



Appeal Decision

Site visit made on 4 November 2025

by Helen Hockenhull BA (Hons) B.PI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2025

Appeal Ref: APP/B3030/W/25/3364873

Rose Cottage, Normanton Road, Upton, Nottinghamshire, NG25 0PU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Kirrage against the decision of Newark & Sherwood District Council.
 - The application Ref is 24/01743/FUL.
 - The development proposed is the erection of a dwelling following demolition of existing cattery buildings.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a dwelling following demolition of existing cattery buildings at Rose Cottage, Normanton Road, Upton, NG25 0PU in accordance with the terms of the application, Ref 24/01743/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. The appeal site lies within open countryside. The Grade II* listed 'Greet House', the associated Grade II* listed 'Thurgate Hundred Workhouse' Registered Park and Garden, and the Grade II listed 'former Infirmary at Greet House' lie approximately 200 metres from the site boundary. The site can therefore be considered to form part of the setting to this group of heritage assets. Whilst the harm to their significance does not form part of the Council's reasons for refusal, in order to discharge my statutory duty under the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), I deal with this in my decision.
3. The site was formerly a brickyard and later was used as a miniature rifle range. The Council considers the rifle range magazine building and the target wall form non designated heritage assets.
4. I note that there was a previous planning application and appeal on the site for the demolition of the cattery buildings and the construction of two dwellings. Whilst the Council and the appellant refer to the findings of the previous Inspector, I make my own judgment on the merits of the case.

Main Issues

5. The main issues in this case are
 - Whether the appeal site forms an appropriate location for development having regard to national and local plan policies and the effect on the landscape setting of Southwell and Upton.

- The effect of the proposal on non-designated heritage assets within the site, in particular the miniature rifle range magazine building and the target practice wall.

Reasons

6. The appeal site forms a generally rectangular shaped plot of land to the north of Normanton Road, Upton. It is associated with Rose Cottage; a detached two storey dwelling which lies to the south of the site. There are a number of outbuildings associated with a cattery business to the rear of the plot as well as other sheds and a mobile home associated with the dwelling.
7. The undeveloped parts of the site are laid to grass with a number of specimen trees and shrubs. The site slopes upwards to the rear and due to distinct breaks in the gradient together with existing vegetation, is experienced in three levels.
8. It is proposed to demolish the cattery buildings and construct a new single storey two bedroom dwelling arranged in a 'u' shape with a central landscaped courtyard. The existing mobile home would be removed as well as two fruit trees and a weeping beech tree. The existing target wall would be refurbished with an area of vegetation in front and an earth bund to the south removed to enable greater visibility.

Appropriate location for development and landscape setting

9. The appeal site lies approximately 0.4 km from Southwell and 1.5 km from Upton. Spatial Policy 1 of the Core Strategy (CS) sets out the settlement hierarchy for Newark and Sherwood. It directs development to the sub regional centre, service centres and principal villages which includes Southwell. In other villages, such as Upton, development is considered against the sustainability criteria set out in Spatial Policy 3 (Rural Areas). This requires new development to be within villages which have sustainable access to a range of local services which provide for everyday needs.
10. The appeal site is clearly located within the open countryside outside the settlement boundaries of the closest settlement, Southwell. Spatial Policy 3 goes on to say that development away from the built up areas of villages in the open countryside will be strictly controlled and resisted to uses which require a rural setting such as agriculture or forestry. In assessing such applications, the policy sets out five criteria which includes location, scale need impact and character.
11. The Council's Allocations and Development Management Development Plan Document (A&DM DPD) in Policy DM8 sets out how such developments should be dealt with. In regard to new dwellings, it states that they will only be granted where they are of exceptional quality or innovative nature of design, reflecting the highest standards of architecture enhancing their immediate setting and being sensitive to the defining characteristics of the local area.
12. In principle the appeal proposal would not meet any of the listed exceptions in CS Spatial Policy 3 or in Policy DM8 of the A&DM DPD.
13. Whilst seeking to control development in the countryside, development plan policies seek to achieve sustainable development in line with the National Planning Policy Framework (the Framework). I acknowledge that the appeal site lies approximately 0.4 km away from Southwell, about a 10 minute walk. Southwell

provides a range of shops, cafes, public houses, a primary school and leisure uses. Whilst I have been provided with no information about the availability or frequency of public transport, I noted on my visit that there is a bus route through the village, which no doubt gives access to higher order settlements where other services can be obtained. The site is clearly not isolated and being on the periphery of Southwell has a moderately good level of accessibility to services and facilities catering for daily needs.

14. I noted on my site visit that the route to the village along Normanton Road has a footpath for the majority of its length, only a short section close to the appeal site would require a user to walk in the road or on the grass verge. I acknowledge that the route is unlit until entering the village which may deter walking in the evening and encourage the use of the car.
15. Some dependency on car use is inevitable in a rural area. The Framework recognises that the opportunities to maximise sustainable transport solutions will vary from urban to rural areas. The proposal would not of itself generate a large number of traffic movements, in fact the traffic generation would be less than that of the existing cattery use. I therefore find that in principle the appeal scheme would not conflict with the objectives of the Framework or the development plan to promote sustainable development.
16. Spatial Policy 3 also seeks to ensure that development does not have a detrimental impact on landscape character and landscape setting. The reason for refusal refers to the adverse impact on the landscape setting of Upton and Southwell. Despite its rising topography, the appeal site is visually contained to its rear and sides by existing mature trees and vegetation. The slightly lower level of the plateaus in relation to surrounding rising land also assists to reduce its visibility.
17. When viewed from Normanton Road, the appeal site has a domestic rural character having the appearance of a cottage set in large grounds with a front fence and gates. There is limited signage to suggest it has a commercial use. The driveway extends from the road to the cattery on the upper plateau. The position of the cottage and mature planting in the garden area filter views of the second plateau where the magazine building and rifle range wall are located. The rear plateau occupied by the cattery building is hidden by the rifle practice wall and intervening vegetation.
18. The proposed dwelling would be single storey in height and screened by the retained rifle wall. Its height would ensure that only a small part of the ridgeline, if any, would be visible above the wall. From external viewpoints it would not be possible to determine whether the rear building was a dwelling or a domestic outbuilding.
19. I note that the proposal includes the removal of a number of outbuildings and structures within the site which would have positive impacts on landscape character and the sites contribution to the setting of Southwell and Upton. However, the proposed dwelling would have a slightly greater footprint than the existing cattery buildings. Together with domestic paraphernalia etc associated with a dwelling, there would inevitably be an increase in the domestication of this rear part of the site which would have negative landscape impacts.

20. I acknowledge that the previous refused scheme on the site for two dwellings would have had a greater impact on the character of the site and this rural landscape. This was because one of the proposed dwellings was sited in the middle section of the site between the wall and the magazine building. Whilst the current appeal scheme involves a scaled down development of one dwelling, it would still in my view have negative landscape impacts. The harm to landscape character and landscape setting, would however be localised and limited.
21. Accordingly, I find that the proposal would conflict with CS Spatial Policy 3, Core Policy 9, Core Policy 13, Policies DM5 and DM8 of the A&DM DPD. These policies seek to achieve sustainable design complementing the existing landscape environment.

Impact on Heritage assets

22. The appeal site forms part of the setting to the group of heritage assets forming part of the Southwell Workhouse, namely The Grade II* listed 'Greet House', the associated Grade II* listed 'Thurgate Hundred Workhouse' Registered Park and Garden, and the Grade II listed 'former Infirmary at Greet House'.
23. Greet House (Grade II*) is a three storey former workhouse constructed around 1824 with later 19th century additions. To the north is the former infirmary outbuilding (Grade II) which dates from about 1824 and was altered around 1870. The buildings are constructed in red brick walling with slate roofs and designed with a severe and utilitarian Neo-Classical design. The buildings are surrounded by a Registered Park & Garden which not only provided the yards and exercise areas for people in the workhouse but were also used for productive purposes. The setting to these designated heritage assets is provided by the wider rural open agricultural fields, which enhance the rural character and interest of the building.
24. The significance of the Workhouse and Infirmary is derived from their architectural, historic and cultural value, emanating from their design, age and previous institutional use. The special interest of the Registered Park and Garden derives from its layout and functional association with the Workhouse.
25. The submitted evidence does not indicate any historic association between the appeal site and the Workhouse, the Registered Park and Garden and the Infirmary. Whilst being within 200 metres of the heritage assets, there is no intervisibility due to the existing intervening vegetation and the well contained nature of the appeal site. Overall, I find that the appeal proposal would cause no harm to the significance or setting of this group of heritage assets. There would therefore be no conflict with Core Policy 14 of the CS, Policies DM9 and So/Wh of the A&DM DPD or the Southwell Neighbourhood Plan.
26. The magazine building and brick wall are viewed by the Council as Non-Designated Heritage Assets due to their historic interest and rarity. The appeal proposal involves the refurbishment of the rifle wall, the removal of vegetation and a bund as well as the removal of the mobile home on the site, to better reveal the structures
27. I accept that the construction of a dwelling to the rear of the wall would to a degree impact negatively on its setting. The Framework advises in paragraph 209, that the effect on the significance of a non-designated heritage asset should be taken into account. In this case, whilst there is harm, it is minimal and in my view would be

outweighed by the benefits of the proposal in the retention of, and improvements to, the appreciation of the assets.

28. The proposal would therefore comply with the objectives of the Framework, Core Policy 14 of the CS and Policy DM9 of the A&DM DPD which seek to conserve and enhance the historic environment.

Planning Balance

29. I have found that the appeal proposal would conflict with the spatial strategy of the District which seeks to strictly control new development in the countryside.
30. I am advised by the Council that currently they are unable to demonstrate a five year supply of housing land. This means that the most important policies for determining the appeal namely CS Spatial Policy 3 and Policy DM8 of the A&DM DPD are out of date. In these circumstances, paragraph 11d) of the Framework is engaged. This states that where there are no relevant development plan policies or the policies most important for determining the application are out of date, planning permission should be granted unless i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing development proposed or ii) any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
31. In terms of 11d) i), as the heritage assets are not designated, in accordance with footnote 7, this paragraph is not applicable in this case.
32. Turning to paragraph 11dii), and the benefits of the proposal, the scheme is for a new dwelling which would contribute to the District's housing supply. The contribution made by a single dwelling would of course be limited. In addition, I understand that there is a shortage of 2 and 3 bed bungalows in the Southwell sub area, the type of dwelling that the proposal provides. The occupants of the new dwelling would make use of local services and facilities contributing to the local economy and vitality and viability of the local community. Additionally, the scheme would remove the existing cattery buildings and reuse a previously developed site. Furthermore, as I have outlined above, the proposal would better reveal the non-designated heritage assets on the site. These benefits all weigh in favour of the scheme.
33. The Framework seeks to promote sustainable development in rural areas. In this case as I have already set out, the appeal site, whilst it lies in the open countryside is on the outskirts of Southwell where access to service and facilities can be obtained to meet local needs.
34. In terms of adverse impacts, I have found limited harm to the spatial strategy and landscape character. Weighed against the benefits of the scheme, I conclude that the adverse impacts of the proposal do not significantly and demonstrably outweigh the benefits. In this instance, the material considerations, indicate that the proposal should be determined other than in accordance with the development plan. The appeal should therefore be allowed.

Other matters

35. Biodiversity Net Gain (BNG) legislation became mandatory (under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the

Environment Act 2021)) for major developments from 12th February 2024 and 'minor sites' on 2nd April 2024. BNG is an approach to development which makes sure a development has a measurably positive impact ('net gain') on biodiversity, compared to what was there before development. This legislation sets out that developers must deliver a minimum BNG of 10% - this means a development will result in more, or better quality, natural habitat than there was before development. The development does not fall within any of the exemptions for BNG and therefore is required to provide a minimum of 10% BNG.

36. Under the statutory framework for BNG, every grant of planning permission is deemed to have been granted subject to a general biodiversity gain condition to secure the biodiversity gain objective. It is a pre-commencement condition: once planning permission has been granted, a Biodiversity Gain Plan must be submitted and approved by the planning authority before commencement of the development. The Council have confirmed that the statutory condition should apply and that a legal obligation is not required

Conditions

37. The Council have provided a list of conditions should the appeal be allowed. I have assessed these in light of the Framework and the Planning Practice Guidance and amended the wording as necessary in the interest of clarity .
38. In addition to the standard timeframe condition, I impose a condition requiring compliance with the approved plans for the avoidance of doubt. In the interest of safeguarding visual amenity, I impose condition 3 requiring the materials to be used to match those as stated in the application. For the same reason, conditions 4 and 5 are required to ensure the implementation and maintenance of an appropriate hard and soft landscaping scheme.
39. Conditions 6 and 7 are necessary to ensure the protection of trees and hedges to be retained on the site during construction. In light of the potential contamination on the site due to the past use as a rifle range, I impose condition 8 to ensure the submission and implementation of a remediation scheme and to report any unexpected contamination in order to protect the safety of on site workers and the future users of the site.
40. In the interest of biodiversity and to enhance the ecological value of the site, condition 9 ensures the development is carried out in line with the submitted Ecological Appraisal and Biodiversity Impact Assessment. For reasons of highway safety, Condition 10 is required to ensure adequate off street car parking is provided, and condition 11 is necessary to prevent surface water from the driveway being deposited on the highway. Condition 12 ensures a wheelie bin collection point is provided to prevent bins obstructing the highway.
41. With regard to BNG, the appellant has suggested the imposition of a detailed condition to ensure that the statutorily required 10% BNG is achieved. As permission is deemed to be granted subject to this requirement, a specific condition is not necessary.
42. The appellant has suggested a condition to protect the magazine building and rifle range wall from demolition, thereby securing their preservation and enhancement. It is clear from the submitted scheme that the intention is to better reveal and

improve the visibility of these structures. I therefore do not consider that such a condition is necessary.

Conclusion

43. For the reasons given above and having had regard to all other matters raised, I allow this appeal.

Helen Hockenhull

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans;
Site Location Plan - 2416 (P) 00 Rev. a;
Proposed Site Plan - 2416 (P) 03 Rev. a;
Proposed Dwelling Site Plan - 2416 (P) 04;
Proposed Ground and Roof Plans - 2416 (P) 05;
Proposed South and East Elevations - 2416 (P) 06;
Proposed North and West Elevations - 2416 (P) 07;
Proposed East and West Sectional Elevations - 2416 (P) 08;
Proposed A-A Section - 2416 (P) 09;
Site Access Plan - Proposed = 2416 (P) 11
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials stated on the approved plans.
- 4) Prior to first occupation of the development hereby approved full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:
 - a) full details of every tree, shrub and hedge to be planted (including its proposed location, species, size and approximate date of planting) and details of tree planting pits including associated irrigation measures, tree staking and guards, and structural cells. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species;
 - b) proposed finished ground levels or contours;
 - c) means of enclosure;
 - d) car parking layouts and materials;
 - e) other vehicle and pedestrian access and circulation areas;
 - f) hard surfacing materials;
 - g) proposed and existing functional services above and below ground (for example, drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.)
- 5) The approved soft landscaping shall be completed during the first planting season following the first occupation of the development, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise

agreed in writing by the local planning authority. All tree, shrub and hedge planting shall be carried out in accordance with BS 3936 -1992 Part 1- Nursery Stock-Specifications for Trees and Shrubs and Part 4 1984- Specifications for Forestry Trees ; BS4043-1989 Transplanting Root-balled Trees; BS4428-1989 Code of Practice for General Landscape Operations.

- 6) No works or development shall take place until an arboricultural method statement and scheme for protection of the retained trees/hedgerows has been agreed in writing with the Local Planning Authority. This scheme shall include:
- a) A plan showing details and positions of the ground protection areas.
 - b) Details and position of protection barriers .
 - c) Details and position of underground service/drainage runs/soakaways and working methods employed should these runs be within the designated root protection area of any retained tree/hedgerow on or adjacent to the application site.
 - d) Details of any special engineering required to accommodate the protection of retained trees/hedgerows (e.g. in connection with foundations, bridging, water features, hard surfacing).
 - e) Details of construction and working methods to be employed for the installation of drives and paths within the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
 - f) Details of working methods to be employed with the demolition of buildings, structures and surfacing within or adjacent to the root protection areas of any retained tree/hedgerow on or adjacent to the application site.
 - g) Details of any scaffolding erection and associated ground protection within the root protection areas
 - h) Details of timing for the various phases of works or development in the context of the tree/hedgerow protection measures.
 - i) All works/development shall be carried out in full accordance with the approved arboricultural method statement and tree/hedgerow protection scheme.
- 7) The following activities must not be carried out under any circumstances.
- a) No fires to be lit on site within 10 metres of the nearest point of the canopy of any retained tree/hedgerow on the proposal site.
 - b) No equipment, signage, fencing etc shall be attached to or be supported by any retained tree on the application site,
 - c) No temporary access within designated root protection areas without the prior written approval of the District Planning Authority.
 - d) No mixing of cement, dispensing of fuels or chemicals within 10 metres of any retained tree/hedgerow on the application site.
 - e) No soak- aways to be routed within the root protection areas of any retained tree/hedgerow on the application site.

- f) No stripping of top soils, excavations or changing of levels to occur within the root protection areas of any retained tree/hedgerow on the application site.
 - g) No topsoil, building materials or other to be stored within the root protection areas of any retained tree/hedgerow on the application site.
 - h) No alterations or variations of the approved works or protection schemes shall be carried out without the prior written approval of the Local Planning Authority.
- 8) Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until Parts A to D of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until Part D has been complied with in relation to that contamination.

Part A: Site Characterisation

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

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Land contamination risk management (LCRM)'

Part B: Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The

scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Part C: Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.

Part D: Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Part A, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Part B, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with Part C.

- 9) The development hereby approved shall be carried out in accordance with the recommendations set out in Section 4, and the enhancements set out in Section 5, of the Preliminary Ecological Appraisal and Biodiversity Impact Assessment by emec ecology dated August 2024 (summarised in Table 1), specifically but not limited to:
 - a) Vegetation clearance outside of bird nesting season
 - b) Precautionary working methods of work and replacement of suitable habitat
 - c) Lighting on site to be kept to a minimum
 - d) Installation of bat and bird boxes, bee bricks, and hedgehog highways
- 10) No part of the development hereby permitted shall be brought into use until all driveways and any parking or turning areas are provided as indicatively shown on the submitted plan. The driveways and any parking or turning areas shall then be retained for the life of the development.
- 11) No part of the development hereby permitted shall be brought into use until the access is constructed with provision to prevent the discharge of surface water from the driveway to the public highway in accordance with details first submitted to and approved in writing by the Local Planning Authority. The

provision to prevent the discharge of surface water to the public highway shall then be retained for the life of the development

- 12) Prior to the occupation of any dwelling hereby approved, a wheelie bin collection point shall be provided to serve the development. It shall be located near the highway boundary but within the applicant's site in a position to be first agreed in writing with the Local Planning Authority. The collection point shall thereafter be retained.