prepared by Knights in December 2022 states:

“More recently, the Applicant has stored a mound of soil and hard core along the Site’s eastern elevation. The Council has issued the Applicant with a license for that material and it is currently serving as a barrier between the Applicant’s vehicles which are stored on Site and the neighbouring residential property. As is set out in further detail within the SPS, this Application seeks the erection of a boundary wall along the Site’s eastern boundary in order to provide necessary security for the ongoing use whilst simultaneously heightening neighbouring residential amenity. The mound would be removed from the Site to facilitate the erection of that boundary wall, with some of the soil being utilised to partially infill the lake located within the Site’s north-eastern corner in order to allow for the creation of the necessary boundary wall foundations.”

Whilst it is noted that the proposed development site plan figure 1.2 is pixelated and is almost illegible, it appears that the site has land levels at approximately 56.14 metres Above Ordnance Datum which is significantly lower than the value stated within the FRA (56.53 metres Above Ordnance Datum).

It is also noted that the methodology used to quantify the estimated increased water level is questionable and requires further clarification. Based on the information provided, it is unclear what volume of displacement will occur as a result of the proposed partial infill of the pond and what impact this will have in relation to water levels and associated flood risks to the site and surrounding catchment.

With reference to the above documents, we note that the submitted surface water drainage information fails on the following grounds:

1. Require an explanation of the potential impact of flood risk to the site and the surrounding catchment as a result of all aspects of the proposed development including the partial infilling of the existing pond.
2. Require assurance that the proposed development will not adversely affect overland flood flow routes across the site and demonstrate that the proposed development will not increase flood risk elsewhere.

NNC LLFA cannot support the application until adequate surface water drainage information has been submitted.

**NNC Environmental Protection Officer (Air Quality, Noise, Lighting and Contamination)** – have made the following comments:

### Dust/Air Quality

Not satisfied that the report has fully assessed the local conditions and full impact on the nearest sensitive receptor. Due to the very close proximity of a sensitive receptor, the assessment should measure and utilise local data for example site specific wind speed, wind direction and frequency to accurately determine the impact on receptors. Quantitative dust monitoring should also be undertaken to determine the dust impact from the operation of the site.

In addition, the report states that although the nearest receptor is close: 'it is screened by a small series of hedgerows/trees, which provides a buffer for dispersion during conditions where wind is blowing towards the nearest sensitive receptor locations from the site. It is also understood that a concrete wall is to be built along the eastern site boundary to further minimise dust dispersion at these locations.'

The hedgerow is sparse and cannot be relied on as an effective means of screening. Also, a high concrete wall immediately adjacent to the neighbouring property is likely to be oppressive and the wall does not have planning consent so should not be relied upon to provide any dust mitigation.

### Noise

The limitation of this assessment method is that it does not take into account the disturbance caused by individual short bursts of noise which can have a detrimental impact on occupiers of nearby dwellings. As an example, in this case there are four tipper lorries which will be parked immediately adjacent to the eastern site boundary and immediately adjacent to a residential dwelling. The four tipper lorries will start up in the morning, presumably on opening at 07:00, and be left to warm up for about 5 minutes ready for use on the site during the day. Although this noise is of a short duration, it has the potential to have a detrimental impact on occupiers of the neighbouring dwelling as it has the potential to cause sleep disturbance in the early morning. The sound pressure level (taken from noise data relating to specific noise sources in Appendix B). One of these lorries is approximately 68dB(A) at 2 metres (calculated from the lorry's sound power level of approximately 81dB(A)). Four lorries idling concurrently emit 74dB(A) at 2 metres. With the attenuation from the soil mound on the boundary between the site and the residential dwelling, the noise level is calculated to be 69dB(A) which is more than 20dB above the prevailing background noise level.

This is likely to have a detrimental impact on the neighbouring dwelling on a daily basis, despite the short period of time the noise will take place.

The report also assumes a distance of 50 metres from noise source to receptor which results in a significant level of noise attenuation. Although the storage bays, silos and water tank are approximately 50 metres to the neighbouring boundary, there are noise sources that will be closer to the residential dwelling. Lorries will arrive and leave the site from the access along the boundary of residential dwelling resulting in noise levels of approximately 82dB(A) at 2 metres. Despite the noise from passing lorries being of short duration, it is a high level of noise that will be frequent and result in continued disturbance to the neighbouring dwelling throughout the day.

Also have concerns that the report assumes that the assessed activities will take place twice an hour. Should the business grow, and activities intensify, the noise

impact will also be greater. It is recommended that noise levels for activities based on the maximum site capacity are calculated to ensure that the impact of any intensification of use is considered at this stage.

### Lighting

A Light Impact Assessment has been undertaken by Delta Simons (Reference 22-1135.01, Date: 16/12/22) to determine the impact of site lighting on the locality. The report states that Environmental Zone examples from the Institution of Lighting Professionals Guidance Notes GN01/21 The Reduction of Obtrusive Light would indicate the area to be classified as an E3 environmental zone, being classed as Suburban, Medium district brightness, well inhabited rural and urban settlements, small town centres of suburban locations. The site would however be classified as E2 (Sparsely inhabited rural areas, village or relatively dark outer suburban locations) as the report itself states that 'the area is largely surrounded by farmland, with the town of Burton Latimer to the east, village of Isham to the south/southwest...'

It is recommended that the 'Light Impact Assessment' is reviewed in line with the location being classified as Zone E2 to accurately determine the impact in the locality.

### Land Contamination

The Environmental Protection Officer for Contaminated Land has reviewed the following reports relating to the above site:

Preliminary (Geo-Environmental) Risk Assessment (PRA) by Evolve Geo-Environmental Ltd. October 2022. Ref EGE-22-09-06-01. Which includes:

Phase I & II Geo-Environmental Assessment EPS. 2016 Ref UK16.2406 Appendices G-M.

Remedial Method Statement by EPS. Ref UK16.2406. 2016.

Contaminated Land Assessment by Evolve Geo-Environmental Ltd. November 2022. Ref EGE-22-09-06-01. Which includes:

West Hill Phase 2, Kettering Ground Investigation Report. Soiltechnics December 2012. Ref STJ2298-G01.

The previous reports by EPS (2 and 3 above) were submitted for condition 6 of planning permission reference WP/2013/0420/F and the findings of the reports were agreed, partially discharging the site investigation phase of the condition. The report identified contaminants of concern as PCB, lead and asbestos. Also agreed was the remedial method statement (RMS) to address the known contaminants on the site. However, the remedial measures were not implemented in accordance with the agreed RMS and therefore the condition was not discharged in full (i.e there were no remedial works undertaken and no further reports for remediation and verification).

Given that no soils have been removed from the site the contaminants of concern identified in the EPS investigation may still be present, particularly in the shallow soils of the southern section of the site where there is no hardstanding or cover material.

The original RMS proposed a fully engineered and designed cover system to remediate the site, which included geotextile membranes and capillary break layers (Report 1. App V).

The recent investigation by Evolve Geo-Environmental Ltd (Report 4) has identified asbestos contamination (at depth) and acknowledges the previous reports findings. The report identifies a low risk from contaminants if the site is encapsulated with hardstanding's and recommends that remediation is undertaken.

New anecdotal information has been provided to NNC via one of the ward councillors as follows:

Isham village hall contains a huge reference of old urban district and parish transcripts of meetings and audio recordings

The lakes on the land were extensive and were formed when the clay was removed to build the bridge over the lse in the late 1800's. The lakes filled up and became a local fishing attraction for some years (there are photographs of the lakes which at that point were substantial).

In the Second World War the precursor to the Alumasc Engineering Company were building phosphorous based incendiary bombs for the war effort. The substantial and dangerous residue from this process was dumped in the lakes.

After the war the site became a scrap yard often used to get rid of airplane parts. At a later stage there was a significant underground fire in this residue which took all the engineering company's and other local fire equipment to put out.

Considering this new information, it is recommended that further investigation be undertaken and considered that the applicant has failed to provide adequate information to redress this matter.

## **6. Relevant Planning Policies and Considerations**

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### **Statutory Duty**

Planning law requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

### **National Policy**

National Planning Policy Framework (NPPF) (2021)  
National Planning Practice Guidance (NPPG)  
National Design Guide (NDG) (2019)

### **North Northamptonshire Joint Core Strategy – Part 1 of the local plan (JCS)**

Policies:

Policy 1 (presumption in favour of sustainable development);  
Policy 3 (landscape character);  
Policy 4 (biodiversity and geodiversity);  
Policy 6 (development on brownfield land and land affected by contamination);  
Policy 8 (North Northamptonshire place shaping principles);

Policy 9 (sustainable buildings);  
Policy 11 (the network of urban and rural areas);  
Policy 13 (rural exceptions);  
Policy 22 (delivering economic prosperity);  
Policy 23 (distribution of new jobs);  
Policy 25 (rural economic development and diversification);

## **Plan for the Borough of Wellingborough – Part 2 of the local plan (PBW)**

Policies

Policy SS1 (Villages);  
Policy E3 (Employment Outside Established Employment Estates);

### **Other Relevant Documents:**

Biodiversity  
Trees on Development Sites  
Planning Out Crime in Northamptonshire  
Parking  
Air Quality

## **7. Evaluation**

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The proposal raises the following main issues:

- principle of development and material considerations;
- landscape character and visual amenity;
- flood risk and surface water drainage;
- noise:
- air quality;
- living conditions of the neighbouring occupiers;
- Biodiversity
- contamination;
- Highways;
- crime and disorder

**7.1 Principle of Development and material considerations** - Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that *“If regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the development plan unless material considerations indicate otherwise.”*

7.2 Policy 1 of the JCS is clear that when considering development proposals, the local planning authority will take a positive approach that reflects the presumption in favour of sustainable development as set out within the revised NPPF.

7.3 Policy 11 (2) (a) of the JCS limits rural development to that which is required to support a prosperous rural economy or to meet a locally arising need, where this need could not be met at a nearby larger settlement. This will normally be met on small scale infill sites within villages. Policy 11 (2) (d) of the JCS also states that other than that permitted through policy 25 of the JCS, development in the open countryside will be resisted unless it is meeting the special circumstances set out in policy 13 of the JCS.

7.4 Policy 13 of the JCS permits development as rural exceptions site adjoining village boundaries and where it is of a form and scale justified in meeting a locally defined need. The proposal site is separated from the Isham village boundary by some distance and so would not meet these criteria and would not comply with this policy. Policy 13 (2) of the JCS sets the criteria for development in the open countryside and only applies to residential development, so would not apply to this application.

7.5 Policy 25 (1 ) of the JCS supports sustainable proposals to develop and diversify the rural economy that are of an appropriate scale for their location, and that respect the environmental quality and character of the rural area. This policy particularly supports businesses relating to local produce, food, craft and ecotourism.

7.6 Policy 22 (a) and (b) of the JCS seeks to support a stronger more sustainable economy and deliver job growth to meet the targets in policy 23 of the JCS. This requires the provision of sufficient high-quality sites to support these job targets. To achieve this, priority will be given to the regeneration of previously developed land and existing employment sites.

7.7 Policy 6 of the JCS also seeks to prioritise and maximise opportunities for development on previously developed land. Were the proposal determined as a previously developed land site then this should be weighted accordingly in any planning decision.

7.8 Policy E3 of the PBW supports the retention of industrial/businesses uses and sites. The development of this site would regenerate a former scrap yard site which would need to be weighed against other policy considerations.

7.9 A lawful development certificate by the previous owners sought to establish a material commencement and was refused by the council but subsequently allowed on appeal by the planning inspectorate. The appeal by Newton and Frost Fencing Ltd 'the appellant' following the Council's decision to refuse reference WP/20/00606/LDE for a Certificate of Lawful Use existing for 'development permitted pursuant to planning permission reference WP/2013/0420/F - Erection of workshop (B2) with ancillary offices (Unit A) together with separate office (Class B1) building (unit B), new access road and parking. Sought a Certificate of Lawful Use (CLU) in relation to the material commencement of the above permission'

7.10 The appeal was allowed, and the Planning Inspector stated:  
"From the available evidence, I conclude that the appellants have demonstrated, on the balance of probability, that the planning permission in question was lawfully implemented before it expired. A material operation comprised in the development i.e. the excavation of part of the approved access road, was begun before the expiry date."

7.11 The site is now being used by Easimix Concrete & Screed Ltd and is considered a previously developed brownfield site.

7.12 The Council consider that the use on site does not fall within the category of B8 (storage and distribution) and is more akin to a sui generis use. Given that materials are stored on site, but the materials are mixed to produce concrete and screed and



not delivered to a customer in their original state the Council considers the use to fall outside the scope of B8 (storage and distribution) use. In the Council's view given a different product and process occurs irrespective of on or off site the use does not fall into a B8 (storage and distribution) use. This is also made clear the fact that the company is a concrete business and not a raw materials business. Furthermore, Article 3(6) of the Town and Country Planning (Use Classes) (Amendment) Regulations 2002 states "no class specified in Schedule 1 or 2 includes use . . . (g) as a scrapyard, or a yard for the storage or distribution of minerals or the breaking of motor vehicles". Schedules 1 and 2 list all the A, B, C, etc uses. Section 336 of the 1990 Act defines 'minerals' as "includes all substances of a kind ordinarily worked for removal by underground or surface working, except that it does not include peat cut for purposes other than sale" The current use of the site currently is akin to the storage and distribution of minerals (sand, cement and ballast) and is therefore a sui generis use.

7.13 The principle of the use of the site in this location which causes significant activity and disturbance as well as air pollution and noise adjacent to residential properties is considered unacceptable.

#### **7.14 Landscape character and visual amenity**

##### Landscape Character

7.15 Policy 3 (a) of the JCS attempts to 'conserve and, where possible enhance the character and qualities of the local landscape.' The eastern boundary of the site is situated adjacent to two existing detached bungalows arranged in a linear form and is surrounded on three sides by open countryside.

7.16 Driving down this part of the Station Road gives a sense of being on a rural road with little development on either side apart from a couple of residential bungalows. The proposals have not provided a landscape visual impact assessment or any form of robust landscaping scheme to mitigate the visual impact of the development.

7.17 NNC landscape officer has made the following comments:

"virtually all the pre-existing vegetation has evidently been removed from the site. The proposed concrete fence on the highway boundary could perhaps be moved back to allow a robust native hedge to be planted to make it less visually obtrusive. It is difficult to envisage much in the way of compensation for vegetation loss, let alone net biodiversity gain".

7.18 The works already undertaken have removed the pre-existing vegetation from the site with no attempt to retain any of this. The proposed concrete fencing would be unsympathetic and represents a very industrial boundary treatment in what is a rural location. The substantial amounts of imported soil into the site have changed the land levels significantly and resulted in a considerable landscape change. The soil is mounded up against the residential neighbour's fence.

7.19 The proposals include the creation of a new 3 metres high concrete panel fence to the boundary with the residential bungalow, again this is considered excessive in scale and of a design and material that would represent an industrial feature and lacks consideration of the rural location or the residential properties adjacent.

7.20 The proposals have failed to provide a robust landscaping planting strategy and sympathetic boundary treatment plan.

7.21 It is therefore considered that the present use, activities and changes made to the site have a negative visual impact on the landscape and would be contrary to 3 (a), (b) and (e) of the JCS

#### **7.22 Flood risk and drainage**

7.23 The JCS at policy 5 sets out a raft of sub policies aimed at preventing or reducing flood risk.

7.24 The revised NPPF at chapter 14 sets out government views on how the planning system should take into account the risks caused by flooding. The planning practice guidance under the chapter titled 'flood risk and climate change' gives detailed advice on how planning can take account of the risks associated with flooding in the application process.

7.25 NNC lead local flood authority (LLFA) recommended that the amended surface water drainage information received in January 2023 failed on the following grounds: Firstly, an explanation was required of the potential impact of flood risk to the site and the surrounding catchment as a result of all aspects of the proposed development including the partial infilling of the existing pond. Secondly an assurance was required that the proposed development will not adversely affect overland flood flow routes across the site and demonstrate that the proposed development will not increase flood risk elsewhere.

As currently proposed the surface water drainage information is unacceptable and the development would be contrary to policy 5 of the JCS.

#### **7.26 Noise**

7.27 To ensure quality of life and safer and healthier communities the JCS at policy 8 (e) (ii) states that new development should be prevented from contributing to or being adversely affected by unacceptable levels of noise.

7.28 Chapter 15 of the revised NPPF gives advice on how local planning authorities should prevent new development from being adversely affected by unacceptable levels of noise pollution. The NPPF further advises that decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.

The PPG offers detailed advice on Noise which was updated on 24 December 2014.

7.29 The proximity of the site to two residential properties makes noise a key factor of assessment and has resulted in objections. NNC environmental protection officer (noise) have assessed the information provided and consider it does not give an accurate or complete picture, they state:

“The limitation of this assessment method is that It does not take into account the disturbance caused by individual short bursts of noise which can have a detrimental impact on occupiers of nearby dwellings. As an example, in this case there are four tipper lorries which will be parked immediately adjacent to the eastern site boundary and immediately adjacent to a residential dwelling. The four tipper lorries will start up in the morning, presumably on opening at 7am, and be left to warm up for about 5 minutes ready for use on the site during the day. Although this noise is of a short

duration, it has the potential to have a detrimental impact on occupiers of the neighbouring dwelling as it has the potential to cause sleep disturbance in the early morning.”

7.30 The noise level is calculated to be 69dB(A) which is more than 20dB above the prevailing background noise level and as such would result in a significant detrimental impact to residential amenity.

7.31 The report also assumes a distance of 50 metres from noise source to receptor which results in a significant level of noise attenuation. Although the storage bays, silos and water tank are approximately 50 metres to the neighbouring boundary, there are noise sources that will be closer to the residential dwelling.

7.32 In addition the report assumes the activity would only take place twice an hour and we would consider this a best-case scenario rather than worst case and additional activity through busy periods would likely result in greater noise and disturbance.

7.33 Whilst average noise levels over a longer time periods present a more amenable scenario the shorter-term activities result in high peak noise levels which undoubtedly result in considerable disruption and impact on amenity.

7.34 As such the proposals are considered in conflict with policy 8 (e) (i) or (ii) of the JCS.

#### **7.35 Air quality**

7.36 The JCS at policy 8 amongst other things, requires development not to result in an unacceptable impact on neighbours by reason of pollution.

7.37 To ensure quality of life and safer and healthier communities the JCS at policy 8 (e) (i) requires development not to have an unacceptable impact on amenities by reason of pollution, whilst 8 (e) (ii) goes further by stating that both new and existing development should be prevented from contributing to or being adversely affected by unacceptable levels of air pollution.

7.38 Chapter 15 of the revised NPPF offers broad advice on how local planning authorities should prevent both existing and new development from being adversely affected by unacceptable levels of air pollution.

7.39 The PPG at paragraph 001 of the air quality section dated 6 March 2014 states that ‘It is important that the potential impact of new development on air quality is taken into account in planning where the national assessment indicates that relevant limits have been exceeded or are near the limit’. The guidance goes on to explain the implications for local authorities if national objectives are not met which this will include measures in pursuit of the objectives which could have implications for planning. The PPG at paragraph 009 demonstrates how considerations about air quality fit into the development management process.

7.40 The East Midlands region is looking to minimise the cumulative impact on local air quality that ongoing development has rather than looking at significance.

7.41 As the proposed development includes the provision for vehicle parking. A key theme of the revised NPPF is that developments should enable future occupiers to make "green" vehicle choices and paragraph 112 (e) "incorporate facilities for charging plug-in and other ultra-low emission vehicles". Policy 15 (c) of the JCS seeks for the design of development to give priority to sustainable means of transport including measures to contribute towards meeting the modal shift targets in the Northamptonshire Transportation Plan.

7.42 The processes described from the applicant which involve loading trucks with cement powder, ballast, sand and water undoubtedly result in considerable dust generation, which when the wind blows towards the neighbours will result in considerable impact. The United Kingdom's most common prevailing winds come from a west or south west direction and as such these would blow directly towards the residential neighbour. NNC environmental protection officer (air quality) have assessed the report provided by the applicant and made the following comments:

"not satisfied that the report has fully assessed the local conditions and full impact on the nearest sensitive receptor. Due to the very close proximity of a sensitive receptor, the assessment should measure and utilise local data for example site-specific wind speed, wind direction and frequency to accurately determine the impact on receptors. Quantitative dust monitoring should also be undertaken to determine the dust impact from the operation of the site".

In addition, the report states that although the nearest receptor is close 'it is screened by a small series of hedgerows/trees, which provides a buffer for dispersion during conditions where wind is blowing towards the nearest sensitive receptor locations from the Site. It is also understood that a concrete wall is to be built along the eastern Site boundary to further minimise dust dispersion at these locations.

The hedgerow is sparse and cannot be relied on as an effective means of screening. Also, a high concrete wall immediately adjacent to the neighbouring property is likely to be oppressive and the wall does not have planning consent so should not be relied upon to provide any dust mitigation."

7.43 The nearest residents have strongly objected to the proposals and made representations through a ward councillor that outline that the level of dust results in them not able to hang washing out, sit in their rear garden or open windows to their property.

7.44 It is considered that the activities result in significant dust generation which results in a severe air quality impacts on the neighbouring residential properties and would be contrary to policy 8 (e ) (i) & (ii) of the JCS.

#### **7.45 Living conditions of the neighbouring occupiers**

The JCS at policy 8 (e) (i) details policy relating to the protection of amenity of neighbouring occupiers.

7.46 At paragraph 130 (f) of the revised NPPF the government requires new development to provide 'a high standard of amenity for all existing and future users.

7.47 The categories above in terms of noise and air quality are already considered to impact on the living conditions of neighbouring occupiers. There are also other

factors resulting and NNC environmental protection officer have made comments in relation to lighting which are:

“A Light Impact Assessment has been undertaken by Delta Simons (reference 22-1135.01, dated 16/12/22) to determine the impact of site lighting on the locality. The report states that Environmental Zone examples from the Institution of Lighting Professionals Guidance Notes GN01/21 The Reduction of Obtrusive Light would indicate the area to be classified as an E3 environmental zone, being classed as Suburban, Medium district brightness, well inhabited rural and urban settlements, small town centres of suburban locations. The site would however be classified as E2 (Sparsely inhabited rural areas, village or relatively dark outer suburban locations) as the report itself states that ‘the area is largely surrounded by farmland, with the town of Burton Latimer to the east, village of Isham to the south/southwest...’.

Would recommend that the Light Impact Assessment is reviewed in line with the location being classified as Zone E2 to accurately determine the impact in the locality.”

7.48 The activities on site and use of flood lighting, along with the lights of vehicles entering and leaving the site given the early hours of activities are likely to have additional detrimental impacts on neighbouring residential amenity.

7.49 In addition the proposed three metre high concrete wall proposed to the boundary with the residential property to the east is considered visually oppressive and of a scale that would result in a detrimental impact and is not characteristic of a residential property boundary.

7.50 The cumulative impacts outlined through noise, air quality, lighting, disturbance and the boundary treatment measures put forward are considered to be contrary to policy 8 (e) (i) of the JCS.

#### **7.51 Biodiversity**

7.52 Paragraph 40 of the Natural Environment and Rural Communities Act, under the heading of ‘duty to conserve biodiversity’ states “every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.”

7.53 The JCS at policy 4 – biodiversity and geodiversity, sets out policy requirements for the protection and where possible, a net gain in biodiversity.

7.54 The revised NPPF at chapter 15 ‘protect and enhance biodiversity and geodiversity’ sets out government views on minimising the impacts on biodiversity, providing net gains where possible and contributing to halt the overall decline in biodiversity.

7.55 The use on site has removed significant vegetation and no landscaping proposals are presented to soften the impact of the on-site activity. The application has failed to demonstrate any biodiversity net gain and as such is considered in conflict with policy 4 a) (i), (iv) and (v) of the JCS and paragraph 180 (a) and (d) of the NPPF.

#### **7.56 Highway safety**

7.57 JCS policy 8 (b) (i) gives a number of requirements that new development should achieve with regards to highway, pedestrian and other sustainable transport matters.

7.58 JCS policy 8 (b) (ii) seeks to ensure a satisfactory means of access and provision for parking, servicing and manoeuvring in accordance with adopted standards.

7.59 Highways raised no objections in principle but questioned the need for a secondary access point and the applicant clarified that this was needed only for emergency purposes as an example should the electric gates proposed to the primary access fail.

7.60 There are not considered to be sufficient grounds to substantiate a reason for refusal on highway safety grounds.

7.61 As such the proposals are considered to be in accordance with policy 8 (b) (i) and (ii) of the JCS.

#### **7.62 Contamination**

7.63 The JCS at policy 6 says that local planning authorities will seek to maximise the delivery of development through the re-use of suitable previously developed land within the urban areas. Where development is intended on a site known or suspected of being contaminated a remediation strategy will be required to manage the contamination. The policy goes on to inform that planning permission will be granted where it can be established that the site can safely and viably be developed with no significant impact on either future users of the development or on ground surface and waters.

7.64 The revised NPPF at paragraphs 184 and 185 sets out policies on development involving contaminated land. The planning practice guidance also offers detailed government advice on this topic.

7.65 Concerns have been expressed in representations that the site has been heavily contaminated by previous uses.

7.66 NNC environmental protection officer (contamination) has reviewed the following reports relating to the above site:

1. Preliminary (Geo-Environmental) Risk Assessment (PRA) by Evolve Geo-Environmental Ltd. October 2022. Ref EGE-22-09-06-01. Which includes:
2. Phase I & II Geo-Environmental Assessment EPS. 2016 Ref UK16.2406 Appendices G-M.
3. Remedial Method Statement by EPS. Ref UK16.2406. 2016.
4. Contaminated Land Assessment by Evolve Geo-Environmental Ltd. November 2022. Ref EGE-22-09-06-01. Which includes:

5. West Hill Phase 2, Kettering Ground Investigation Report. Soiltechnics  
December 2012. Ref STJ2298-G01.

7.67 The previous reports by EPS (2 and 3 above) were submitted for condition 6 of planning permission reference WP/2013/0420/F and the findings of the reports were agreed, partially discharging the site investigation phase of the condition. The report identified contaminants of concern as PCB, lead and asbestos. Also agreed was the remedial method statement (RMS) to address the known contaminants on the site. However, the remedial measures were not implemented in accordance with the agreed RMS and therefore the condition was not discharged in full (i.e there were no remedial works undertaken and no further reports for remediation and verification). Given that no soils have been removed from the site the contaminants of concern identified in the EPS investigation may still be present, particularly in the shallow soils of the southern section of the site where there is no hardstanding or cover material. The original RMS proposed a fully engineered and designed cover system to remediate the site, which included geotextile membranes and capillary break layers (Report 1. App V).

7.68 The recent investigation by Evolve Geo-Environmental Ltd (Report 4) has identified asbestos contamination (at depth) and acknowledges the previous reports findings. The report identifies a low risk from contaminants if the site is encapsulated with hardstanding's and recommends that remediation is undertaken.

7.69 New anecdotal information has been provided to NNC environmental protection officer (contamination) via a ward councillor as follows:

Isham village hall contains a huge reference of old urban district and parish transcripts of meetings and audio recordings.

7.70 The lakes on the land were extensive and were formed when the clay was removed to build the bridge over the Ise in the late 1800's. The lakes filled up and became a local fishing attraction for some years (there are photographs of the lakes which at that point were substantial).

7.71 In the Second World War the precursor to the Alumasc engineering company were building phosphorous based incendiary bombs for the war effort. The substantial and dangerous residue from this process was dumped in the lakes.

7.72 After the war the site became a scrap yard often used to get rid of airplane parts. At a later stage there was a significant underground fire in this residue which took all the engineering company's and other local fire equipment to put out.

7.73 Considering this new information, it is recommended by NNC environmental protection officer (contamination) that further investigation be undertaken and considered that the applicant has failed to provide adequate information to redress this matter.

7.74 The proposals as such are considered to be contrary to policy 8 (e) (i) & (ii) of the JCS.

### 7.75 Crime and disorder

7.76 Section 17 of the Crime and Disorder Act 1998 details the need for the council to do all that it reasonably can to prevent, crime and disorder in its area.

7.77 The JCS at policy 8 (e) (iv) sets out the policy requirement for new development to seek to design out crime and disorder and reduce the fear of crime.

7.78 The adopted designing out crime supplementary planning guidance gives detailed advice this issue.

7.79 The revised NPPF at paragraph 130 (f) state that decisions should aim to ensure that developments create safe, inclusive and accessible environments which promote health and wellbeing with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion and resilience.

7.80 Northamptonshire police raises no formal objections to the proposals. It is also noted that several instances of neighbour disagreement and anti-social actions have occurred between the occupiers of the site and the neighbouring residential property and that tensions are high however these are considered to be a civil matter between the relevant parties. As such overall the proposals are considered in accordance with policy 8 (e) (vi) of the JCS.

## 8. CONCLUSION/PLANNING BALANCE

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8.1 The proposed development fails to comply with the adopted development plan and puts forward a use that would conflict with the more sensitive residential receptors adjacent in terms of principle land use, noise, air quality, light pollution and disturbance.

8.2 The use of the site has also resulted in the loss of vegetation and the construction of unsympathetic boundary treatment and the presence of large silos to store materials and equipment. The use has resulted in a landscape visual impact that is considered of significant detriment to the area.

8.3 The proposals have failed to put forward any mitigation in the form of landscape planting or soften the boundaries and the proposed three metres high concrete fence proposed to the boundary with the adjacent resident is considered detrimental visually and to the amenity of the neighbouring property.

8.4 In addition, the proposals have failed to demonstrate that the proposals would not result in flood risk or biodiversity loss, as well as demonstrating that the site is safe in terms of land contamination.

## 9. RECOMMENDATION

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That planning permission be **REFUSED** for the following reasons:



## 10. Reasons for Refusal

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1. The proposals due to their proximity and close relationship with the adjacent residential properties are considered an incompatible and conflicting land use which would result in significant detrimental impact on the residential amenity, quality of life and privacy of the adjacent residential property. The proposed development would be contrary to policy 8 (e) (i) and (ii) of the North Northamptonshire Joint Core Strategy and policy 130 (f) of the National Planning Policy Framework.
2. The site is within close proximity to the existing residential dwellings and it is considered that existing and future residents would suffer from adverse amenity and disturbance as a result of the noise from vehicles and the activity associated with the use. The noise survey and boundary treatment proposed fails to mitigate the noise impacts to the detriment of neighbouring amenity. The proposed development fails to comply with policy 8 (e) (i) and (ii) of the North Northamptonshire Joint Core Strategy and paragraphs 130 (f) and 185 of the National Planning Policy Framework.
3. The use on site is considered to result in activities that result in substantial dust and air quality degradation for adjacent residents resulting in them being unable to enjoy their private amenity space and open windows. The activities result in significant dust generation which results in a severe air quality impact on the neighbouring residential properties. The proposed development would be contrary to policy 8 (e) (i) & (ii) of the North Northamptonshire Joint Core Strategy.
4. Given the previous historic uses on the site and dangerous materials stored or used on the site the applicant has failed to satisfy the Council that the site is safe and that contamination risks have been safely remediated. The proposed development would be contrary with policies 6 and 8 (e) (i) & (ii) of the of the North Northamptonshire Joint Core Strategy.
5. The development has eroded the rural character of the open countryside in the vicinity and the addition of a three-metre-high concrete fence along the boundary of the site would result in a visually oppressive feature to the detriment of the landscape visual character. The proposed boundary treatment to mitigate the effects from noise on neighbouring amenity fails to have due regard for the sites rural location and presents a hard commercial and prominent edge to the countryside. Vegetation has been removed and no landscape strategy or mitigation have been provided to mitigate the harm to the countryside resulting from the development. The proposed development would be contrary to the requirements of policies 3 (a), (b) and (e) and 8 (d) (i) and (ii) of the North Northamptonshire Joint Core Strategy and paragraph 130 (b) and (c) of the National Planning Policy Framework.
6. The activities proposed result in disturbance through light pollution which have not been adequately addressed. The activities result in unacceptable light pollution on the neighbouring amenity. The proposed development would be contrary to policy 8 (e) (i) & (ii) of the North Northamptonshire Joint Core Strategy.

7. The applicant has failed to demonstrate a net biodiversity gain. A net gain should be evidenced using the new Department for agriculture 'Small Sites Metric' for biodiversity. The proposed development would be contrary policy 4 (a) (i), (iv) and (v) of the North Northamptonshire Joint Core Strategy and advice contained within paragraph 180 (a) and (d) of the National Planning Policy Framework.
8. The applicant has failed to provide a flood risk assessment and surface water drainage strategy as such the proposals have not been demonstrated that they would not lead to an increased risk of flooding. The proposed development would be contrary to policy 5 of the North Northamptonshire Joint Core Strategy.

## **11. INFORMATIVE/S:**

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1. In accordance with the provisions in the Town and Country Planning (Development Management Procedure) (England) Order 2015 and pursuant to paragraph 38 of the National Planning Policy Framework, where possible and feasible, either through discussions, negotiations or in the consideration and assessment of this application and the accompanying proposals, the council as the local planning authority endeavoured to work with the applicant/developer in a positive and proactive way to ensure that the proposed development is consistent with the relevant provisions in the framework.
2. The development is refused based on the following plans:  
E157-03-B Site Location plan received 20 December 2022;  
E157-02-A Proposed Plans received 16 December 2022;  
Light Impact Assessment by Delta Simons (Reference 22-1135.01 and dated: 16/12/22) received 16 December 2022;  
Noise Impact Assessment for a Concrete Storage and Distribution Yard by Spectrum Noise Consultants (reference CJA4731/22211/Rev 0 and dated 25 November 2022) received 16 December 2022;  
Dust and Emissions Management Plan by Delta-Simons (Project No: 22-1135.02 / 87952.545851 Issue 2 and dated 5 December 2022) received 16 December 2022;  
Revised Flood Risk Assessment report reference RLC/1087/FRA+OSDS01 prepared by Roy Lobley Consulting Ltd dated 23rd January 2023 received 30 January 2023;  
Supporting Planning Statement document reference: EAS4040/2 revision 1, prepared by Knights in December 2022 received 16 December 2022;  
Flood Risk Assessment report reference RLC/1087/FRA+OSDS01 prepared by Roy Lobley Consulting Ltd on the 31st October 2022 received 16 December 2022;  
Preliminary (Geo-Environmental) Risk Assessment (PRA) by Evolve Geo-Environmental Ltd. (Reference EGE-22-09-06-01 and dated October 2022) received 16 December 2022;  
Remedial Method Statement by EPS (reference UK16.2406. 2016) received 16 December 2022;  
Contaminated Land Assessment by Evolve Geo-Environmental Ltd (reference EGE-22-09-06-01 and 23 November 2022) received 16 December 2022;
3. Link to Policies for Refusals -  
<http://www.nnjpu.org.uk/docs/Joint%20Core%20Strategy%202011-2031%20High%20Res%20version%20for%20website.pdf>



## North Northamptonshire Area Planning Committee (Wellingborough) 24 May 2023

<b>Application Reference</b>	<b>NW/23/00096/FUL</b>	
<b>Case Officer</b>	Mr Chris Law	
<b>Location</b>	Boundary Wall Manor House Close Earls Barton	
<b>Development</b>	The wall and pier to be carefully taken down, the land behind be regraded to a suitable slope and size and once the land has been regraded, the wall and pier are to be rebuilt to match existing prior to deconstruction.	
<b>Applicant</b>	Mr Jason Farr	
<b>Agent</b>	Mr David Smith	
<b>Ward</b>	Earls Barton Ward	
<b>Overall Expiry Date</b>	18 April 2023	
<b>Agreed Extension of Time</b>	<b>26 May 2023</b>	
<b>Checked</b>	Senior Development Management Officer	Debbie Kirk

### **Scheme of Delegation**

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This application is brought to committee because it falls outside of the council's scheme of delegation because more than 5 objections have been received and an objection has also been received from Earls Barton Parish Council.

### **1. Recommendation**

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- 1.1 That planning permission be **GRANTED** subject to the conditions listed at the end of the report



## **2. The Application Proposal and Background**

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2.1 This application seeks planning permission for the taking down and rebuilding of a section of a listed boundary wall at Manor House Close, fronting onto High Street in Earls Barton, due to the wall's poor condition. The works also involve regrading a section of the land to the rear of the wall to ensure the wall returns to a being a boundary wall only and not a retaining wall. The works include the removal of a horse chestnut tree to the rear of the wall and details of a replacement tree have been provided.

2.2 The applicant has provided a plan to show the extent of the regrading works, a method statement, a heritage statement and a structural condition survey. An application for listed building consent has also been submitted alongside this application under reference NW/23/0097/LBC.

## **3. Site Description and Surroundings**

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2.1 The application site fronts the High Street in Earls Barton to the north of the village centre and consists of a section of 2.1-metre-high brick wall running from the north east side of the right hand gate pier along the frontage of the Manor House Close flats. The wall is constructed in red/orange bricks with copings with a panelled ashlar gate pier to the north east. This application relates to the rebuilding of the brick wall and gate pier. The remainder of the wall to the north west has already been granted listed building consent and planning permission for the same works under references NW/22/00837/LBC and NW/22/00836/FUL.

2.2 The regrading of the land behind the wall would result in a newly formed slope which would start 0.5 metres from the north elevation of the wall. The level of the ground at the bottom of the slope and to the north of the wall would match the footpath on the opposite side of the wall.

2.3 The wall and gate pier are within the Earls Barton Conservation Area and are Grade II listed structures.

## **4. Relevant Planning History**

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WP/14/00276/TCA	Approved G1. Goat Willow consisting of 4 No. stems; sectionally dismantle to ground level T1. 1 No. Maple; pollard crown at a height of 4m to suitable unions.	09.06.2014
WP/17/00006/FUL	Approved with conditions Restoration and alterations of rear outbuilding for use as gym with shower room, associated rest area and a store room and provide parking in the rear garden.	28.02.2017
WP/17/00007/LBC	Approved with conditions Restoration and alterations of rear outbuilding	28.02.2017

for use as gym with shower room, associated rest area and a store room and provide parking in the rear garden.

NW/22/00128/FUL	Application withdrawn/undetermined Planning permission to carefully take down an existing listed boundary wall and rebuild a section of the boundary wall fronting the High Street.	17.05.2022
NW/23/00008/TCA	Approved T1. Sycamore; re-pollard crown to previous pollard points at a height of approximately 5m.	08.02.2023
NW/23/00097/LBC	Determination pending. Listed Building Consent for the wall and pier to be carefully taken down, the land behind be regraded to a suitable slope and size and once the land has been regraded, the wall and pier are to be rebuilt to match existing prior to deconstruction	
WP/1997/0337	Approved with conditions Demolition of lean-to brick barn	03.09.1997
WP/1993/0250	Approved with conditions Creation of dwelling and curtilage separate from no. 76 High Street, Earls Barton	08.09.1993
BW/1987/0011	Approved with conditions Installation of bathroom and toilet	25.02.1987
BW/1985/0935	Approved with conditions 5 replacement windows to front elevation	20.11.1985
BW/1984/0070	Approved with conditions Alterations and improvements to provide living accommodation and replacement of window frames	06.03.1984
BW/1989/0399	Refused Erection of 4 no. dwellings with garages and construction of access drive.	19.05.1989
BW/1988/1151	Application withdrawn/undetermined Alterations to form additional dwelling unit	14.02.1989
BW/1988/1150	Application withdrawn/undetermined Alterations to form additional dwelling unit	06.12.1988
WP/2002/0058	Application withdrawn/undetermined Erection of one detached house and garage	24.04.2002

## 5. Consultation Responses

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A full copy of all comments received can be found on the Council's Website <https://www.wellingborough.gov.uk/viewplanningapplications>

### 5.1 Earls Barton Parish Council

Earls Barton Parish Council objects to this application as it will result in the loss of a mature horse chestnut tree which has ecological value. However, should an alternative option be found that allows the tree to remain despite work being carried out to repair the wall, we would ask that a tree planting scheme is agreed to mitigate against the loss, and that the scheme should include the planting of a semi-mature, heavy standard tree.

### 5.2 Neighbours/Responses to publicity

At the time of writing, 2 letters of support from the same household and 67 letters of objection have been received. A petition signed by 770 people titled 'Save the Earls Barton Conker Tree' has also been received. A large number of the comments received relate to the removal of the horse chestnut tree and are therefore considered under the associated application for planning permission under reference NW/23/00096/FUL.

#### Support

The comments received in the support letter are summarised below:

- The repair of a listed wall should surely always take priority especially as it is a statutory requirement which cannot be ignored.
- Other options have been undertaken to look at all the options to keep the tree including a retaining wall in front which would be unsightly.
- the tree is coming towards the end of its natural life and is poorly situated on a small raised piece of (private) land with neither of the walls, on either side, able to hold the tree if it were to fall.
- should the tree fall it could cause considerable damage, even large branches when falling can cause considerable damage.
- It has also been suffering with leaf blight for the last two years which has seriously impacted its ability to photosynthesise. The main trunk also has some early signs of disease which should not be ignored.

#### Objection

The comments received in objection to the application can be summarised as follows:

- please save the tree, it is more important to local people than a wall that has been allowed to fall into disrepair;
- the tree should not be removed as we are in a climate emergency;
- the tree provides a habitat for animals;
- the replacement tree would not adequately compensate for the loss of the horse chestnut and would take many years to grow as large
- the tree is important to local people whom have memories of collecting conkers;
- the tree is not believed to be diseased and leaf miner would have little impact on an established tree of this age;
- tree is home to wildlife, offers shade, absorbs pollutants and helps prevent flooding;
- removal of the tree will negatively affect the area's ecological value and important environmental health;
- the tree adds to the aesthetics of the landscape and local amenity;

- please look at other options to repair the wall and retain the tree;
- a retaining wall in front of the existing wall should be built which would retain the existing wall and tree;
- options to de-list the wall should be explored;
- the applicant is giving the impression that there are no other alternatives to removing the tree based on advice from Place Services due to the impact on the conservation area which has already been impacted by the removal of other trees and exposing the view of the flats;
- the tree could be replanted elsewhere.

### **5.3 Local Highway Authority (LHA)**

No objections subject to no part of the rebuilt wall extending over or into the adjacent public highway and any highway surfaces affected by the proposals being reinstated in accordance with the specification of the LHA under licence/agreement under the Highways Act 1980.

### **5.4 NNC Senior Built Heritage Consultant**

The proposals are considered to enhance and better reveal the significance of the listed structure and future-proof against further deterioration and damage.

There are no objections to the proposals which are in full compliance with Section 16 of the NPPF, and Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **5.5 NNC Assistant Archaeological Advisor**

Has nothing further to add to comments made on 18/01/2023, which should be understood to stand.

Officer note: The above refers to comments made to listed building consent reference NW/22/00837/LBC and planning permission reference NW/22/00836/FUL for the adjacent wall but apply to this application too. The comments are as follows:

The proposed development will have a detrimental effect upon surviving heritage assets. Such effects do not represent an over-riding constraint to development provided that adequate provision is made for the investigation and recording of those assets affected. In order to secure this please attach a suitable condition for a programme of archaeological work as recommended above and in line with NPPF paragraph 205 to any permission granted in respect of this application.

The condition wording is provided.

## **6. Relevant Planning Policies and Considerations**

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### **6.1 Statutory Duty**

Planning law requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

### **6.2 National Policy**

National Planning Policy Framework (NPPF) (2021)

National Planning Practice Guidance (NPPG)

National Design Guide (NDG) (2019)



### **6.3 North Northamptonshire Joint Core Strategy – Part 1 of the local plan (JCS)**

Policies:

2 (historic environment)

3 (landscape character)

8 (North Northamptonshire place shaping principles)

### **6.4 Plan for the Borough of Wellingborough – Part 2 of the local plan (PBW)**

Policy SS1 (villages)

### **6.5 Neighbourhood plans:**

#### **Earls Barton Neighbourhood Plan:**

Policy:

EB. D1 (design, layout, building techniques)

### **6.6 Other Relevant Documents:**

Trees on Development Sites

## **7. Evaluation**

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7.1 The proposal raises the following main issues:

- principle of development and material considerations;
- design, layout and the effect on the character and appearance of the surrounding area;
- heritage assets;
- archaeology;
- landscape character and visual amenity;
- living conditions of the neighbouring occupiers;
- effect/impact on highway safety in relation to the proposed access arrangement and parking provision;
- conditions

### **Principle of Development and material considerations –**

7.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that *“If regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the development plan unless material considerations indicate otherwise.”*

7.3 Policy 1 of the JCS is clear that when considering development proposals, the local planning authority will take a positive approach that reflects the presumption in favour of sustainable development as set out within the revised NPPF.

7.4 In addition to the specific NPPF requirements set out above, paragraph 132 states that ‘applicants will be expected to work closely with those affected by their proposals to evolve designs that take account of the views of the community. Applications that can demonstrate early, proactive and effective engagement with the community should be looked on more favourably’.

7.5 The application form indicates that pre-application advice or assistance has been sought from the council. The NPPF from paragraph 41 extols the virtues of applicants

engaging in pre application discussion with the council to resolve any issues that may arise to help applicants avoid any unnecessary delays and costs.

7.6 The application site lays within the village boundary of Earls Barton as defined by policy SS1 of the PBW. Policy 11 (2) (b) of the JCS permits appropriate small-scale infill development on suitable sites within villages where this would not harm the character of the settlement and residential amenity. Small scale development includes the rebuilding of an existing wall and the regrading of the land to the rear of the wall in an established residential area. The wall is currently in a state of disrepair and is cordoned off with Heras fencing to protect users of the footpath adjacent.

7.7 There would be no objection in principle to the rebuilding of an existing wall and the regrading of the land to the rear of the wall within the village boundary of Earls Barton. The proposed development would comply in principle with policy 11 (2) (b) of the JCS and policy SS1 of PBW.

7.8 The acceptability of the proposed development would be dependent on compliance with the more detailed policies and material planning considerations as set out below:

#### **Design, layout and the effect on the character and appearance of the surrounding area**

7.9 JCS at policy 8 (d) (i) and (ii) describes the principles that proposed development must take into account with regards to its effect on the character and appearance of an area.

7.10 Policy EB. D1 of the Earls Barton Neighbourhood Plan requires development proposals to be of a high standard of design and layout in keeping with local character and should seek to utilise sustainable building techniques and materials wherever practical.

7.11 The government at paragraph 130 (a) – (d) of the revised NPPF attach great importance to the design of built development. It goes on to advise that planning decisions should ensure that development will function well and add quality of the overall area; not just for the short term but over the life time of a development; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the built environment and landscape setting, while not discouraging appropriate innovation and change; establish or maintain a strong sense of place, using the arrangements of streets, space, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.

7.12 The National Design Guide, illustrates how well-designed places that are beautiful, enduring and successful can be achieved in practice. It forms part of the Government's collection of planning practice guidance and should be read alongside the separate planning practice guidance on design process and tools.

7.13 The works relate to the rebuilding of the existing brick wall using the original materials, with additional replacement materials (where necessary) to rebuild the wall on a like-for-like basis. This will result in a positive impact upon the character and appearance of the area when compared to the current situation as the wall is currently in a state of disrepair.

7.14 The wall is currently also performing as a retaining wall which has in part caused it to fail. The regrading works will return the rebuilt wall back to a boundary wall only. The regrading works proposed behind the wall are considered acceptable and will not be easily visible within the street scene.

7.15 The development would comply with policy 8 (d) (i) & (ii) of the JCS and policy EB.D1 of the Earls Barton Neighbourhood Plan.

### **Landscape character and visual amenity**

7.16 Policy 3 (a), (b) and (e) of the JCS states that development should be located and designed in a way that is sensitive to its landscape setting retaining and where possible enhancing the distinctive qualities of the landscape character area which it would affect.

7.17 The proposed works involve the rebuilding of the small section of boundary wall and attached gate pier fronting High Street. The wall was originally constructed as a boundary wall but is currently also performing as a retaining wall which has led to the wall becoming increasingly under pressure as it was not designed to retain the earth behind it. The application therefore proposes to regrade the land to the rear of the wall, so the wall becomes a boundary wall again. This would involve the removal of an established horse chestnut tree which provides significant visual amenity within the landscape at this point. Due to the significant visual amenity the tree provides the applicant has looked at the options to retain the tree however it has been concluded that the tree cannot be saved. The process the applicant has undertaken is discussed in the following paragraphs.

7.18 The horse chestnut tree to the rear of the wall is located within 3 metres from the rear face of the wall. A Section 211 notice was submitted by the applicant in 2021 (reference NW/21/00987/TCA) to fell a number of trees to the rear of the boundary wall due to the need to rebuild the listed wall, this included the horse chestnut. It is noted in the officer's report for the Section 211 notice that whilst this would result in a significant impact to the Earls Barton conservation area, the rebuilding of the wall was an overriding necessity, therefore no objections were raised to the proposed works. The only other outcome would have been to make a tree preservation order on the tree(s), however it was not considered expedient to do so by the NNC Landscape Officer due to the need to rebuild the listed wall.

7.19 The applicant has taken the advice of a structural engineer who has produced a report which concludes that the wall has reached the end of its life due to the pressure of the earth and tree roots to the rear and needs to be carefully taken down and rebuilt.

7.20 This has followed careful consideration of the potential options for the rebuilding of the wall. The applicant has advised that there have been multiple design team meetings on site alongside the tree survey and structural survey. Airspade investigations were carried out at the point of the proposed excavation, and revealed a significant mass of fibrous roots, as well as a large amount of primary buttress and anchor roots from the horse chestnut, many over 150 millimetres in diameter. The loss of a substantial amount of root material would render the tree unsafe to retain as its stability will be compromised, as will its long-term health through the reduced ability to take up water and nutrients necessary for survival.

7.21 One solution proposed was to build a new suitably designed retaining wall with an appropriate foundation and construction in front of the existing wall on the highway footpath. This wall would then be able to take the proposed load from the earth and tree which would then in turn allow the boundary wall to be remain in place but covered up. Following discussions between the applicant and the local planning authority, it became evident that any proposed solution would have to have the preservation of the boundary wall at the forefront of its design.

7.22 The NNC Senior Built Heritage Advisor stated:

“As listed structures the walls undoubtedly make a positive contribution to the Earls Barton Conservation Area, and so any proposals to conceal them from view (wholly or partially) would fail to preserve the character and appearance of the conservation area, contrary to paragraph 206 of the NPPF and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. As such, this option was not supported. Furthermore, this would not protect the listed structure from further deterioration and damage.”

7.23 It was therefore decided that this option was too intrusive and would have a negative impact upon the Earls Barton conservation area and the listed wall itself.

7.24 It is acknowledged that there are a very large number of objections to the removal of the tree from both local residents of the village and Earls Barton Parish Council. The position appears to be that residents would prefer to save the tree over the listed wall. Whilst this is understood, the council has a statutory responsibility to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses and to ensure that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

7.25 Whilst the public opinion is clear, the council has a responsibility to protect the listed structure and setting of the Earls Barton conservation area and therefore has been in dialogue with the applicant to look at replacement planting for the proposal. The applicant has submitted a replacement tree planting plan which shows the horse chestnut is proposed to be replaced with a magnolia of around 4 metres in height.

7.26 The NNC Landscape Officer has provided the following comments on the application:

“The horse chestnut tree which is within approximately three metres of the listed retaining wall and no distance from the bowing stone wall on the boundary of Knights Close is undoubtedly of outstanding visual amenity value. The arboricultural report which was provided in June 2022 following a survey (visual tree assessment or VTA) in May 2022 places it in category B1. An annotated photograph in the report demonstrates however that the structural integrity and health of the tree cannot be maintained if the necessary work is carried out to repair the listed wall because unfortunately it is a retaining wall. The excavation behind the wall would result in the loss of roots up to approximately 1.2 metres from the base of the tree.

The tree was inspected from ground level and a climbing inspection to assess for decay in cavities on old pruning wounds was recommended. The presence of major dead wood on the west side was noted and the fact that the tree leans towards the highway. Since the VTA was carried out some areas of dark staining have appeared on the main trunk which could be an early indication that the tree is infected with bleeding canker. If this is the case the life expectancy of the tree would be likely to be reduced. This disease appears to be contributing to the demise of another tree in the village at the present time and many horse chestnuts nationwide have been lost to it. As is the case with the horse chestnut tree in question the majority are also commonly afflicted with a leaf miner which makes the trees unsightly in the summer and reduces the ability of the trees to carry out photosynthesis.

The broadleaved trees which are to be retained will provide a backdrop along the boundary with Knights Close to any replacement planting if the horse chestnut tree is removed to allow the proposed work wall to be carried out. Replacement planting with another horse chestnut is not recommended because of how it might grow to adversely affect the walls on the south and east boundaries and other species of horse chestnut could be affected by the same problems.

Replacement planting with a taller growing species of Magnolia is proposed. Magnolia kobus is increasing in popularity as a street tree. If this was to be planted as a standard not less than 3.5 metres in height, preferably 4 to 5 metres, it would have some immediate visual effect. This is a species which does not produce flowers immediately but provides significant seasonal visual amenity when they do appear.

Subject to suitable replacement planting as recommended above do not object to what is proposed.”

7.27 It is acknowledged that there is great local opposition to the removal of this tree and its outstanding visual amenity is not in question, however whilst its loss will have an impact upon visual amenity, it is not considered an overriding factor considering the council's statutory duty to pay special attention to the listed wall and Earls Barton conservation area. The replacement tree planting will give some immediate visual effect and the full details of the proposed tree should be conditioned to ensure the species, specification and size are appropriate. It is also recommended that the condition ensures replacement planting should the replacement tree fail in any way.

7.28 On balance therefore, considering the conditioned replacement planting, the development is considered acceptable and would be in accordance with policy 3 (a) and (e) of the JCS.

### **Effect on heritage assets**

7.29 The council is required by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.

7.30 Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on a decision maker to pay special attention to the need to preserve or enhance the character or appearance of a conservation area.

7.31 Policy 2 of the JCS sets out the policy background for the protection, preservation and enhancement of the historic environment.

7.32 With regards the NPPF, chapter 16 sets out government advice on conserving and enhancing the historic environment. Paragraph 201 sets out its guidance where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset. Paragraph 202 advises on development proposals which will lead to less than substantial harm to the significance of a designated heritage asset. The paragraph goes on to say that the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. Paragraph 207 informs that not all elements of a conservation area will necessarily contribute to its significance.

7.33 The courts have held (*South Lakeland DC v Secretary of State for the Environment*, [1992] 2 WLR 204) that there is no requirement in the legislation that conservation areas should be protected from all development which does not enhance or positively preserve.

7.34 Whilst the character and appearance of conservation areas should always be given full weight in planning decisions, the objective of preservation can be achieved either by development which makes a positive contribution to an area's character or appearance, or by development which leaves character and appearance unharmed.

7.35 The NNC senior built heritage advisor has visited the site and discussed the rebuilding of this section of the wall with the applicant and their structural engineers at the pre-application stage. The comments received were as follows:

“The proposals relate to the Grade II listed Wall and Gatepier Approximately 15 Metres North East of the Manor House (List Entry Number: 1040801). The wall is also located in close proximity to the Grade II listed Wall and Gatepier Approximately 15 Metres North West of the Manor House (List Entry Number: 1294248) with which it has group value and has the potential to be impacted through change within its setting. In addition, the walls and gatepiers are also located within the Earls Barton Conservation Area and in close proximity to the Grade II listed Manor House (List Entry Number: 1040802) and the Grade II listed Stags Head Public House which also have the potential to be impacted through change within their setting.

In statutory terms the significance of the heritage assets has been recognised by their designation as a Grade II listed building and a conservation area, which reflects their ‘special interest’. The Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA Act 1990) states that Local Planning Authorities have a statutory duty to ‘have special regard to the desirability of preserving the [listed] building or its setting or any features of special architectural or historic interest which it possesses’ and to ensure that ‘special attention shall be paid to desirability of preserving or enhancing the character or appearance of that [conservation] area.’

Furthermore, paragraph 199 of the National Planning Policy Framework (NPPF) states:

‘When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance’.

7.36 The proposals are considered by NNC senior built heritage consultant to enhance and better reveal the significance of the listed structure and future-proof against further deterioration and damage.

7.37 There are no objections to the proposals which are considered by NNC senior built heritage consultant to be in full compliance with chapter 16 of the NPPF, and Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.”

7.38 Due to the poor condition of the wall, the taking down and rebuilding of the wall is required. This results in substantial harm to the listed structure however the NNC senior built heritage consultant is satisfied that the works proposed are acceptable subject to conditions to be provided in relation to replacement materials.

7.39 It is also recommended that a condition is imposed to ensure the works are completed in accordance with the submitted method statement and heritage statement.

7.40 The large number of objections received relate mainly to the retention of the tree rather than the listed wall. Whilst it has been acknowledged by a number of objectors that the tree is more important to the community than the wall, there is a statutory responsibility on the local planning authority to protect the wall due to its designation as a listed structure, as well as the current negative impact the wall has on the character and appearance of the conservation area. The applicant has investigated a number of different options to rebuild the wall without impacting upon the tree, as discussed in the previous section of this report, however it is not considered possible.

7.41 Subject to the aforementioned conditions it is considered that the proposal is acceptable with regards to the effects on the architectural and historic interest of the listed structure and is compliant with policy 2 (a), (b) and (d) of the JCS and advice contained within chapter 16 of the NPPF in this regard and sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Archaeology**

7.42 JCS policy 2 (d) requires that where proposals would result in the unavoidable and justifiable loss of archaeological remains, provision should be made for recording and the production of a suitable archive and report.

7.43 With regards the NPPF, chapter 16 sets out government advice on conserving and enhancing the historic environment and in particular paragraph 194 advises that, where appropriate, when determining an application which could affect a heritage asset with archaeological interest the council should, where appropriate, require developers to submit a field evaluation.

7.44 The NNC Assistant Archaeological Advisor has also provided the following comments:

“The application site is the High Street boundary wall to Manor House Close which, as the name suggests was formerly the site of a Manor House with which the wall was associated. The wall was built in 1783-1793 as a gate and boundary wall to the Manor House, also known as Barton Hall or Barton House.

The proposed works result from a Building Control Department inspection, which concluded that the wall was sufficiently unsafe to be considered a dangerous structure. As a consequence, the wall requires demolition and reconstruction. The heritage significance of the asset may be preserved through reconstruction using salvaged bricks and stone following demolition.

It is recommended that a programme of historic building recording to Level 2 as defined in Understanding Historic Buildings (Historic England 2016) is undertaken during the works to enhance the existing record represented by the research undertaken in connection with the supplied Heritage Statement (MOLA 2022) and record any construction details or other features. A programme of Observation, Investigation, Recording, Analysis and Publication (OIRAP) may also be a useful component of any package of mitigation measures depending on observation made of the site following demolition of the wall.

The proposed development will have a detrimental effect upon surviving heritage assets. Such effects do not represent an over-riding constraint to development provided that adequate provision is made for the investigation and recording of those assets affected. In order to secure this please attach a suitable condition for a programme of archaeological work as recommended above and in line with NPPF paragraph 205 to any permission granted in respect of this application.

The standard condition is worded as follows:

Condition:

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, and the results made available, in accordance with NPPF Paragraph 205.

I will be happy to provide a brief for the programme of work.”

7.45 The NNC assistant archaeological advisor has recommended a condition in accordance with the recommendations of the submitted heritage statement and subject to this condition being imposed the development would comply with policy 2 (d) of this JCS in this regard.

### **Living conditions of the neighbouring occupiers**

7.46 The JCS at policy 8 (e) (i) details policy relating to the protection of amenity of neighbouring occupiers.

7.47 At paragraph 130 (f) of the NPPF the government requires new development to provide ‘a high standard of amenity for all existing and future users.

7.48 The proposed works are not considered to have any impact upon the amenity or privacy of any of the neighbouring residential occupiers. It is recommended that the considerate contractors informative is added to any permission granted for the development.

7.49 The development would comply with policy 8 (e) (i) of the JCS.

### **Highway safety**

7.50 JCS policy 8 (b) (i) gives a number of requirements that new development should achieve with regards to highway, pedestrian and other sustainable transport matters.

7.51 JCS policy 8 (b) (ii) seeks to ensure a satisfactory means of access and provision for parking, servicing and manoeuvring in accordance with adopted standards.

7.52 The proposed rebuilding of the boundary wall and regrading of the land behind will have no impact upon the access or parking arrangements for the site however the wall is positioned along the boundary with the adjacent highway. The local highway authority has provided the following comments in respect of this application:

“Subject to compliance with the following requirements of the Local Highway Authority no objection is raised to the application on highway safety or capacity grounds.

- No part of the rebuilt wall is to extend over or into the adjacent public highway.
- All highway surfaces affected by the proposals must be reinstated in accordance with the specification of the Local Highway Authority and subject to a suitable licence/agreement under the Highways Act 1980.”

7.53 Informatives should be added to any permission granted for the site to ensure the applicant is aware of their responsibilities in relation to the adjacent public highway.

7.54 The development would comply with policy 8 (b) (i) and (ii) of the JCS.

## Conditions

7.55 The NPPF at paragraph 56 requires conditions to only be imposed where they are: necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. The PPG re-iterates this advice.

7.56 A condition relating to the archaeology is required to be discharged prior to commencement of the development and in line with the Town and Country Planning (Pre-Commencement Conditions) Regulations 2018 a notice of the intended pre-commencement condition has been sent to the applicant. The applicant has confirmed that they agree for the condition to be imposed.

7.57 It is considered that the proposed conditions meet the tests set out in the NPPF and the provisions of the PPG.

## 8. CONCLUSION/PLANNING BALANCE

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8.1 The proposed development complies with the relevant development plan policies and is consistent with the provisions in the NPPF. In the absence of any material considerations of sufficient weight, it is recommended that the proposal be approved subject to conditions.

## 9. RECOMMENDATION

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9.1 That planning permission be **GRANTED** subject to the following conditions:

## 10. Conditions

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1. The development shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason: To prevent the accumulation of planning permissions; to enable the local planning authority to review the suitability of the development in the light of altered circumstances; and to conform with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in accordance with the following drawings/details:  
Drawing No. 21/45663/SK02 - Site Location Plan (registered 21 February 2023)  
Drawing No. 21/45663/02 Rev P1 - Site Plan, Section and Method Statement (registered 21 February 2023)  
Drawing No. 21/45663/03 Rev P1 - Tree Replacement Plan (registered 26 April 2023)  
Structural Inspection Report (ref. DS/21/45663/MH) by David Smith Associates dated 13 August 2021 (registered 18 February 2023)

Arboricultural Report (ref. 4502) by Wilby Tree/BHA Trees dated 24 June 2022 (registered 21 February 2023)

Arboricultural Impact Assessment (ref. 4502B) by Wilby Tree/BHA Trees dated 24 June 2022 (registered 21 February 2023)

Reason: To define the permission and to conform with the requirements of The Town and Country Planning (General Development Procedure) (Amendment No. 3) (England) Order 2009.

3. Notwithstanding the approved details in condition 2, the development hereby approved shall be carried out in accordance with the method statement provided on Drawing No. 21/45663/02 Rev P1.

Reason: To preserve the character and special interest of the listed structure, in accordance with policy 2 (b) of the North Northamptonshire Joint Core Strategy.

4. Prior to their first use on site details of any replacement external materials shall be submitted to and agreed in writing by the local planning authority. Works shall be implemented in accordance with the approved materials and details specified and shall be permanently maintained as such.

Reason: To preserve the character and special interest of the listed structure, in accordance with policy 2 (b) of the North Northamptonshire Joint Core Strategy.

5. 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, and the results made available, in accordance with policy 2 (d) of the North Northamptonshire Joint Core Strategy and Paragraph 205 of the National Planning Policy Framework.

6. Notwithstanding the approved details in condition 2, full details of the replacement tree planting including the species, specification and size shall be submitted to and approved in writing by the local planning authority within 3 months of the date of this approval. The approved works shall be carried out in accordance with the approved details in the next planting season. If within a period of five years from the date of the planting of any replacement tree, that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed,

dies, becomes severely damaged or diseased, it shall be replaced in the next planting season with a tree of equivalent size and species.

Reason: To protect the appearance and character of the area and to minimise the effect of the development on the area in accordance with policy 3 (a), (b) and (e) of the North Northamptonshire Joint Core Strategy.

## **11. INFORMATIVE/S:**

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1. In accordance with the provisions in the Town and Country Planning (Development Management Procedure) (England) Order 2015 and pursuant to paragraph 38 of the National Planning Policy Framework, where possible and feasible, either through discussions, negotiations or in the consideration and assessment of this application and the accompanying proposals, the council as the local planning authority endeavoured to work with the applicant/developer in a positive and proactive way to ensure that the approved development is consistent with the relevant provisions in the framework.

2. The North Northamptonshire Council encourages all contractors to be 'considerate contractors' when working in our district by being aware of the needs of neighbours and the environment. Prior to the commencement of any site works, it is good practice to notify neighbouring occupiers of the nature and duration of works to be undertaken.

To limit the potential detriment of construction works on residential amenity, it is recommended that all works and ancillary operations which are audible at the site boundary during construction should be carried out only between the following hours: 0800 hours and 1800 hours on Mondays to Fridays and 0800 and 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.

3. No part of the rebuilt wall is to extend over or into the adjacent public highway and all highway surfaces affected by the proposals must be reinstated in accordance with the specification of the local highway authority and subject to a suitable licence/agreement under the Highways Act 1980.



## North Northamptonshire Area Planning Committee (Wellingborough) 24 May 2023

<b>Application Reference</b>	<b>NW/23/00097/LBC</b>	
<b>Case Officer</b>	Mr Chris Law	
<b>Location</b>	Boundary Wall Manor House Close Earls Barton	
<b>Development</b>	Listed Building Consent for the wall and pier to be carefully taken down, the land behind be regraded to a suitable slope and size and once the land has been regraded, the wall and pier are to be rebuilt to match existing prior to deconstruction	
<b>Applicant</b>	Mr Jason Farr	
<b>Agent</b>	Mr David Smith	
<b>Ward</b>	Earls Barton Ward	
<b>Overall Expiry Date</b>	18 April 2023	
<b>Agreed Extension of Time</b>	<b>26 May 2023</b>	
<b>Checked</b>	Senior Development Management Officer	Debbie Kirk

### Scheme of Delegation

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This application is brought to committee because it falls outside of the council's scheme of delegation because more than 5 objections have been received and an objection has also been received from Earls Barton Parish Council.

### 1. Recommendation

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- 1.1 That listed building consent be **GRANTED** subject to the conditions listed at the end of the report



 North Northamptonshire Council




Scale:  
1:1,250

ICT Services  
This map is accurate to the scale specified when approved & is

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**Legend**

 NW/23/00097/LBC Boundary Wall, Manor House Close, Earsl Barton

## 2. The Application Proposal and Background

2.1 This application seeks listed building consent for the taking down and rebuilding of a section of the listed boundary wall at Manor House Close, fronting High Street in Earls Barton, due to the wall's poor condition. The works also involve regrading a section of the land to the rear of the wall to ensure the wall returns to being a boundary wall only and not a retaining wall. The works include the removal of a horse chestnut tree to the rear of the wall and details of a replacement tree have been provided.

2.2 The applicant has provided a plan to show the extent of the regrading works, a method statement, a heritage statement and a structural condition survey. An application for planning permission has also been submitted alongside this application under reference NW/23/0096/FUL.

## 3. Site Description and Surroundings

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3.1 The application site fronts the High Street in Earls Barton to the north of the village centre and consists of a section of 2.1-metre-high brick wall running from the north east side of the right hand gate pier along the frontage of the Manor House Close flats. The wall is constructed in red/orange bricks with copings with a panelled ashlar gate pier to the north east. This application relates to the rebuilding of the brick wall and gate pier. The remainder of the wall to the north west has already been granted listed building consent and planning permission for the same works under references NW/22/00837/LBC and NW/22/00836/FUL.

3.2 The regrading of the land behind the wall will result in a newly formed slope which would start 0.5 metres from the north elevation of the wall. The level of the ground at the bottom of the slope and to the north of the wall would match the footpath on the opposite side of the wall.

3.3 The wall and gate pier are within the Earls Barton Conservation Area and are Grade II listed structures. The list entry reads as follows:

*EARLS BARTON HIGH STREET SP8563 (North side) 20/18 Wall and gatepier approx 15m. 02/08/72 NW of The Manor House (Formerly listed as Garden wall and gatepiers to No.31)*

*GV II*

*Wall and gatepier. Late C18/early C19. Brick with ashlar coping and panelled ashlar gatepier attached to right. Forms pair with wall and gatepier approx. 15m. north-east of The Manor House.*

*Listing NGR: SP8537463946*

#### 4. Relevant Planning History

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WP/14/00276/TCA	Approved G1. Goat Willow consisting of 4 No. stems; sectionally dismantle to ground level T1. 1 No. Maple; pollard crown at a height of 4m to suitable unions.	09.06.2014
WP/17/00006/FUL	Approved with conditions Restoration and alterations of rear outbuilding for use as gym with shower room, associated rest area and a storeroom and provide parking in the rear garden.	28.02.2017
WP/17/00007/LBC	Approved with conditions Restoration and alterations of rear outbuilding for use as gym with shower room, associated rest area and a storeroom and provide parking in the rear garden.	28.02.2017
NW/22/00128/FUL	Application withdrawn/undetermined Planning permission to carefully take down an existing listed boundary wall and rebuild a section of the boundary wall fronting the High Street.	17.05.2022
NW/23/00008/TCA	Approved T1. Sycamore; re-pollard crown to previous pollard points at a height of approximately 5m.	08.02.2023
NW/23/00096/FUL	Determination pending. The wall and pier to be carefully taken down, the land behind be regraded to a suitable slope and size and once the land has been regraded, the wall and pier are to be rebuilt to match existing prior to deconstruction.	
WP/1997/0337	Approved with conditions Demolition of lean-to brick barn	03.09.1997
WP/1993/0250	Approved with conditions Creation of dwelling and curtilage separate from no. 76 High Street, Earls Barton	08.09.1993
BW/1987/0011	Approved with conditions Installation of bathroom and toilet	25.02.1987
BW/1985/0935	Approved with conditions 5 replacement windows to front elevation	20.11.1985
BW/1984/0070	Approved with conditions Alterations and improvements to provide living	06.03.1984



	accommodation and replacement of window frames	
BW/1989/0399	Refused Erection of 4 no. dwellings with garages and construction of access drive.	19.05.1989
BW/1988/1151	Application withdrawn/undetermined Alterations to form additional dwelling unit	14.02.1989
BW/1988/1150	Application withdrawn/undetermined Alterations to form additional dwelling unit	06.12.1988
WP/2002/0058	Application withdrawn/undetermined Erection of one detached house and garage	24.04.2002

## 5. Consultation Responses

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A full copy of all comments received can be found on the Council's Website  
<https://www.wellingborough.gov.uk/viewplanningapplications>

### 5.1 Earls Barton Parish Council

Earls Barton Parish Council objects to this application as it will result in the loss of a mature horse chestnut tree which has ecological value. However, should an alternative option be found that allows the tree to remain despite work being carried out to repair the wall, we would ask that a tree planting scheme is agreed to mitigate against the loss, and that the scheme should include the planting of a semi-mature, heavy standard tree.

### 5.2 Neighbours/Responses to publicity

At the time of writing, 2 letters of support from the same household and 67 letters of objection have been received. A petition signed by 770 people titled 'Save the Earls Barton Conker Tree' has also been received. A large number of the comments received relate to the removal of the horse chestnut tree and are therefore considered under the associated application for planning permission under reference NW/23/00096/FUL.

#### Support

The comments received in the support letter are summarised below:

- The repair of a listed wall should surely always take priority especially as it is a statutory requirement which cannot be ignored.
- Other options have been undertaken to look at all the options to keep the tree including a retaining wall in front which would be unsightly.
- the tree is coming towards the end of its natural life and is poorly situated on a small raised piece of (private) land with neither of the walls, on either side, able to hold the tree if it were to fall.
- should the tree fall it could cause considerable damage, even large branches when falling can cause considerable damage.
- It has also been suffering with leaf blight for the last two years which has seriously impacted its ability to photosynthesise. The main trunk also has some early signs of disease which should not be ignored.

## **Object**

The comments received in objection to the application can be summarised as follows:

- please save the tree, it is more important to local people than a wall that has been allowed to fall into disrepair
- the tree should not be removed as we are in a climate emergency
- the tree provides a habitat for animals
- the replacement tree would not adequately compensate for the loss of the horse chestnut and would take many years to grow as large
- the tree is important to local people have memories of collecting conkers
- the tree is not believed to be diseased and leaf miner would have little impact on an established tree of this age
- tree is home to wildlife, offers shade, absorbs pollutants and helps prevent flooding
- removal of the tree will negatively affect the area's ecological value and important environmental health
- the tree adds to the aesthetics of the landscape and local amenity
- please look at other options to repair the wall and retain the tree
- a retaining wall in front of the existing wall should be built which would retain the existing wall and tree
- options to de-list the wall should be explored
- the applicant is giving the impression that there are no other alternatives to removing the tree based on advice from Place Services due to the impact on the conservation area which has already been impacted by the removal of other trees and exposing the view of the flats
- the tree could be replanted elsewhere

### **5.3 Historic England**

Historic England provides advice when our engagement can add most value. In this case Historic England are not offering advice. This should not be interpreted as comment on the merits of the application. Historic England recommend the local planning authority seek the views of their specialist conservation and archaeological advisers.

### **5.4 NNC Senior Built Heritage Consultant**

The proposals are considered to enhance and better reveal the significance of the listed structure and future-proof against further deterioration and damage.

There are no objections to the proposals which are in full compliance with Section 16 of the NPPF, and chapter 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **5.5 NNC Assistant Archaeological Advisor**

Has nothing further to add to my comment of 18/01/2023, which should be understood to stand.

Officer note: The above refers to comments made to listed building consent reference NW/22/00837/LBC and planning permission reference NW/22/00836/FUL for the adjacent wall but apply to this application too. The comments are as follows:

The proposed development will have a detrimental effect upon surviving heritage assets. Such effects do not represent an over-riding constraint to development provided that adequate provision is made for the investigation and recording of those assets affected. In order to secure this please attach a suitable condition for a programme of archaeological work as recommended above and in line with NPPF paragraph 205 to any permission granted in respect of this application.

The condition wording is provided.

### **5.6 Wellingborough Civic Society**

There seems to be strong local feeling against the felling of the mature horse chestnut tree. The Society would like the plans for the demolition and rebuild, to be looked at again, to see if there is an alternative way, so that the tree could be saved.

## **6. Relevant Planning Policies and Considerations**

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### **6.1 Statutory Duty**

Planning law requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

### **6.2 National Policy**

National Planning Policy Framework (NPPF) (2021)  
National Planning Practice Guidance (NPPG)  
National Design Guide (NDG) (2019)

### **6.3 Planning (Listed Building and Conservation Areas) Act 1990**

Sections 66 and 72 (1)

### **6.4 North Northamptonshire Joint Core Strategy – Part 1 of the local plan (JCS)**

Policy 2 (historic environment)

## **7. Evaluation**

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7.1 The proposal raises the following main issues:

- effect on a Grade II listed building
- effect on the Earls Barton Conservation Area
- conditions.

### **Effect on a Grade II listed building**

7.2 The Council is required by Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.

7.3 Policy 2 of JCS sets out the policy background for the protection, preservation and enhancement of the historic environment. Part 2 (a) is clear that proposals should conserve and, where possible, enhance the heritage significance of an asset

in a manner commensurate to its significance. Part 2 (b) states that proposals should complement their surrounding historic environment through their form, scale, design and materials proposed. Part 2 (d) is clear that proposals should demonstrate an appreciation and understanding of the impact of development on heritage assets and their setting in order to minimise harm.

7.4 With regards the NPPF, chapter 16 sets out the government's advice on conserving and enhancing the historic environment. Paragraph 202 advises on development proposals which will lead to less than substantial harm to the significance of a designated heritage asset. The paragraph goes on to say that the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

7.5 The NNC senior built heritage advisor has visited the site and discussed the rebuilding of this section of the wall with the applicant and their structural engineers at the pre-application stage. The comments received are as follows:

“The proposals relate to the Grade II listed Wall and Gatepier Approximately 15 Metres North East of the Manor House (List Entry Number: 1040801). The wall is also located in close proximity to the Grade II listed Wall and Gatepier Approximately 15 Metres North West of the Manor House (List Entry Number: 1294248) with which it has group value and has the potential to be impacted through change within its setting. In addition, the walls and gatepiers are also located within the Earls Barton Conservation Area and in close proximity to the Grade II listed Manor House (List Entry Number: 1040802) and the Grade II listed Stags Head Public House which also have the potential to be impacted through change within their setting.

In statutory terms the significance of the heritage assets has been recognised by their designation as a Grade II listed building and a conservation area, which reflects their ‘special interest’. The Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA Act 1990) states that Local Planning Authorities have a statutory duty to ‘have special regard to the desirability of preserving the [listed] building or its setting or any features of special architectural or historic interest which it possesses’ and to ensure that ‘special attention shall be paid to desirability of preserving or enhancing the character or appearance of that [conservation] area.’

Furthermore, paragraph 199 of the National Planning Policy Framework (NPPF) states:

*When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.*

The proposals are considered to enhance and better reveal the significance of the listed structure and future-proof against further deterioration and damage.

There are no objections to the proposals which are considered to be in full compliance with chapter 16 of the NPPF, and Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.”

7.6 The NNC Assistant Archaeological Advisor has also provided the following comments:

“The application site is the High Street boundary wall to Manor House Close which, as the name suggests was formerly the site of a Manor House with which the wall was associated. The wall was built in 1783-1793 as a gate and boundary wall to the Manor House, also known as Barton Hall or Barton House.

The proposed works result from a Building Control Department inspection, which concluded that the wall was sufficiently unsafe to be considered a dangerous structure. Consequently, the wall requires demolition and reconstruction. The heritage significance of the asset may be preserved through reconstruction using salvaged bricks and stone following demolition.

It is recommended that a programme of historic building recording to Level 2 as defined in Understanding Historic Buildings (Historic England 2016) is undertaken during the works to enhance the existing record represented by the research undertaken in connection with the supplied Heritage Statement (MOLA 2022) and record any construction details or other features. A programme of Observation, Investigation, Recording, Analysis and Publication (OIRAP) may also be a useful component of any package of mitigation measures depending on observation made of the site following demolition of the wall.

The proposed development will have a detrimental effect upon surviving heritage assets. Such effects do not represent an over-riding constraint to development provided that adequate provision is made for the investigation and recording of those assets affected. In order to secure this please attach a suitable condition for a programme of archaeological work as recommended above and in line with NPPF paragraph 205 to any permission granted in respect of this application.

The standard condition is worded as follows:

Condition:

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, and the results made available, in accordance with NPPF paragraph 205'.

NNC would Assistant Archaeological Advisor be happy to provide a brief for the programme of work.”

7.7 Due to the poor condition of the wall, the taking down and rebuilding of the wall is required. This results in substantial harm to the listed structure however the NNC senior built heritage consultant and the NNC assistant archaeological advisor are satisfied that the works proposed are acceptable subject to conditions to be provided in relation to replacement materials and an archaeological condition as described above.

7.8 It is also recommended that a condition is imposed to ensure the works are completed in accordance with the submitted method statement and heritage statement.

7.9 The large number of objections received relate mainly to the retention of the tree rather than the listed wall. Whilst it has been acknowledged by a number of objectors that the tree is more important to the community than the listed wall, there is a statutory responsibility on the local planning authority to protect the wall due to its designation as a listed structure. The applicant has investigated a number of different options to rebuild the wall without impacting upon the tree however it is not considered possible. The issues surrounding the removal of the tree are fully assessed within the associated report for the application for planning permission under reference W/23/00096/FUL.

7.10 Subject to the aforementioned conditions it is considered that the proposal is acceptable with regards to the effects on the architectural and historic interest of the listed structure and is compliant with policy 2 (a), (b) and (d) of the JCS and advice contained within chapter 16 of the NPPF in this regard and sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Effect on the Earls Barton Conservation Area**

7.11 Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on a decision maker to pay special attention to the need to preserve and enhance the character or appearance of a conservation area.

7.12 Policy 2 of the JCS sets out the policy background for the protection, preservation and enhancement of the historic environment.

7.13 With regards the NPPF, chapter 16 sets out the government's advice on conserving and enhancing the historic environment. Paragraph 207 informs that not all elements of a conservation area will necessarily contribute to its significance.

7.14 Paragraph 201 advises on development proposals which will lead to less than substantial harm to the significance of a designated heritage asset. The paragraph

goes on to say that the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

7.15 The courts have held (*South Lakeland DC v Secretary of State for the Environment*, [1992] 2 WLR 204) that there is no requirement in the legislation that conservation areas should be protected from all development which does not enhance or positively preserve.

7.16 Whilst the character and appearance of conservation areas should always be given full weight in planning decisions, the objective of preservation can be achieved either by development which makes a positive contribution to an area's character or appearance, or by development which leaves character and appearance unharmed.

7.17 The rebuilding of the wall will have a positive impact upon the character and appearance of the conservation area as it is currently in very poor condition. The works therefore represents an improvement on the current situation and there are substantial public benefits from the rebuilding of the wall as it has an immediate boundary with the adjacent pavement. The regrading of the land behind the wall is not considered to have a detrimental impact upon the Earls Barton conservation area.

7.18 The NNC senior built heritage consultant raises no objections to the scheme for the reasons previously stated and subject to a condition on replacement materials being imposed.

7.19 The development is therefore be considered acceptable in terms of its effects on the setting of Earls Barton conservation area.

### **Conditions**

7.20 The Planning (Listed Buildings and Conservation Areas) Act 1990 at section 17 allows conditions to be imposed on a listed building consent for:

- (a) the preservation of particular features of the building, either as part of it or after severance from it;
- (b) the making good, after the works are completed, of any damage caused to the building by the works;
- (c) the reconstruction of the building or any part of it following the execution of any works, with the use of original materials so far as practicable and with such alterations of the interior of the building as may be specified in the conditions.

7.21 Paragraph (2) of the section states that a condition may also be imposed requiring specified details of the works (whether or not set out in the application) to be approved subsequently by the local planning authority.

## **8. CONCLUSION/PLANNING BALANCE**

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8.1 The proposed development is consistent with the provisions of the JCS, specifically policy 2 (a), (b) and (d), and advice contained within chapter 16 of the NPPF, in relation to conserving the historic environment. In the absence of any contrary material considerations, it is recommended that the proposal be granted listed building consent, subject to conditions.

## 9. RECOMMENDATION

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9.1 That listed building consent be **GRANTED** subject to the following conditions:

## 10. Conditions

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1. The development shall be begun not later than the expiration of three years beginning with the date of this consent.

Reason: To prevent the accumulation of listed building consents; to enable the local planning authority to review the suitability of the works in the light of altered circumstances; and to conform with the requirements of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in accordance with the following drawings/details:  
Drawing No. 21/45663/SK02 - Site Location Plan (registered 21 February 2023)  
Drawing No. 21/45663/02 Rev P1 - Site Plan, Section and Method Statement (registered 21 February 2023)  
Drawing No. 21/45663/03 Rev P1 - Tree Replacement Plan (registered 26 April 2023)  
Structural Inspection Report (ref. DS/21/45663/MH) by David Smith Associates dated 13 August 2021 (registered 18 February 2023)  
Arboricultural Report (ref. 4502) by Wilby Tree/BHA Trees dated 24 June 2022 (registered 21 February 2023)  
Arboricultural Impact Assessment (ref. 4502B) by Wilby Tree/BHA Trees dated 24 June 2022 (registered 21 February 2023)

Reason: To define the permission and to conform with the requirements of The Town and Country Planning (General Development Procedure) (Amendment No. 3) (England) Order 2009.

3. Notwithstanding the approved details in condition 2, the development hereby approved shall be carried out in accordance with the method statement provided on Drawing No. 21/45663/02 Rev P1.

Reason: To preserve the character and special interest of the listed structure, in accordance with policy 2 (b) of the North Northamptonshire Joint Core Strategy.

4. Prior to their first use on site details of any replacement materials shall be submitted to and agreed in writing by the local planning authority. Works shall be implemented in accordance with the approved materials and details specified and shall be permanently maintained as such.

Reason: To preserve the character and special interest of the listed structure, in accordance with policy 2 (b) of the North Northamptonshire Joint Core Strategy.



5. 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, and the results made available, in accordance with policy 2 (d) of the North Northamptonshire Joint Core Strategy and paragraph 205 of the National Planning Policy Framework.

## **11. INFORMATIVE/S:**

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1. In accordance with the provisions in the Planning (Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2012 and pursuant to paragraph 38 of the National Planning Policy Framework, where possible and feasible, either through discussions, negotiations or in the consideration and assessment of this application and the accompanying proposals, the Council as the local planning authority endeavoured to work with the applicant/developer in a positive and proactive way to ensure that the approved development is consistent with the relevant provisions in The Framework.

2. The North Northamptonshire Council encourages all contractors to be 'considerate contractors' when working in our district by being aware of the needs of neighbours and the environment. Prior to the commencement of any site works, it is good practice to notify neighbouring occupiers of the nature and duration of works to be undertaken.

To limit the potential detriment of construction works on residential amenity, it is recommended that all works and ancillary operations which are audible at the site boundary during construction should be carried out only between the following hours: 0800 hours and 1800 hours on Mondays to Fridays and 0800 and 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.

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## **Appeal Information**

## Received appeals

<b>Appeal Site</b>	<b>Ref. No.</b>	<b>Date Received</b>	<b>Status</b>	<b>Type of procedure</b>
29 Streeton Way Earls Barton	NW/22/00026/FUL	17.04.2023	Appeal in progress	Written Representation
2 Castle Lane Wellingborough	NW/22/00849/FUL	20.04.2023	Appeal in progress	Fast Track



## **Planning Appeal Decision Letters**

- (a) Top Farm, 10 High Street, Great Doddington
- (b) 126 Northampton Road, Earls Barton



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## Appeal Decisions

Site visit made on 25 April 2023

**by R Sabu BA(Hons), MA, BArch, PgDip, RIBA, ARB**

**an Inspector appointed by the Secretary of State**

**Decision date: 12<sup>th</sup> May 2023**

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### **Appeal A Ref: APP/M2840/W/22/3299746**

#### **Top Farm, 10 High Street, Great Doddington, Northamptonshire NN29 7TQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Cory Barlow against the decision of North Northamptonshire Council.
  - The application Ref NW/22/00087/FUL, dated 10 February 2022, was refused by notice dated 31 March 2022.
  - The development proposed is conversion of barns to form 3 bedroomed dwelling and annex complete with parking area and private garden.
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### **Appeal B Ref: APP/M2840/Y/22/3299748**

#### **Top Farm, 10 High Street, Great Doddington, Northamptonshire NN29 7TQ**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Mr Cory Barlow against the decision of North Northamptonshire Council.
  - The application Ref NW/22/00088/LBC, dated 10 February 2022, was refused by notice dated 31 March 2022.
  - The works proposed are the conversion of barns to form 3 bedroomed dwelling and annex complete with parking area and private garden.
- 

### **Decision**

1. The appeals are dismissed.

### **Preliminary Matters**

2. As I observed during my site visit, the scheme has been completed largely in line with the drawings. I have nevertheless assessed the scheme based on the submitted drawings.
3. As the proposal is in a conservation area and relates to listed buildings I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
4. The site and building benefits from planning permission and listed building consent for the conversion of barns to form 3 bedroomed dwelling and annex complete with parking area and private garden. The approved scheme included windows within the arched openings that were to be divided into two vertical panes and fully glazed. The primary difference between the approved scheme and that subject of these appeals is the brick infills and window design within the arched openings.
5. I note the evidence regarding issues in obtaining the materials that have been approved as part of the consented scheme and manufacturing limitations.

However, further details are not before me to demonstrate that the approved scheme could not be implemented should this appeal fail. Therefore, the approved scheme forms a fall-back position.

### **Main Issues**

6. The main issues are whether the proposal would preserve Grade II listed buildings, Top Farm, 10, High Street (Top Farm) and Barn Approximately 50m North East of Number 10, High Street (Barn), and any of the features of special architectural or historic interest that they possess and the extent to which it would preserve or enhance the character or appearance of the Great Doddington Conservation Area.

### **Reasons**

7. Top Farm lies at the north-eastern end of the Great Doddington Conservation Area (CA). While the area surrounding St Nicholas' Church and Manor would have formed the nucleus of the settlement, the historic core of the village is essentially linear running from Top Farm in the northeast to The Farm in the southwest. The Heritage Asset Survey (HAS) states that the parish was encompassed by an estate centred on Earls Barton during the late Saxon period. It also states that much of the land and associated properties within the village was owned by the Compton family, Earls and later Marquises of Northampton, from the late seventeenth-century.
8. The buildings along High Street are of a modest scale and traditional materials and massing and are generally arranged in a linear fashion along the road between a number of historic farms.
9. Given the above, I find that the significance of the CA, insofar as it relates to these appeals, to be primarily associated with the medieval origins of the settlement and the buildings of varying types and ages that reflect the development of the agricultural village between a number of farmsteads, including Top Farm, over a number of centuries.
10. The listing for Top Farm states that it has perhaps 14<sup>th</sup> century origins with datestones 1588, 1764 and 1888. However, the HAS states that, with respect to the first date, there is nothing within any of the surviving architectural detail externally or internally which can be reasonably assigned such a date. As such, it is considered that the farmhouse building dates from around 1764. The farmhouse part of the building is constructed in coursed limestone rubble.
11. The rear parts of the Top Farm farmstead that contained ancillary functions such as stables, stores and animal shelters date from 1880s with the majority of this phase constructed in brick.
12. The Barn is also constructed in coursed limestone rubble and dates from the mid-18<sup>th</sup> century. Given its large size, it is likely to have had a number of functions and appears to have originally had a thatched roof. The roof, re-built after the pitch was reduced, appears to date from the nineteenth-century.
13. The considerable expansion and remodelling of Top Farm and the Barn in the 1880s attest to the wealth of the Compton family and the retained importance of Top Farm in the village over a number of years.

14. Given the above, I find that the special interest of the listed building, insofar as it relates to these appeals, to be primarily associated with the legibility and fabric of its 18<sup>th</sup> century origins and later 19<sup>th</sup> century phases as well as the agricultural character of the 19<sup>th</sup> century phase.
15. The works subject of the appeals include the infilling of the top part of the arched openings in the open-sided former animal shelter. The brick infills are recessed back from the arches. However, since they are a similar brick as the arches, the contrast between the arch and the top of the openings are reduced such that they diminish the prominence of the arched features, particularly when viewed from the highway.
16. The fall-back scheme includes glazing that would fill the entirety of the openings. As such, although the brick infills are in keeping with the materiality and detailing of the brick piers and other parts of the barn, the works have eroded the legibility of the arched openings to a greater degree than the approved scheme.
17. The works also include multi-pane rectangular windows (Crittall style windows) in the openings. The horizontal glazing bars are thinner than the frames that extend the full height of the openings. Notwithstanding this, the number and position of the glazing bars result in horizontal proportions of the glazing panes that are noticeable in a number of views. This aspect of the works has a residential appearance that has diminished the agricultural character of the wider building.
18. Therefore, the legibility of the 19<sup>th</sup> century phase of the building and its historic agricultural use and character has been eroded by the scheme. Accordingly, these works fail to preserve the special interest of the listed building. As the works are visible from the highway, the agrarian character of the CA has also been diminished.
19. The windows of the fall-back scheme have vertical proportions that are in keeping with the agricultural character of the building. As such, the works result in a greater harm to the special interest of the listed building compared with the fall-back position.
20. While I note the Crittall style windows on the host dwelling, since the dwelling has a residential character, it is not directly comparable to this scheme. I note the examples of Crittall style windows in other buildings including The Great Tew Estate. However, they generally appear to be of more square or vertical proportions or associated with dwellings rather than agricultural buildings. Therefore, they do not directly compare to the appeal scheme and have not altered my findings.
21. Given the above, I find that the scheme fails to preserve the special interest of the listed building and the significance of the CA.
22. Due to the limited scale of the proposal, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
23. Under such circumstances, paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal, which includes the securing of optimal viable use of listed buildings.



24. I acknowledge the manufacturing limitations set out by the Appellant. However, even if the fall-back scheme could not be implemented, I cannot rule out the possibility that an alternative design could be found which would not harm the special interest of the listed building. Moreover, as the conversion of the barn to a dwelling appears to have been largely completed, it is unlikely that the building would fall into a state of disrepair should the appeal fail. In the absence of any substantiated evidence to the contrary neither would any public benefits accrue in relation to the CA.
25. Given the above, I conclude that, on balance, the scheme fails to preserve the special historic interest of the Grade II listed buildings and the character or appearance of the CA. This fails to satisfy the requirements of the Act, paragraph 199 of the Framework and conflict with Policies 2 (a), (b) and (d) of the North Northamptonshire Joint Core Strategy 2011-2031 Adopted July 2016 that seeks, among other things, to conserve and, where possible, enhance the heritage significance of an asset or group of heritage assets in a manner commensurate to its significance. As a result, the scheme is not in accordance with the development plan.

### **Conclusion**

26. For the above reasons and having regard to all other matters raised I conclude that the appeals should be dismissed.

*R Sabu*

INSPECTOR



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## Appeal Decision

Site visit made on 21 April 2023

**by J D Westbrook BSc(Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 15<sup>th</sup> May 2023**

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**Appeal Ref: APP/M2840/D/23/3314524**

**126 Northampton Road, Earls Barton, NORTHAMPTON, NN6 0HF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Linda Harbicher against the decision of North Northamptonshire Council.
  - The application Ref NW/22/00489/FUL, dated 5 July 2022, was refused by notice dated 9 September 2022.
  - The development proposed is the demolition of existing garage building and stores, and erection of part two-storey part single-storey side extension.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in this case are the effect of the proposed extension on
  - The character and appearance of the area around Northampton Road, and
  - The living conditions of the occupiers of No 124 Northampton Road by way of outlook.

### Reasons

3. No 126 is a two-storey detached house within a large plot and is situated on the eastern side of Northampton Road. It has a two-storey rear projection on the southern side of its rear elevation, and a single-storey conservatory on the northern side. There is a single-storey double garage/store built up against the boundary with No 124 to the south, and this is connected to the main house by way of a glazed lobby. It is set well back from the front elevation of the house and projects around 6 metres beyond the existing rear elevation.
4. The proposed extensions would involve demolition of the garage/store and the construction of a new building on a larger footprint, referred to by the appellant as an annexe. It would comprise a two-storey element to the front, set further forward than the existing garage/store and set a little beyond the line of the main rear elevation, and a single-storey element projecting from the rear of the two-storey structure to around 1 metre from the rear boundary of the property. Both elements would be set away from the boundary with No 124 by around 1 metre.

5. Policy 8 of the North Northamptonshire Joint Core Strategy (CS) indicates that development should create a distinctive local character by responding to the site's immediate and wider context and local character to create new buildings which draw on the best of that local character without stifling innovation.
6. Policy EB.D1 of the Earls Barton Neighbourhood Plan (NP) indicates that development proposals should be of a high standard of design and layout in keeping with local character and should seek to utilise sustainable building techniques and materials wherever practical. New development proposals will be supported in the event that they protect, conserve and enhance the built environment, and perform well against all relevant locally adopted design guidance.
7. The Council's Supplementary Planning Guidance on Residential Extensions – A Guide to Good Design (SPG) indicates that, when considering applications for extensions, the Council will consider the design in relation to the house; the effect on the character of the area; and the effect on occupiers of neighbouring property. Considerations will include how an extension might affect the outlook from neighbouring properties with regard to the size of the extension and how far it extends from the house. Side extensions should be set back from the front of the house, while with two-storey extensions, normally a minimum gap of 1 metre to the side boundary should be retained to respect the character of the area and give a visual separation between the houses. In some cases even greater gaps to the boundary may be required.
8. With regard to annexes, the SPG indicates that it is important that they are designed to be ancillary to the existing dwelling. The annexe should therefore take the form of an extension to a dwelling with an internal link to the main accommodation, so enabling it to be easily used as part of the main dwelling in the longer term.
9. The Council contends that by virtue of the scale, massing and design, the proposed extensions to facilitate an annexe would be an overly large and incongruous addition to the existing house which would adversely affect the external appearance of the property. The proposed development does not respond to the site's immediate or wider context to the detriment of the character and appearance of the area. In addition, the proposed extensions, due to their scale and positioning, would lead to a loss of neighbouring amenity due to an overbearing and oppressive relationship with the neighbouring property of no. 124 Northampton Road.
10. The appellant contends that the surrounding area displays a variety of different designs with large, detached dwellings and that, by and large, the proposed extensions would make use of the existing garage and lobby footprint and replace the existing feature which currently detracts from the character of the area. The appellant also points to permissions for extensions to other dwellings in the immediate vicinity, and that the host property has no special architectural merit. With regard to impact on residential amenity, the appellant contends that the proposal meets the recommended daylight standards and would not result in a loss of daylight or sunlight. Finally, the use of the extension is apparently required by her family for medical purposes. It would not have a kitchen and the kitchen of the host dwelling would be shared between the occupants.

### *Character and appearance*

11. The proposed two-storey extension would be around 8 metres wide and some 10 metres deep. On the ground floor it would comprise a double garage with a hallway/porch running the full length between the garage and the host property. On the first floor would be three bedrooms and a bathroom. It would be set back a little from the front elevation of the house, but would project some 2 metres beyond the current rear elevation of the house. The single-storey extension would project a further 13 metres to the rear and would be around 7 metres wide. The ground-floor hallway/porch would extend from the front elevation to give access to the rear single-storey element which is shown as comprising a living/dining area.
12. The existing house would appear to have a footprint of around 110 sq metres, with the garage/store/porch adding a little over 80 sq metres approximately. The proposed extension alone would have a footprint of around 170 sq metres. This represents an extension with a footprint significantly larger than the main house itself and almost the same size as the existing house and garage/store/porch combined. In addition the extension would have a front elevation some 8 metres wide, whereas the main house has a front elevation of just 10 metres. The proposed extension would have a large, fully independent hipped roof, a large garage door, and what would appear from the front as a second front door giving access to the new hallway.
13. On the basis of scale, I find that the proposed extension would appear as over-dominant in the context of the host property, and would have the nature of a separate but attached dwelling. It would not appear subservient. Furthermore, the extension would have three bedrooms and an extensive ground-floor living/dining area. Although the appellant notes that the extension would not have a separate kitchen, and would operate as a dependent annexe, the scale of the ground-floor accommodation is such that a kitchen could easily be incorporated into the space available. In addition, the existing door from the house to the porch would appear to be blocked off, and there is no obvious alternative door from the house to the extension clearly shown on the submitted drawings.
14. The appellant also notes that the extension is needed for medical purposes, and has provided a letter from a doctor relating to the issue. I have sympathy with the situation of the appellant, but I am not convinced that a three-bedroomed annexe with an extensive ground floor living space is either necessary, or indeed the only solution to the medical problems experienced by the family.
15. Whilst the appeal dwelling is sited within an extensive plot, the space between the main house and the boundaries on either side is a significant feature. The existing garage/store/porch is single-storey only, and does not fill the visual gap between Nos 124 and 126 in the same way that would occur with the wide two-storey side extension proposed for the appeal property, albeit that the extension would be set 1 metre away from the side boundary. The appellant has referred to previous approved extensions at nearby properties, but from the information before me, it would appear that these are either much smaller than that of the current appeal proposal, or dating from a considerable time back, or both. In any case, I do not consider that these represent a precedent for the current proposal.

16. In conclusion on this issue, I find that the proposed extensions, by virtue of their scale and design, would not be subservient or appear as ancillary to the existing house. They would not respond sympathetically to the immediate context of the host dwelling and although the existing garage/store/porch is not architecturally attractive, this is not reason to replace it with extensions of the type and scale proposed. They would not represent high quality design in the context of the host property and would, therefore, be harmful to the character and appearance of the property and its immediate surroundings. On this basis, the proposal would conflict with Policy 8 of the CS, Policy EB.D1 of the NP and guidance in the SPG.

*Living conditions*

17. I have no detailed information on sunlight factors affecting Nos 124 and 126. However, the two-storey element of the proposed extension would lie to the west of the rear garden at No 124 at a distance of only 1 metre from the boundary, and would be set further back than the rear elevation of the neighbouring property. It would appear, therefore, that there is a likelihood of the two-storey extension having a detrimental effect on light reaching that part of the rear garden of No 124 that is the closest to the rear of the house and the most private element of its amenity space. Given the limited height of the proposed single-storey extension and its position to the north-west of No 124, I do not consider it likely that this element would result in a significant reduction of sunlight at the rear of the neighbouring property.
18. In the light of the proximity of the proposed extensions to the boundary with No 124, I consider that the projection of the two-storey element beyond the rear elevation of No 124, coupled with the length of the single-storey element along the full depth of the rear gardens, would result in a somewhat oppressive outlook for the occupiers of the neighbouring property. The single-storey extension would be clearly seen above the boundary fence and would be readily visually apparent. The scale and mass of the extensions would be harmful to the outlook from the rear of No 124.
19. In conclusion on this issue, I find that the proposed extensions, by virtue of their scale and siting, would be harmful to the living conditions of the occupiers of No 124 by way of outlook. I do not think it likely that the proposal would result in significant loss of light at the rear of No 124, but there would be some detrimental effect and this adds to my concerns about the overall impact of the extensions on the residential amenities enjoyed by the neighbouring occupiers. On this basis, I find that the proposal would conflict with guidance on the effect of extensions on the occupiers of neighbouring property as set out in the SPG.

*J D Westbrook*

INSPECTOR

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