

Application Number **DA/2020/1148**

Location Description **TYTHE FARM, HOLDENBY ROAD, EAST HADDON,
NORTHAMPTONSHIRE**

Site Details **VARIATION OF CONDITION 2 (APPROVED PLANS)
OF PLANNING PERMISSION DA/2018/0157
(ERECTION OF TWO STOREY DETACHED
DWELLING UTILISING EXISTING PRIVATE ACCESS,
PLOT 1 TYTHE FARM (REVISED SCHEME)) - TO
ALTER THE SCALE AND APPEARANCE OF THE
DWELLING, INCLUDING RAISING THE HEIGHT OF
THE BUILDING BY 1 METRE TO PROVIDE LIVING
ACCOMMODATION IN THE ROOF AT SECOND
FLOOR, CONSTRUCTION OF FIRST FLOOR
BALCONY PLATFORM ON REAR ELEVATION AND TO
INCREASE THE FOOTPRINT OF THE DWELLING
(RETROSPECTIVE).**

Applicant **MR B HOWARD**

Agent **LMR DESIGNS**

Case Officer **ANNA LEE**

Ward **LONG BUCKBY WARD**

Reason for Referral **CALL IN BY FORMER DDC COUNCILLOR**

Committee Date **9 JUNE 2021**

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

Proposal

A residential dwelling has been constructed larger and slightly different in appearance to that consented by the original planning permission ref: DA/2018/0157 and hence a retrospective application has been submitted to vary the existing planning permission and in order to regularise the development.

The proposed changes include alterations to the design, raising the height of the dwelling by 1 metre to provide living accommodation in the roof at second floor, construction of a first floor balcony platform on rear elevation and to increase the footprint of the dwelling by 2 metres in depth and 1.8 metres in length.

Consultations

The following consultees have raised **objections** to the application:

- East Haddon Parish Council, Ravensthorpe Parish Council

The following consultees have raised **no objections** to the application:

- Environmental Health, Highways Authority

Some 33 letters of objection have been received.

Conclusion

The application has been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

The key issues arising from the application details are:

- Principle of Development
- Character and Appearance, including Effect on the Special Landscape Area
- Residential and Local Amenity

The report looks into the key planning issues in detail, and Officers conclude that the proposal is acceptable subject to conditions.

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

APPLICATION SITE AND LOCALITY

The site lies in the open countryside, some 1.0km northeast of East Haddon village and some 1.3 km northwest of Holdenby village. Ravensthorpe village lies some 1.6 km to the north of the site. The site is accessed off a long private drive and is located approximately 790 metres away from Holdenby Road. Tythe Farm comprises of an isolated group of former farmstead buildings, with a large converted traditional two-storey barn to the east (East Barn) and other

smaller cottages/ houses to the south. The application building and the immediately adjacent building to the north are two recently constructed dwellings. The land drops steeply towards the rear garden of the plot, towards a brook, on the west side.

CONSTRAINTS

The site lies within the Special Landscape Area (SLA). A public footpath runs approximately 40 – 70 metres to the west of the site via the adjacent field and the footpath extends some 890 metres further out to the southwest side onto Holdenby Road. Another public footpath lies further to the west, approximately 500 metres away from the site and this runs to the north towards Ravensthorpe village.

DESCRIPTION OF PROPOSED DEVELOPMENT

The application seeks to vary condition 2 (the approved plans) of planning permission DA/2018/0157, to alter the scale and appearance of the dwelling, including raising the height of the building by 1 metre to provide living accommodation in the roof at second floor, construction of a first floor balcony platform on rear elevation and to increase the footprint of the dwelling by 2 metres in depth and 1.8 metres in length.

The dwelling approved by the original permission DA/2018/0157 measures:

35 metres in length by 9.5 metres in depth and 8.3 metres in height to the ridge

The constructed dwelling measures:

36.8 metres in length by 11.5 metres in depth and 9.3 metres in height to the ridge

Overlay drawings have been provided to more clearly illustrate the differences between the scale and design of the dwelling as constructed and the originally approved dwelling.

With the exception of the insertion of roof windows on the rear elevation and the provision of a rear platform balcony (which have not yet been installed), majority of the other works are retrospective.

Two large dormer windows were initially proposed on the rear roofslope, but following advice that such additions would not be in-keeping with the character and appearance of the building, amended plans were received to show the dormer windows omitted and replaced with rooflights. In addition, a screen has been proposed at the first floor to provide screening for the proposed rear balcony platform from the garden of Plot 2.

RELEVANT PLANNING HISTORY

The following planning history is considered relevant to the current proposal:

Application Ref.	Proposal	Decision
PD/2014/0024	Class Q prior approval was granted for the change of use and conversion of a bricked and corrugated agricultural barn into two dwelling houses, with accommodation at the first floor.	Approved
DA/2015/0459	Planning permission was approved for the demolition of the agricultural barn and construction of two, detached two-storey four bedroomed dwellings with attached garages on the site.	Approved
NMA/2016/0060	Non-material amendment was approved to application DA/2015/0459 to slightly amend the position of the two dwellings and to swap around the position of the house and garage of both plots.	Approved
NMA/2016/0085	A further non-material amendment was submitted to application DA/2015/0459 to slightly amend the position of the two dwellings, to swap around the position of the house and garage of both plots and to extend the first floor of plot 1 to change the property from a four bedroomed property to five bedroom property.	Approved
DA/2017/0065	<p>A further non-material amendment was submitted to extend the first floor of Plot 1 across the full length of the building and to the ridge of the main house, to create six bedrooms at the first floor. The changes were not considered to be acceptable as a non-material amendment and thus was refused for the following reason:</p> <p><i>"This alteration as currently proposed is not considered to be minor in the context of the previous planning approval (as amended) and would materially affect the character and appearance of both plot 1 and of the surrounding ensemble of buildings. The further lengthening of the first floor of plot 1 will not retain the overall character of the</i></p>	Refused

	<p><i>original design, and the resultant building would compete with the converted brick barn facing it to the east which should remain as the dominant element within the group.</i></p> <p><i>The site sits within an Area of Special Landscape (SLA) and the original approval (DA/2015/0459) was accepted as an exception to prevailing policy against new-build dwellings within the open countryside as it was considered that two properties with traditional proportions and appearance, designed to reflect the adjacent pre-existing nineteenth century barn but to be subservient thereto, would represent an overall environmental improvement. Subsequent incremental enlargements to plot 1 however have moved away from this position and it is considered that this current proposal, which will significantly alter the appearance and visual build of plot 1, would not be acceptable as a minor non-material amendment."</i></p>	
DA/2018/0157	<p>Following the refusal of a full height first floor element to Plot 1 under ref: NMA/2017/0065, where the changes were not considered to be minor in the context of the original planning approval, an application for full planning permission was submitted (in the form of a revised scheme) for Plot 1. This application sought permission for a 1.5 storey element on the northern end of the dwelling, as opposed to the full height extension, and planning permission was approved on 25 May 2018.</p> <p>In reaching the decision to approve the 2018 planning application, the Case Officer took into consideration that the changes follow-on from the previous NMA's but includes "<i>the further extension of the upper storey to plot 1 effectively contained within the roofspace above the garage wing, and thus represent an alternative development scenario from the previous NMA</i>" and</p>	Approved

	<p><i>"These are all sizeable dwellings sited within generous plots which are in an isolated location which is not readily visible from the public vantage points, the nearest being a public footpath which passes some 50 m away to the west at the closest point."</i></p> <p><i>"Previously the applicant was informed that it was unlikely that any further such extensions to the approved scheme would be looked upon favourably as continued incremental extensions would result in a property significantly larger than that originally approved, which would probably not have been granted approval if submitted as such from the outset. The further attempt to do just that was therefore refused. – (NMA/2017/0065)".</i></p>	
DA/2021/0131	Another separate application was submitted to regularise Plot 2, but this application was withdrawn by the Agent/ Applicant for that application.	Withdrawn

RELEVANT PLANNING POLICY AND GUIDANCE

Statutory Duty

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

Development Plan

The Development Plan comprises the West Northamptonshire Joint Core Strategy Local Plan (Part 1) which was formally adopted by the Joint Strategic Planning Committee on 15th December 2014 and which provides the strategic planning policy framework for the District to 2029, the Settlements and Countryside Local Plan (Part 2) for Daventry District adopted in March 2020 and other Supplementary Planning Guidance Documents. The relevant planning policies of the statutory Development Plan are set out below:

West Northamptonshire Joint Core Strategy Local Plan (Part 1) (LPP1)

The relevant policies of the LPP1 are:

- SA – Presumption in Favour of Sustainable Development
- S1 – Distribution of Development

- S10 – Sustainable Development Principles
- R1 – Spatial Strategy for Rural Areas
- R2 – Rural Economy
- BN2 – Biodiversity
- BN5 – Historic Environment and Landscape
- BN7 – Flood Risk
- BN9 – Planning for Pollution Control

Settlements & Countryside Part 2 Local Plan for Daventry District (Part 2) (LPP2)

The relevant policies of the LPP2 are:

- SP1 – Daventry District Spatial Strategy
- RA6 – Open Countryside
- ENV2 – Special Landscape Areas
- ENV7 – Historic Environment
- ENV10 – Design
- HO8 – Housing Mix & House Type

Material Considerations

Below is a list of the relevant Material Planning Considerations

- National Planning Policy Framework (NPPF)
- National Design Guide 2019
- Planning Practice Guidance (PPG)

RESPONSE TO CONSULTATION

Below is a summary of the consultation responses received at the time of writing this report.

Consultee Name	Position	Comment
East Haddon Parish Council		<i>Objection, "The Parish Council object to this application on the basis that the original application has not been adhered to in a number of ways. Such deviations from the original application concern the Parish Council greatly".</i>
Ravensthorpe Parish Council		<i>"Although outside Ravensthorpe parish this development is clearly visible across the valley from the High Street and elsewhere within Ravensthorpe. The houses as built are clearly substantially larger and more prominent than the agricultural buildings which they</i>

		<p><i>replace and the development is now conspicuous in the otherwise undisturbed views from the South side of the Village along to the Western edge of the Parish and from the well-used footpaths within the valley (D2, 3 and 4 within Ravensthorpe Parish and others in the East Haddon Parish).</i></p> <p><i>The submitted plans indicate that both buildings are substantially larger both in footprint and in height than was indicated in the planning applications for which consent was granted in 2018. Such blatant disregard for the planning process should be penalised and we consider that both buildings should be reduced in size and height in order to preserve the views in this special landscape area."</i></p>
WNC Highways		Does not have any comments or requests to make.
Environmental Health		Has no objection or comments to make.

RESPONSE TO PUBLICITY

At the time of writing this report, there have been some 27 pre-typed letters received from local residents making reference to information from a website (www.plt1tythefarm.com). Local residents object to the application for the reasons mentioned on the website:

"This is the matter of a house built without a valid planning permission.

A house subsequently sold without a valid planning permission.

A retrospective planning application (DA/2020/1148) is to be utilised to obtain permission for a structure where construction commenced in June 2018 – just one month after the original planning permission (DA/2018/0157) was granted.

A retrospective application for a structure that is in excess of 25% larger than the consent granted and internal accommodation possibly as much as 70% larger, than consented.

The justification for a retrospective consent set against the reasoning for the original planning permission and the limitations placed upon this development in 'open countryside' and a 'Special Landscape Area' will make very interesting reading if it is successful in permitting the building in it's current form.

Particulars of Planning Permission Breaches:

- 1) The structure is 2 metres longer than permitted.*
 - 2) The structure is 1 metre wider than permitted.*
 - 3) The rear addition/extension is 1 metre longer than permitted.*
 - 4) The main structure's ridge height is 1 metre higher than consented.*
 - 5) The consented garage wing has a higher ridge height than permitted.*
 - 6) The north most window is positioned in contravention of the approved plans.*
 - 7) The planning permission granted was for a dwelling of 4500 square feet including integral garaging. The structure built is 5700 square feet over ground and 1st floor.*
 - 8) The structure (massing) is therefore some 27% (1200 SF) larger than permitted.*
 - 9) The internal living space (ground and first floor) is some 39% larger than permitted owing to unauthorised conversion of the garage.*
 - 10) The bricking up of the garage door apertures and windows installed in their place is an unauthorised alteration.*
 - 11) The size and style of the porch built to the front is contrary to the planning permission.*
 - 12) There is no provision of the timber cladding to the garage wing as featured on the planning permission.*
 - 13) The garage wing has not been 'set back' from the main house by the 300mm as indicated on the planning permission.*
 - 14) The structure is 2 metres closer to North Barn as a consequence of its unauthorised size which is over and above it's planning permission.*
 - 15) The property is supposed to be 31.5 m away from East Barn not 29.1m as it appears to be.*
 - 16) A fixed staircase from the first floor landing to the loft/roof space/second floor has also been fitted (W/C: 7/12/20) adding another 1200 square feet of accommodation over and above breaches 7&8 above. The house is now in excess of 70 % bigger internally than permitted and totals around 7,000 square feet.*
 - 17) The property is located overlooking a public footpath that lies some 70 yards (seventy) to it's immediate western boundary and is overbearing owing to its position and size.*
 - 18) The appearance of the house owing to the alterations in size and aesthetics has made it an ugly, disjointed and an unnatural building for a location that is designated a 'Special Landscape Area'.*
 - 19) 2-3 thousand tons of subsoil dumped to its immediate rear altering the topography and to reduce the gradient of the field to its immediate rear.*
- To reiterate: none of the aforementioned points have been either the subject of a formal application prior to instigating the alterations nor have they been*

discussed, alluded to or agreed with those immediately impacted by them, the Parish Council or the local authority."

In addition, 4 other individual emails/ letters of objection have been received from other local residents, and the contents are summarised and set out below:

- *"The huge house built is nothing like the 'barn' that the developer was originally granted planning permission to build",*
- The constructed house is wider, taller and very different to the agreed footprint,
- The barn has not been built on the existing footprint of the old barn,
- The constructed dwelling is substantially larger than the approved planning permission; more of the building eg. garage and first floor, has been changed into residential accommodation,
- A massive platform is proposed overlooking and overwhelming the public footpath,
- *"A planning permission has been given for this barn at Tythe Farm to be converted but then what has ensued is that it has been a morph into an abomination instead of something in keeping with the location. This is an area of outstanding beauty."*
- *"The barn aesthetically looks nothing like the approved permission and more like a very poor version of a Travel Lodge, but situated in an area of outstanding beauty",*
- The proposal has an adverse and detrimental effect on the Special Landscape Area, and the houses are visible from nearby public rights of ways/ footpaths,
- The constructed house is positioned closer to the other neighbouring properties than agreed,
- *"Tonnes of spoil has been dumped behind the property – very close to the footpath – to give the house a more landscaped garden"; "I cannot see any evidence on whether the spoil was checked for contamination",*
- The application is retrospective and would set a precedent, *"This sort of build makes a complete mockery of building regulations and planning permission".*

Other Representations – Letter of objection from *DLP Planning Consultant* submitted on behalf of individual neighbours/ local residents. The contents/ matters raised in the letter are summarised and set out below:

- The letter makes reference to the planning history of the site/ plot where following the original planning permission granted for the demolition of an existing agricultural barn and the construction of two dwellings with garages in 2015 (DA/2015/0459), two subsequent non-material amendments were approved for the change the location of the two plots and extend the floor area of Plot 1 (NMA/2016/0060 & NMA/2016/0085). It also makes reference to a non-material

- amendment which was submitted to extend the upper storey of Plot 1 (NMA/2017/0065), but was refused on the basis that the amendment would significantly alter the appearance and visual bulk of the dwelling.
- *"Following this refusal, the Applicant was advised that any further extensions to the approved scheme would be looked upon favourably as continued incremental extensions would result in a property significantly larger than that originally approved, which in all likelihood would not have been granted approval if submitted as such from the outset".*
 - *"The above amendments demonstrate that the dwelling (as approved) has been continuously enlarged through incremental changes both through various planning and NMA applications. The application before the Council now seeks to regularise unauthorised works undertaken in addition to these approvals".*
 - *"Whilst revised drawings have been submitted following my clients informing the Council that those originally submitted were not an accurate reflection of the works carried out, the application does not set out clearly what those changes are".*
 - *"As a result of the incremental changes to the dwelling (both lawfully and unlawfully), the resultant dwelling is no longer reflective of a traditional barn building, as was the original intention for it and adjacent plots. It is out of character with the surrounding development and out of keeping with the rural character and appearance of the wider area",*
 - *"The variation of condition application (DA/2010/1148) demonstrates that the Applicant has paid no regard to the advice previously issued by the Council, nor to the concerns in relation to the impact of a larger dwelling within the open countryside. The loss of the approved substantial garaging also raises concerns for adjacent residents in terms of the pressures for such additional facilities to be required in the future, in addition to the substantial dwelling. Planning permission would be required for such a structure and will be judged on its merits should the situation arise".*
 - *"It is therefore considered that the proposal is at odds with the requirements of Policies RA6 (Open Countryside) and ENV10 (Design) of the Local Plan Part 2 (LP2) and of the guidance within the National Planning Policy Framework (NPPF)".*
 - *"It is evident that through the incremental changes and unlawful development which has been undertaken, including the works subject to the retrospective variation of condition application, that the dwelling no longer reflects a traditional agricultural appearance and has resulted in a much larger dwelling than that approved. This has, as a consequence, resulted on a negative impact on the Special Landscape Area, surrounding built development and notably that of the nineteenth-century barn and wider character and appearance of the area."*
 - *"In relation to the impact of the development on residential amenity, the unauthorised amendments have resulted in a dwelling*

approximately 2m longer and 1m higher than that approved. Consequently, the dwelling is materially closer to North Barn (Plot 2) and has subsequently impacted negatively on the residential amenity of the occupiers of that dwelling in terms of outlook and overbearing impact. WNJCS Policy R1 (D) advises that residential development in rural areas will be required to protect the amenity of existing residents. Similarly, LP2 Policy ENV10 (vii) seeks to protect the amenity of existing dwellings."

- *"It has come to our clients' attention that approximately 2,000 – 3,000 tonnes of subsoil have been deposited on land to the rear of Plot 1 in order to reduce the gradient of the land. It is not clear whether this has been investigated by either DDC as part of the breaches or NCC in its capacity as the minerals and waste planning authority. The dumping of this soil has altered the natural gradient of the land and impacted on views from public footpaths".*

Letter of objection from *Aardvark Planning Law* submitted on behalf of individual neighbours/ local residents. The contents are set out below:

"I don't set out again all the planning issues raised by DLP, but my clients remain very concerned about this application.

There is simply no good reason to depart from the existing agreed permission – that was negotiated at great length already in order to be found acceptable. The scheme has already been "maximised" by the developer. The approved building was the largest it could possibly be, and the designed features that were included to reduce its impact were the minimum that would be acceptable.

What is currently proposed would not have been acceptable if submitted then, and there simply is no good planning reason to accept it now.

It is not correct to say: "the changes are only small, what difference do they make". To the neighbours the changes make a lot of difference: Firstly the changes are not small, the building is wider, taller and bulkier, and as a consequence it is closer to its neighbours. We submit it is impossible to conclude the changes are "de minimis" or non-material.

The design changes are also not acceptable – they emphasise the bulkiness of the new design, but they are also entirely out of character for the location, and are in the nature of an "executive home", not following the design cues for an agricultural conversion which were crucial to the acceptability of the previous design. The original design was bad enough, but due process having been followed, the neighbours were resigned to living with it, notwithstanding they would have preferred something smaller and more in keeping. However these changes simply go too far and are not acceptable.

No good planning reason has been put forward for the departure from the approved plans: Nor can there be. There is no case to be made for the design to be an "improvement", it is much worse for all the affected residents than the approved plans. This isn't a case of error or legitimate individual needs such a disability leading to a change in design. This is simply an attempt by a

developer to make more money, at the expense of the neighbours, who would have to accept this overly large, poorly designed, out of character development in their midst. It is an abuse of the planning system of the most heinous sort – deliberate, premeditated and calculated for profit. Works were proceeded with in the full knowledge that they did not have planning, and that planning would not have been granted if it had been applied for before doing the works, in the hope that the Council would be complicit, turn a blind eye or be bullied into agreement by the developer.

The problem with this sort of abuse of the planning system is it undermines the whole system and if people are allowed to get away with it encourages others to try the same thing. The Council should not be complicit in this sort of abuse. It would be a scandal if developers were allowed to get away with this sort of behaviour for no good planning reason.

My clients are not unreasonable. They are not seeking to punish the developer by requiring the whole house to be demolished and concede that would not be proportionate. However allowing this amended scheme would disproportionately affect their amenity and their legitimate planning concerns. They have discussed possible compromises with the owner, which would involve limited works to reduce the bulk of the building and reduce the impact on neighbours without requiring full demolition. The owner's response is that he can't agree anything because if he does, he loses the ability to require the developer to implement the changes at the developer's expense. However, if permission is refused for this amended scheme, it is our understanding that a compromise will be forthcoming that would be implemented by the developer at no cost to the owner.

Hence in these circumstances, the only legitimate and proportionate decision the Council can make is to refuse this application: The design is unacceptable and no good reason had been put forward by the applicant for proceeding with non-compliant works in advance of planning being granted for them. If necessary, a steer could be given to the developer that the Council would seek to pursue enforcement action requiring demolition of the whole unauthorised structure, only if no appropriate compromise is proposed. The compromise that has been discussed with the owner by my clients is shown in the attached plans – which involves a substantial reduction in bulk, but at minimal cost, and improvements to the design to reduce the impact on the character of the locality. This compromise is an improvement by placing the plant room at the rear reducing the bulk, and the distance to other dwellings and other detailed design improvements to make it more in character."

APPRAISAL

Principle of Development

The principle of residential development on the site was initially established by the 2015 prior approval (PD/2014/0024). While this approval originally sought to convert a former 1.5 storey bricked and corrugated agricultural barn into two

dwellings, with living accommodation at the first floor, the prior approval was not implemented and planning permission was subsequently granted for demolition of the building and for the construction of two, two-storey detached four bedroomed dwellings with single-storey attached garages (DA/2015/0459). The subsequently approved non-material amendments (NMA/2016/0060 & NMA/2016/0085) and planning permission DA/2018/0157 have previously allowed Plot 1 to be gradually increased in size to a five, and then six bedroomed property, respectively. While the individual dwellings have been incrementally increased in size and floor area, the position of the dwelling of Plot 1 has principally remained in the same area occupied by the former agricultural building. Furthermore, in-line with Policy R1 of the Joint Core Strategy, the principle of replacing the previous agricultural barn and agricultural land use on the site with residential dwellings was considered to represent an overall environmental improvement for the site.

Although the Council has previously refused a non-material amendment (NMA/2017/0065) for a full first floor extension above the single-storey extension element of Plot 1 and has previously advised the Applicant that such extensions to the approved scheme would not be looked upon favourably as continued incremental extensions, the Council has nonetheless agreed an incremental increase to the size of the dwelling as part of the previous Non-material Amendment (NMA) applications and has also approved a first floor element above the single-storey element as part of the latest planning permission DA/2018/0157. It is considered that the 2018 planning approval and changes proposed in the current application would not conflict with the decision made for the 2017 NMA as the building would continue to retain a subservient element on the northern side of the dwelling and would not be extended to ridge height level across the full length of the building. Moreover, the criteria for assessing NMA applications are different to an application submitted for variation (under Section 73 of the Town and Country Planning Act 1990) and for full planning permission. While the changes proposed in the 2017 application were not considered acceptable as a 'minor non-material amendment', this does not mean to say that an application could not be submitted to enable further changes to be considered in the form of a 'material amendment' or full planning application; and hence DA/2018/0157 was subsequently submitted and approval has been granted to raise the height of the single-storey element of Plot 1 and to accommodate a sixth bedroom.

Therefore, the principle of residential development has previously been established on the site and all the Council can consider in this application submitted for variation, is the effect of the proposed changes on the character and appearance of the area, Special Landscape Area, public footpaths, residential amenity and highway safety.

Each of these matters are considered in turn below:

Character and Appearance of the Area (Including Special Landscape Area)

Policy RA6 of the Part 2 Local Plan recognises the intrinsic character, beauty and tranquillity of the open countryside and sets out the forms of development which will be supported in the open countryside. Criterion vi) gives support to existing buildings that respect their form and character. Policy ENV2 offers protection to Special Landscape Areas and states that "*The Council will consider the impact of proposals on the special qualities of the Special Landscape Areas, including cumulative impacts, and will resist proposals that would have a harmful effects on their special qualities that cannot be successfully mitigated*".

In comparison with the dwelling approved under DA/2018/0157, the final constructed dwelling has been built approximately 1 metres taller in height, 1.8 metres longer in length and 2 metres in depth and the northern first floor extension element has been raised slightly in height. Some other changes have also been proposed to the external fenestrations of the building, including slightly changing the arrangement and design of the windows and doors, enlarging the front porch and the addition of a balcony platform on the rear elevation.

When viewed from the grounds of the former farmyard, it could be noted that Plots 1 and 2 do not appear as dwellings subservient to the pre-existing nineteenth century barn positioned to the east and nor do the properties display traditional proportions and appearance. However, the situation would have been very similar for the schemes previously consented. The dwellings (Plots 1 and 2) as constructed would out-scale the neighbouring barn, and in accumulation, have altered the character and appearance of the site and the wider surrounding rural landscape. However, in assessing this proposal, the Council can only give limited weight to assessing the visual effect of the proposals from within the farmyard itself, as this forms part of private land and properties and would not be regarded to be a public vantage point. Furthermore, the Council will need to take into consideration the fact that the previous consents DA/2018/0157, DA/2015/0459 and NMA/2016/0060 & NMA/2016/0085, have previously granted two relatively large dwellings on the site and of a design and form very similar to the dwellings now constructed.

As commented by the Case Officer for DA/2018/0157, "*These are all sizeable dwellings sited within generous plots which are in an isolated location which is not readily visible from public vantage points, the nearest being a public footpath which passes some 50 metres away to the west at the closest point*". The constructed dwelling, together with the dwelling on the adjacent plot (Plot 2), are visible from the public footpath to the west – this is owing to the dwellings being positioned on a bank / on higher level ground and the dwellings being intermittently screened by a hedgerow located on the other side of the brook. Whilst the constructed dwelling could be seen from the public footpath at the nearest point some 40 to the west and also from longer distance viewpoints across fields (including public footpaths) some hundreds of metres to the west and southwest, it is considered that the size of the constructed dwelling and other elevational changes would not have much more impact on the character and appearance of the rural landscape and Special Landscape

Area than the dwelling originally approved as part of the 2018 planning application. It is considered that the differences/ discrepancies between the constructed dwelling and the dwelling approved by the original application would not amount to a degree of harm which would justify refusal of the application. In reaching this opinion, Officers have taken into consideration the visual impacts of the constructed dwelling in the wider landscape context.

Officers have also considered whether additional landscaping would help to mitigate the visual impacts of the proposals. However, owing to typography and the scale of the proposed dwellings, it is not considered that additional planting within the rear gardens of the plot(s) would provide successful screening for the development.

Residential Amenity

Policy R1 (D) and ENV10 viii) seek to protect the amenity of occupiers of new and existing dwellings. The existing neighbouring premises positioned opposite the site to the east (East Barn) has a first-floor bedroom window to the north of the west facing front elevation. The alterations proposed to the first floor of Plot 1 on the northern side would result in two first-floor dormer windows of Plot 1 being positioned closer to the 'direct line of sight' of the neighbouring bedroom window. However, it is not considered that there would be significantly more overlooking impact from this proposal on the neighbouring premises than the dwelling originally approved under DA/2018/0157. The front of the constructed dwelling is positioned more than 20 metres away from the front of East Barn. At a distance of over 20 metres, this would normally be sufficient to prevent undue overlooking between the front of two neighbouring premises. Furthermore, the other first floor windows on East Barn serve a hallway/ non-habitable rooms and therefore would not be adversely affected. Tall close boarded fencing currently surrounds the front garden of the neighbouring premises and application property, and such fencing would prevent undue overlooking between the ground floor windows of the Plot 1 with the ground floor windows of the neighbouring premises.

Plot 1 would be positioned approximately 2 metres closer to Plot 2 to the north. However, owing to the subservient design of the northern side of Plot 1 and as the main house would be positioned approximately 13 metres away from the front of Plot 2, it is considered that no undue overbearing or overshadowing issues would occur. Plot 2 do not have any first-floor front habitable room windows that would directly face onto the north side of Plot 1 and outlook from the nearest ground floor windows of Plot 2 would already be affected by the existing close boarded fence.

A first floor platform balcony is being proposed at the rear of Plot 1 and the balcony would be located close to the garden of Plot 2. In order to prevent undue overlooking on the grounds/ garden of Plot 2, a condition would be necessary to ensure that an opaque glazed screen be installed before the balcony area is first brought into use. No undue overbearing or overshadowing

issues would occur from the proposed first floor balcony screen, due to this comprising of a frosted/ opaque type of screen. Furthermore, Plot 2 does not have any first-floor habitable room windows on the south facing side nearest to the proposed balcony that would be directly affected by the proposed balcony.

Highway Safety

The application seeks to convert the previously approved integral triple garage into living accommodation area. As the dwelling would have ample parking and turning area within the front garden of the plot, there would be no significant parking issues following the loss of the garages. Should the owners require garaging facilities in the future, then formal planning permission would be required and any application will need to be considered on its own planning merits.

The existing vehicular access along Holdenby Road has been re-constructed and passing bays have been installed along the private access drive. The means of access has been established by the original planning approval and the changes proposed in the current application do not raise any further issues. The Local Highway Authority has no objection or comments to make on this application.

FINANCIAL CONSIDERATIONS

The original approved dwelling had a floor area of 408.6 m² and the constructed dwelling would have a floor area of 614.68 m². The proposed changes involve increasing the floor area of the previously approved dwelling by 206.08m² and the net increase in floor area would be chargeable for the Community Infrastructure Levy (CIL), should the Council decide to grant planning permission to the application.

OTHER MATTERS

"Tonnes of spoil has been dumped behind the property – very close to the footpath – to give the house a more landscaped garden"; "I cannot see any evidence on whether the spoil was checked for contamination" – The Council has received complaints about 'spoil' / top soil being deposited onto the site, however from the latest visual inspections carried out by Officers, it has been difficult to ascertain whether this has been the case, as any such top soil has been made level with the land to the immediate west and rear of the plot and there were no apparent signs of re-grading works or other engineering works taking place on the land at the time of the visits. Should the owners wish to use the land to the immediate rear of the site as garden land for the plot in the future, then this would require a separate planning application and any such proposal would need to be assessed on its individual planning merits.

"The planning permission granted was for a dwelling of 4500 square feet including integral garaging. The structure built is 5700 square feet over ground and 1st floor. 8) The structure (massing) is therefore some 27% (1200 SF) larger than permitted. 9) The internal living space (ground and first floor) is some 39% larger than permitted owing to unauthorised conversion of the garage"; "There has been a number of breaches and this is a retrospective application" – It is noted that there are a number of discrepancies between the constructed dwelling and the dwelling approved by the original planning permission DA/2018/0157. However, the general position of the dwelling within the plot and the design and form of the dwelling remains similar to the dwelling originally consented. The main differences are the increase in the footprint of a dwelling by some 1.8 metres in length by 2 metres in depth; increase in the height of the dwelling by 1 metres and some changes to the external fenestrations i.e. window design, increase in the size of the front porch and to include a rear balcony platform. Living accommodation comprising of a family room, study and store room are also proposed at the second floor, however, these would be contained within the roof of the two-storey building. Overlay drawings have been provided to more clearly illustrate the differences between the scale and design of the dwelling as constructed and the originally approved dwelling. While the proposed changes involve increasing the floor area of the previously approved dwelling by 206.08m²; approximately 93 m² would be contained within the roof (second floor) of the building and the floor area of the ground floor and first floors have each been increased by approximately 56.5 m². The application has been submitted to regularise the development and developers/ owners are entitled to submit an application to regularise the situation and Local Planning Authorities are required to consider retrospective applications in the normal way and on their own planning merits.

"The proposal would set a precedent" – Although owners/ developers can submit an application, it cannot be assumed that planning permission would be granted and any breach of planning control would not be immune from enforcement action, should the Council consider it to be expedient and reasonable to proceed with further action.

"The property is supposed to be 31.5 m away from East Barn not 29.1m as it appears to be." – Clarification has been sought from the agent/ architect on this matter. The architect has illustrated the position of the dwelling being applied for on the Proposed Site Plan based on Ordnance Survey data as they do not have actual survey data to confirm the distance between the constructed building with neighbouring buildings. This approach would normally be regarded to be acceptable, as the Local Planning Authority cannot expect the architect to survey neighbouring land and verify measurements between buildings at ground level given the distances involved. Furthermore, as the dwellings have already been constructed and this is a retrospective application, Officers will be able to assess the effects of the proposals on neighbouring premises and the surrounding area based on the dwelling as constructed.

"Enforcement action should be taken." – The application has been submitted in the name of the developer, however, the site has since be transferred into separate private ownership and any enforcement action will be undertaken against the current owner(s). In tackling alleged breaches of planning control, the National Planning Practice Guidance (NPPG) advises that Local Planning Authorities *"should act in a proportionate way"* and *"Local planning authorities have discretion to take enforcement action, when they regard it as expedient to do so having regard to the development plan and any other material planning considerations"* (NPPG Paragraph: 003 Reference ID: 17b-003-20140306). After considering the scale and appearance of the originally approved development and the dwelling as constructed, Officers do not consider it to be expedient to pursue enforcement action in this instance.

PLANNING BALANCE AND CONCLUSION

The principle of residential development on the site has been established by the previous planning permissions. Owing to the scale and design of the original approved scheme, it is considered that the changes proposed in this application would not have significantly more impact on the character and appearance of the site, surrounding rural area and Special Landscape Area, and public rights of ways, than the dwelling previously approved. The proposed changes would not result in any more impact on neighbour residential amenity and no significant highway issues or other issues have been identified that would justify refusal of the application

RECOMMENDATION / CONDITIONS AND REASONS

It is recommended that the application be **APPROVED** subject to the following conditions;-

1. Except where expressly stated by other conditions on this planning permission, the development shall be carried out strictly in accordance with the details shown on the following amended drawings deposited with the Local Planning Authority:
 - Drawing number: 015-012-003 Revision Z2 'Proposed Site & Block Plan' received on 18.03.2021
 - Drawing number: 015-012-400 Revision Z 'Proposed Plan – Plot One (Approved Plan Overlay)' received on 17.03.2021
 - Drawing number: 015-012-401 Revision Z3 'Proposed Elevations (Approved Elevations Overlay)' received on 19.03.2021
 - Drawing number: 015-012-004 Revision Z3 'Proposed Plan – Plot One' received on 19.03.2021
 - Drawing number: 015-012-005 Revision Z2 'Proposed Elevations' received on 19.03.2021.

Reason: To clarify the terms of this planning permission, to ensure that the development is carried out in accordance with the submitted details and to allow the Local Planning Authority to consider the effect of any changes.

2. Before the rear balcony platform area hereby permitted are first brought into use, the 2 metre tall screen in the north facing elevation of the approved first floor balcony shall be fitted with obscured glazing or opaque acrylic (or alternative similar materials) to prevent overlooking on the neighbouring premises/ gardens and the obscured glazing/ acrylic panels in the screens shall thereafter be retained in perpetuity and shall not be reinstated to clear glazing or be altered or removed without the prior express written consent of the Local Planning Authority. (Replacement of the glass/ acrylic panels of an identical obscured type would not necessitate the Local Planning Authority being notified).

Reason: In the interest of preserving the residential amenities and privacy of the adjacent occupiers and users of the application property.

3. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and reenacting that Order with or without modification) no development shall be carried out which falls within Classes A to E inclusive of Part 1 of Schedule 2 to the Order without the prior express consent of the Local Planning Authority.

Reason: To ensure that the appearance of the approved development within a Special Landscape Area and within the open countryside is not harmed by subsequent unsympathetic permitted alterations and in the interest of residential amenity.

4. The development hereby approved shall proceed in accordance with the recommendations of the contaminated land report previously submitted in accordance with planning application DA/2015/0459, reference: 'Stage 1: Desktop Study and Risk Assessment Report at Tythe Farm, Holdenby Road, East Haddon, Northamptonshire, NN6 8DW', report no: YE2764 (Revision 1) dated November 2016, by Your Environment, Chilgrove Business Centre, Chichester. This shall include any further works or measures as subsequently identified by Local Planning Authority with respect to identified on-site sources of potential

contamination. The site shall be remediated in accordance with the approved measures before development begins.

Reason: In the interests of the health and wellbeing of future occupants that any contamination is satisfactorily addressed and dealt in accordance with Paragraph 179 of the NPPF and Policy BN9 of the West Northamptonshire Joint Core Strategy.

5. If during development, contamination not previously considered is identified, then the Local Planning Authority shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspected contamination has been submitted to and agreed in writing by the Local Planning Authority, and the implementation of any necessary remediation works has taken place and a verification report has been approved in writing by the Local Planning Authority.

Reason: In the interests of the health and wellbeing of future occupants that any contamination is satisfactorily addressed and dealt with in accordance with Paragraph 179 of the NPPF and Policy BN9 of the West Northamptonshire Joint Core Strategy.

Notes

- 1. In making this decision, the Local Planning Authority has had regard to the requirements of Paragraph 38 of the National Planning Policy Framework and Article 35 (2) of the Town and Country (Development Management Procedure)(England) Order 2015 (as Amended).**
- 2. The applicant's attention is drawn to the fact that the Council has identified this development as liable for Community Infrastructure Levy (CIL) payments under the 'Daventry District Council Community Infrastructure Levy Charging Schedule – Approved' on 31 July 2015 which has been implemented by the District Council under the provisions of 'The Community Infrastructure Levy Regulations 2010 (as amended).' Accordingly, unless exemptions have been sought under the provisions of the CIL Regulations, payment of CIL charges will be payable to the Council upon commencement of development. Further information on CIL can be found on the Council's website.**

- 3. The applicant is advised that Northamptonshire has varying levels of radon due to its underlying geology. Radon can enter buildings and affect the health of the occupants living in affected areas. Advice should be sought from local authority building control officers or from approved inspectors to establish if radon protection is necessary and if this is the case radon protection measures will need to be installed in accordance with BRE Report (BR 211 Radon: guidance on protective measures for new dwellings).**