

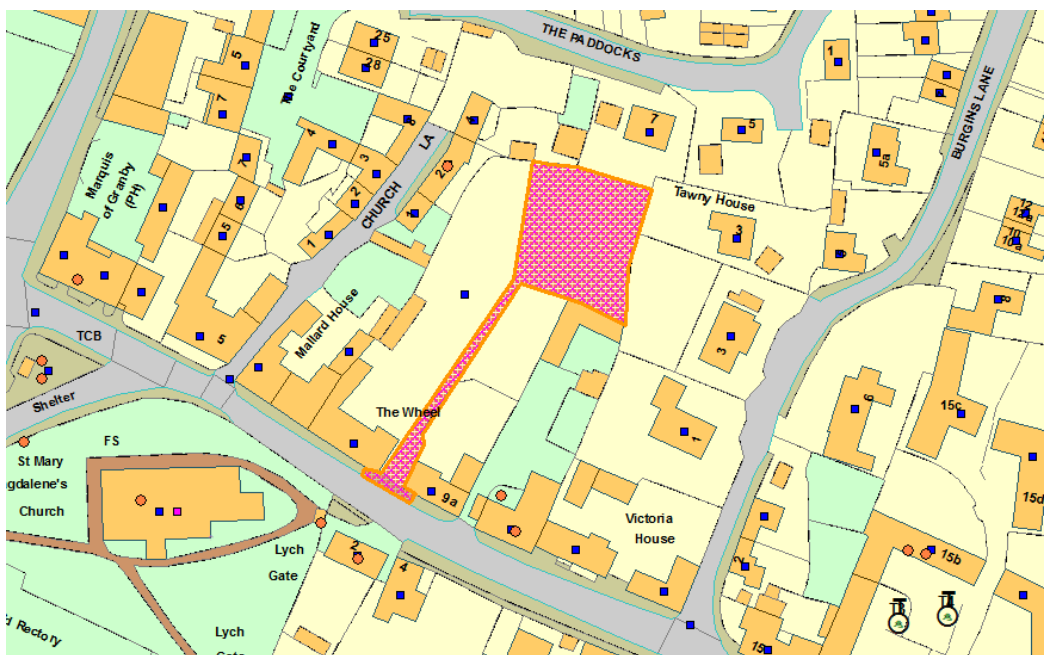
**Reference:** 16/00107/FUL

**Date Submitted:** 17<sup>th</sup> February 2016

**Applicant:** Mr David Stirling

**Location:** The Wheel, 9 High Street, Waltham on the Wolds LE14 4AH

**Proposal:** To move a building which already has planning consent (13/00924/FUL) further north within the plot



**Introduction:-**

The application site is located at land behind The Wheel, 9 High Street, Waltham on the Wolds which sits both within the village envelope and the designated Conservation Area for Waltham on the Wolds. The site at present forms part of the residential curtilage for the host dwelling, and is a protected open space within the 1999 Melton Local Plan. The site is surrounded by further residential dwellings and accessed from High Street.

**It is considered that the main issue relating to the application is:**

- **The status of the Protected Open Area.**
- **The impact on the character and appearance Waltham and the Conservation Area in particular.**
- **The impact upon the residential privacy and amenity of neighbouring dwellings.**

The application is required to be considered by the Committee due to the level of representations received.

**Relevant History:-**

13/00924/FUL – Renew the planning consent 11/00083/FUL for the erection of a dwelling (Approved)

**Planning Policies:-**

**Adopted Melton Local Plan (Saved Policies)**

Policies OS1 and BE1 allow for development within village envelopes providing that:-

- the form, character and appearance of the settlement is not adversely affected;
- the form, size, scale, mass, materials and architectural detailing of the development is in keeping with its locality;
- the development would not cause undue loss of residential privacy, outlook and amenities as enjoyed by occupants of existing dwellings in the vicinity; and,
- satisfactory access and parking provision can be made available.

Policy H6 states that planning permission for residential development within village envelopes will be confined to small groups of dwellings, single plots or the change of use of existing buildings.

Policy BE12 states that planning permission will not be granted for development within any area shown on the proposals map as a protected open area except where a proposal is in conjunction or associated with an existing use and the development would not adversely affect the intrinsic character of the area.

**The National Planning Policy Framework was published 27<sup>th</sup> March 2012 and replaced the previous collection of PPS. It introduces a ‘presumption in favour of sustainable development’ meaning:**

- approving development proposals that accord with the development plan without delay; and
  - where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
    - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole;
- or
- specific policies in this Framework indicate development should be restricted.

The NPPF offers direction on the relative weight of the content in comparison to existing Local Plan policy and advises that whilst the NPPF does not automatically render older policies obsolete, where they are in conflict, the NPPF should prevail.

It also establishes 12 planning principles against which proposals should be judged. Relevant to this application are those that state that planning should:

- not simply be about scrutiny, but to be a creative exercise in finding ways to enhance and improve the places in which people live their lives.
- recognise the intrinsic character and beauty of the countryside and supporting thriving communities within it
- ensure the conservation of heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life for this and future generations.
- encourage effective use of land by reusing land that has been previously developed, provided that it is not of high environmental value.

**On Specific issues relevant to this application it advises:**

**Delivering a wide choice of quality homes:**

- Local Planning Authorities should deliver a wide choice of high quality homes which widen opportunities for home ownership and create sustainable, inclusive and mixed communities. These should include a mix of housing based on current and future demographic trends, and

identify the size, type, tenure and range of housing that is required in particular locations to reflect local demand.

- Local Planning Authorities should identify and bring back into residential use empty housing and buildings in line with local housing and empty homes policies, and that they should normally approve planning applications for change to residential use where there is an identified need for housing in the area, provided that there are no strong economic reasons why such development would be inappropriate.
- to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

### Conserving and enhancing the historic environment

- that Local Planning Authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.

### Promoting Healthy Communities

- Paragraph 76 of the NPPF advises that local communities should identify green areas of particular importance to them. By designating land as Local Green Space (LGS) local communities will be able to rule out new development other than in very special circumstances.
- At paragraph 77, the NPPF advises that LGS designation will not be appropriate for most green areas or open space, and the designation should only be used where the green space is in close proximity to the community it serves. It should also be demonstrably special to the local community and hold particular local significance, and should not be an extensive tract of land.

As stated above, s38(6) requires determination to be in accordance with the Development Plan unless other material considerations indicate otherwise. This is reinforced by paragraph 11 of NPPF. These form the relevant Development plan policies and they remain extant.

The Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 states at section 72 that there is a general duty with respect to Conservation Areas in the exercise of planning functions. Section 72(1) states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area.

**The National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. (NPPF paragraph 12).**

### Consultations:-

Consultation reply	Assessment of Head of Regulatory Services
<p><b>Highway Authority: No objection</b></p> <p>The Highways Officer advised to refer to comments on the previously approved planning application (13/00924/FUL).</p> <p>The existing vehicular access is substandard, especially with regard to visibility splays and pedestrian visibility splays. The dangers to pedestrians is exacerbated by the fact that the footway is very narrow at this point. During the determination of the planning application in 2011</p>	<p>Noted.</p> <p>Access to the site is from the north site of High Street, between 9 and 9a High Street. Visibility is poor when exiting the site over the public footpath and it is agreed that a condition to ensure plans are submitted and agreed prior to the commencement of development to narrow the existing carriageway and widen the footpath at this point.</p> <p>The plans submitted show that there would be two parking spaces, plus an integrated garage,</p>

<p>(11/00083/FUL) discussions took place with the applicants to look at the access and whether there were any alterations to the access that they could initiate to improve the current situation.</p> <p>It was agreed that there was scope to narrow the existing carriageway and widen the footway outside the site. By doing this, not only would this improve the visibility available for vehicles leaving the site, it would also provide improved safety for pedestrians (particularly parents walking with children, or pedestrians passing each other in opposite directions) having to walk into the carriageway. On that basis, the Highways Officer was prepared to look favourably upon the proposal.</p> <p>Conditions should therefore be imposed for the applicant to provide amended details /plans which are to be approved before the highway works commence.</p> <p>These details have not been submitted with this application, therefore it would be necessary to re-impose the highways conditions should this application be approved.</p>	<p>providing a total of three parking spaces for the dwelling. This is considered to be adequate parking for a three bedroom dwelling. Furthermore, there is space within the residential curtilage for vehicles to turn around to ensure that they exit the site in a forwards direction.</p> <p><b>It is therefore considered, subject to the imposition of conditions, that the proposal meets the objectives of policies OS1 and BE1 in terms of highways safety and parking.</b></p>
<p><b>Waltham on the Wolds Parish Council: Object</b></p> <p>The Parish Council sent in a revised objection letter dated 13<sup>th</sup> May 2016 withdrawing their objection quoting the contravention of policy BE12 as the saved policy is incompatible with the NPPF.</p> <p>The Parish Council does however still object to the proposed relocation of the dwelling based on the balance of benefits to the applicants and the neighbour at 9a High Street against the very negative impact to neighbours adjacent to the new site. Previous applications on this site have been very controversial and generated strong feelings, and the Parish Council have endeavoured to balance the opposing arguments in a rational manner.</p> <p>The proposed dwelling has a long and involved history. Initially a smaller house was proposed, then replaced with a significantly larger dwelling which was later moved 6 metres north. The proposed house design and position were approved by the Council some time ago and are therefore not under consideration now. Although the site is no longer subject to official protection, open spaces and paddocks within the village contrast with the sense of enclosure and serve to enhance the rural character and allow space for natural flora and fauna.</p> <p><b>The Parish Council consider that the impact of</b></p>	<p>Noted.</p> <p>Whilst policy BE12 (relating to a protected open area (POA)) is a ‘saved’ local plan policy from the 1999 Melton Local Plan, the evidence base being prepared to inform the new Melton Local Plan has reviewed all of those areas currently afforded the POA status under the new ‘Local Green Space’ designation and criteria as defined with the NPPF (paragraph 77). As such Policy BE12 is considered to be incompatible with the NPPF and, under para 215 of the NPPF, the content of the latter should take precedence.</p> <p>Waltham on the Wolds POA’s have been reviewed using the criteria for LGS in the ‘Areas of Separation, Settlement Fringe Sensitivity and Local Green Space Study’ September 2015.</p> <p>This has established that the application site is not suitable as a ‘Local Green Space’. The application site has no visibility as it is set back behind a tight formation of properties and has no ‘public use’ being in private ownership and inaccessible to the public. It is considered to be an enclosed space with weak functionality, but does contribute to the open spaces within the built form.</p> <p><b>The issues regarding residential privacy and amenity will be dealt with separately below.</b></p>

<p><b>the large house in its proposed location will have a very negative effect on the neighbours to the north and east of the site in terms of loss of privacy and light. The adverse impacts of re-siting the house would significantly and demonstrably outweigh the benefits and we request that the Planning Committee reject the current application.</b></p>	
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**Representations:**

A site notice was posted at the site, the application was advertised in the local press and nine neighbours were informed. In response to the initial consultation and amended plans 9 objections have been received from 6 households, and 2 letters of support have also been received. A summary of the comments received is below:

Consideration	Assessment of Head of Regulatory Services
<p><b>Residential Privacy and Amenity</b></p> <p>The proposed house will dominate the open space behind Tawny House, 3 The Paddocks, and obscure the views enjoyed by the occupants for the past 29 years.</p> <p>The proposed dwelling is only 16.5 metres from the rear elevation of Tawny House, the recommended standard distance between facing habitable rooms is 23 metres.</p> <p>The proposed building will create an oppressive environment for all neighbouring properties</p> <p>The proposed dwelling will be visually intrusive due to its size and will have a great impact and lead to a loss of privacy and enjoyment of existing gardens.</p> <p>The proposed dwelling will overlook other dwellings and their gardens.</p>	<p>Noted.</p> <p>Tawny House (the neighbour to the east of the application site) is located between 16.5 metres and approx. 20 m. from the proposed rear elevation (the variation in distances is due to Tawny House having a ‘staggered’ rear elevation).</p> <p>The amended plans removed the velux window to bedroom 1 from the proposed dwelling that would have provided some limited opportunity for overlooking.</p> <p>The other proposed velux windows to the en-suites and bathroom are proposed to remain, however these would be obscure glazed and could be conditioned to remain in perpetuity to overcome issues of privacy.</p> <p>A separation distance of 23 metres is usually expected where there is direct overlooking between habitable windows (i.e. bedroom to bedroom of two separate properties directly facing one another). <b>Whilst Tawny House has windows to habitable rooms overlooking the site, there are no windows from the proposed dwelling overlooking Tawny House, therefore the separation distance proposed of between 16.5 metres and almost 20 metres is considered acceptable in terms of residential privacy and Tawny House would not suffer any loss of residential privacy.</b></p> <p>The separation distance between the end (north) elevation of the proposed dwelling and 7 The Paddocks is approximately 14 metres. There are no habitable windows on the first floor level of this elevation overlooking this property, therefore the separation distance is considered to be acceptable in terms of privacy. The north elevation of the dwelling is only 5.5 metres wide</p>

	<p>at this point, and would have a hipped roof. It is not therefore considered that the proposed dwelling would have a material impact upon the residential amenity of this neighbouring dwelling.</p> <p>In terms of residential amenity arising from ‘overbearing’, a separation distance of 14 m. is usually expected where there is a direct line of sight facing an new two storey structure. The dwelling would be approx.. 14 from ‘Tawny House’ and would have lower eaves than a conventional two storey house, i.e. eaves are proposed to be at a height of approximately 3.7 metres, and the ridge at 5.8 metres. As the roof is proposed to be partially hipped this will also reduce the mass of the building along the boundary.</p> <p><b>Whilst it is accepted that views from Tawny House would be reduced, it is not considered that the loss of views would be unduly detrimental to the overall amenity of the dwelling or would create an oppressive environment. The privacy of the garden and rooms of the dwelling would be maintained in accordance with policies OS1 and BE1 of the Melton Local Plan.</b></p>
<p><b>Highways Safety</b></p> <p>The impact to the highway will be detrimental as it will mean further cars on an already crowded site coming onto the high street.</p>	<p>Noted.</p> <p>Please see the commentary above in relation to highways safety.</p>
<p><b>Protected Open Space</b></p> <p>The development will remove for ever this open space.</p> <p>The site is a Protected Open Area and the proposal is contrary to policy BE12.</p>	<p>Noted.</p> <p>Please see the commentary above in regards to the comments made from Waltham on the Wolds Parish Council.</p>
<p><b>Policy</b></p> <p>The NPPF urges local planning authorities to resist inappropriate development of residential gardens.</p>	<p>Noted.</p> <p>The NPPF advises at paragraph 14 that there is a presumption in favour of sustainable development at the heart of planning policy. For decision taking this means:</p> <p>Approving development proposals that accord with the development plan without delay; and Where the development plan is out-of-date, granting permission unless:</p> <ul style="list-style-type: none"> <li>○ Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies as a whole; or</li> <li>○ Specific policies in this framework indicate development should be restricted.</li> </ul>

	<p>As discussed above, it is not considered that the proposal would cause undue harm to the area that could not be mitigated by way of conditions. Therefore, the application should be considered on the context of paragraph 14 of the NPPF.</p> <p>Waltham on the Wolds is considered to be a relatively sustainable location for housing development as it has a good range of services and facilities locally that reduce reliance upon the private car. The application is therefore considered to meet the objectives of the NPPF in terms of sustainable development.</p>
<p><b>Other Considerations</b></p> <p>Neighbours who share the boundary were not consulted originally.</p> <p>The applicant's architects have misinterpreted the site boundaries by placing their site survey over the ordinance survey maps to show 2 different boundary lines leading to confusion.</p> <p>The application gives no regard to the opportunity for wildlife and general ecology and needs to be addressed.</p>	<p>This was reported by one of the neighbours, and the consultations were reviewed and further consultation was sent to correct an omission.</p> <p>The location of site boundaries on the ground is different to those that are marked on the OS plan. An accurate survey was conducted by the applicant's architect and this was submitted. It shows both the OS lines and the technically correct survey.</p> <p>The Council's ecological advisors have not made any comments on the application, and are therefore not concerned about the potential for any impact that the proposal could have on protected species.</p>
<p><b>Support</b></p> <p>Moving the building will ensure the preservation of two substantial mature trees that area very important aspect of the conservation area in the vicinity of the Church. The trees provide an important green barrier between the houses on the High Street and the properties to the rear of The Wheel.</p> <p>The benefit of moving this building will be to lessen the effect on the existing houses within the conservation area whilst preserving the highly visible key natural feature of mature trees.</p>	<p>Noted.</p>

**Other material considerations (not raised through consultation or representation)**

<b>Consideration</b>	<b>Assessment of Head of Regulatory Services</b>
<p><b>Impact Upon the Conservation Area and Listed Buildings</b></p>	<p>Thaxia Cottage (no's 2 and 3 Church Lane) is a Grade II listed building situated to the west of the application site. At the closest point the building is approximately 30 metres from the proposed dwelling. It is not considered that the application would have a significant and demonstrable impact upon the listed buildings, by virtue of the fact that their setting is primarily within Church Lane.</p>

	<p>There are two further Grade II listed structures directly to the south of the application site, however these are around 50 metres from the site. It is not considered that the application would have an impact upon the significance of these structures. The Grade I Listed Church of St Mary Magdalene is located to the west of the access to the site, and it is not considered that the application would alter the significance of the Church in any way.</p> <p>The separation distances involved from the listed buildings, and the design of the proposed dwelling will ensure that there is no adverse impact upon the setting of these heritage assets in accordance with paragraphs 131-134 of the NPPF.</p> <p>The site lies within the Conservation Area and therefore the duties under s Section 72 of the Listed Buildings and Conservation Areas Act 1990 are engaged. This requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area.</p> <p>The site is recessed from all street frontages and there is no publically available view. The Conservation Area Appraisal for Waltham notes the existence of paddocks behind the High St buildings but are not noted as a key feature or referenced in the relate management plan. It is therefore considered that the development would have a neutral effect in terms of the character and appearance of the Conservation Area and granting permission would satisfy the duty to ‘preserve’ under s72.</p>
<p><b>Design</b></p>	<p>The design of the proposal is the same as that approved in 2013 (albeit with one velux window over bedroom 1 removed).</p> <p>The dwelling would be constructed with the appearance of a barn conversion, and would have a long central section oriented north / south on the plot. There would be a central section at 90 degrees to the main body of the building that would provide additional living space.</p> <p>The dwelling would have three bedrooms on the first floor, a family bathroom, one ensuite and a store cupboard. On the ground floor there would be a kitchen / dining / snug area, a utility room, living room, study / dining room, WC and integrated garage.</p> <p>On the first floor there would be catslide dormer windows to the west elevation, and one on the north elevation set back within the central body of the building. All other first floor windows will be velux style, with those on the proposed east elevation to be obscure glazed as they provide</p>



	<p>light to a bathroom and ensuite.</p> <p>The roof of the proposed dwelling will be partially hipped, further giving the appearance of a barn conversion. The drawings show that there would be stone quoins on the corners of the building, with the main materials being brickwork and clay pantiles. A condition requiring a submission of materials can ensure that the proposed materials would sit well within the conservation area.</p> <p><b>It is considered that the design of the dwelling is sympathetic to the village and the conservation area in terms of its architectural detailing, and as such meets the objectives of both policies OS1 and BE1, and the NPPF in terms of preserving or enhancing the Conservation Area.</b></p>
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### Conclusion

The application seeks planning permission for the erection of a dwelling within the village envelope and Conservation Area for Waltham on the Wolds. At present the site is a designated Protected Open Area, however the site does not meet the requirements to be considered a Local Green Space in the latest policy guidelines. **Policy BE12 is therefore considered to be out of date in the determination of this planning application.**

The dwelling is considered to sit well within the conservation area in terms of its design and architectural detailing, and to not have an unacceptable impact upon the residential privacy and amenity of neighbouring dwellings to the extent that the application should be refused. It is also considered that issues relating to highways safety can be satisfactorily overcome by the imposition of conditions. A landscaping scheme should also help to integrate the dwelling to the surrounding area.

### **RECOMMENDATION: Permit, subject to the following conditions:**

1. The development shall be begun before the expiration of three years from the date of this permission.
2. This decision relates to the site location plan and block plan received at these offices on 17th February 2016, and the amended elevation and floor plan received at these offices on 18th April 2016.
3. No development shall start on site until all materials to be used in the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority.
4. No development shall start on site until a landscape scheme has been submitted to and approved in writing by the Local Planning Authority. This scheme shall indicate full details of the treatment proposed for all hard and soft ground surfaces and boundaries together with the species and materials proposed, their disposition and existing and finished levels or contours. The scheme shall also indicate and specify all existing trees and hedgerows on the land which shall be retained in their entirety, unless otherwise agreed in writing by the Local Planning Authority, together with measures for their protection in the course of development.
5. The approved landscape scheme (both hard and soft) shall be carried out before the occupation of the buildings or the completion of the development, whichever is the sooner; unless otherwise agreed in writing by the Local Planning Authority. Any trees or plants which within a period of 5 years from the completion of the development 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 the Local Planning Authority gives written consent to any variation.

6. Notwithstanding the details submitted, the proposed dwelling shall not be occupied until such time as the footway fronting the site has been widened in accordance with a scheme that shall first have been submitted to and approved by Local Planning Authority. All such details to include the extent of works, alteration of any drainage and construction materials and depths.
7. No vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected to the vehicular access unless they are set back at least 7 metres behind the highway.
8. Notwithstanding the provisions of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development Order) 1995 as amended (or any Order revoking and re-enacting that Order) in respect of the dwellings hereby permitted, no development as specified in Classes A, B or E shall be carried out unless planning permission has first been granted by the Local Planning Authority.

The reasons for the conditions are:-

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt.
3. To enable the Local Planning Authority to retain control over the external appearance as no details have been submitted
4. To provide a reasonable period for the replacement of any planting.
5. The approved landscape scheme (both hard and soft) shall be carried out before the occupation of the buildings or the completion of the development, whichever is the sooner; unless otherwise agreed in writing by the Local Planning Authority. Any trees or plants which within a period of 5 years from the completion of the development 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 the Local Planning Authority gives written consent to any variation.
6. In the interest of highway safety.
7. To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic, including pedestrians, in the public highway.
8. To ensure that the local planning authority can retain control over the development site due to the relatively close proximity of neighbouring dwellings.

Officer to contact: **Mrs Sarah Legge**

**Date: 13<sup>th</sup> May 2016**