

**Alteration to land levels (retrospective)**

**Report Item No  
A2**

**The Stables  
4 Kelhams Court  
Hemington  
Derby  
DE74 2SF**

**Application Reference:  
22/01571/FUL**

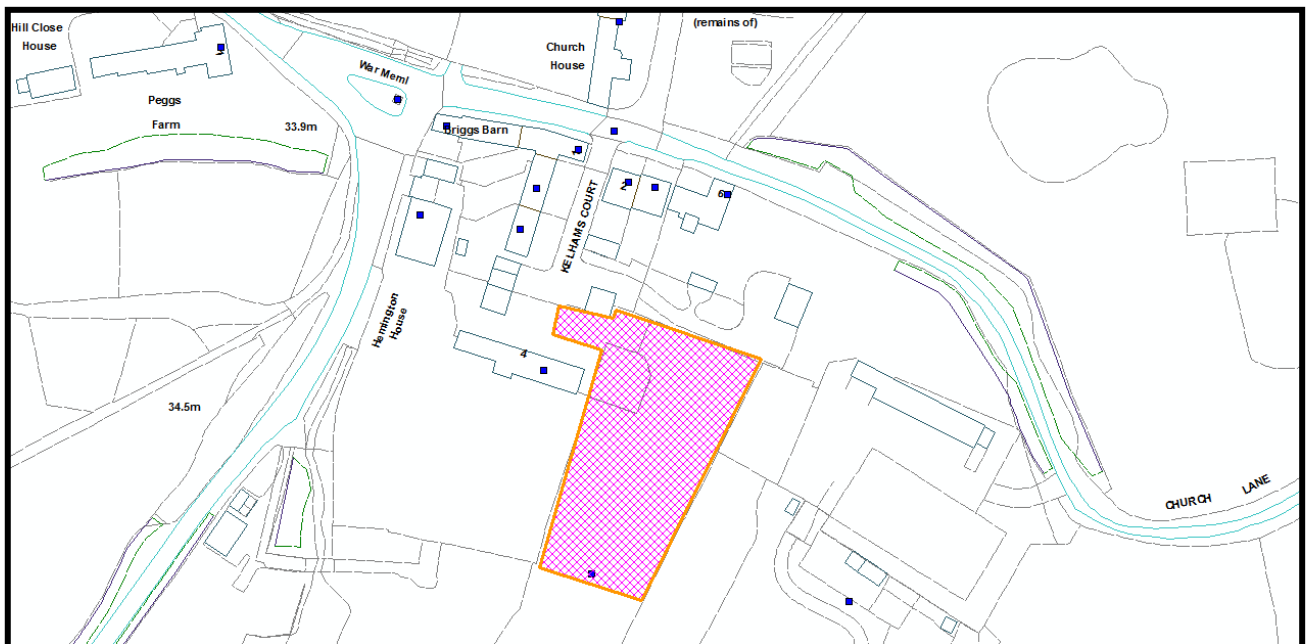
**Date Registered:  
14 October 2022  
Consultation Expiry:  
17 January 2023  
8 Week Date:  
28 November 2022  
Extension of Time:  
10 February 2023**

**Applicant: Laura Hughes**

**Case Officer: Lewis Marshall**

**Recommendation:  
PERMIT**

**Site Location - Plan for indicative purposes only**



Reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the controller of Her Majesty's Stationery Office  
©copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence LA 100019329)

**RECOMMENDATION – PERMIT, subject to the following condition(s):****1. Approved plans**

Informative to applicant: This permission gives approval only for the development as described and does not give permission to change the use of the land or to use the land for any other purposes. To do this would require the submission of a new planning application to the Council for consideration.

This application is brought to Planning Committee in line with Part 4, Rule 7.4 of the Council's Constitution (2021) because the application is recommended for approval by officers and the application is submitted by the close relative of a serving member or officer of the Council. It must be emphasised that the Senior Officer who is the relative of the Planning Agent for this case has not been involved in any way or form with the consideration of this application.

**MAIN REPORT****1. Proposals and Background**

This is a full retrospective planning application for the works undertaken on land to include the cutting, filling and reprofiling of land within the paddock to the east of 4 Kelhams Court. The work took place and was completed in October 2020. The applicant has sought to justify the proposals on the basis that the previously sloping land was causing surface water run-off to flood the adjacent patio area which falls within the curtilage of the applicants dwelling.

The application site measures 0.17ha and relates to agricultural land to the east of 4 Kelhams Court, a converted barn forming part of the wider Kelhams Court Conversion scheme. The converted barns originally formed part of the farm buildings associated with Hemjngton House Farmhouse, a grade II listed building. The existing dwelling and its curtilage are within the Hemington Conservation Area and within the setting of a number of listed buildings. Whilst the building has been severed from the curtilage of the principal listed building, it would have at one time been considered as curtilage listed. It is now considered a non-designated heritage asset in its own right and identified as an unlisted building of interest with the Hemington Conservation Area Appraisal. The paddock land which is the subject of this application falls within the countryside, outside of the domestic curtilage of 4 Kelhams Court and is outside of, but within the setting of the Hemington Conservation Area. A proposed plan of the site and land which falls under the applicant's ownership is shown on figure 1 below.

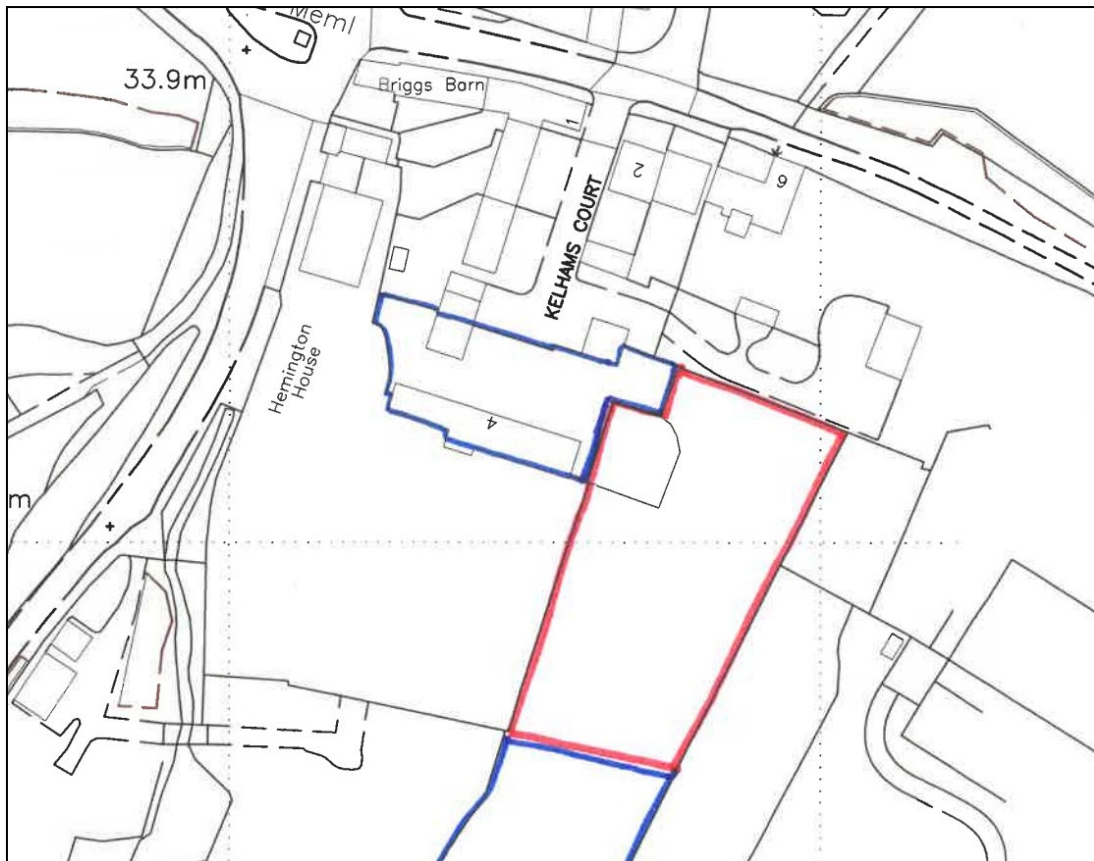


Figure 1 – Site Location Plan

Following the receipt of consultation responses additional and/or amended information has been provided and re-consultation undertaken.

The application is supported by a Planning Statement and topographical survey. The plans and all other documentation associated with the application are available to view on the District Council's website.

The planning history for the site is listed below -

22/01568/FUL - Garage conversion, new electric gates, erection of new boundary treatment and insertion of rooflight to existing dwelling - Pending Consideration

22/01569/FUL - Erection of a single storey extension – Refused

22/01570/FUL - Erection of a storage/implement store building - Refused

11/00841/VCI - Conversion of barns to form five dwellings, erection of associated garaging – permitted. 15/00934/FUL - Erection of detached garage and store – application withdrawn.

11/00172/FUL - Conversion of barns to form five dwellings, erection of associated garaging – permitted.

10/00333/EXT - Extension of time limit to implement planning permission ref 07/00238/FUL for Proposed conversion and alteration of existing outbuildings to form 6 no. dwellings along with the provision of associated garaging/parking, erection of new hay store and stable buildings and alterations to vehicular accesses with associated works – permitted.

10/00121/FUL - Conversion of barns to form six dwellings and erection of associated garaging – permitted.

07/00238/FUL - Proposed conversion and alteration of existing outbuildings to form 6 no. dwellings along with the provision of associated garaging/parking, erection of new hay store and stable buildings and alterations to vehicular accesses with associated works – permitted.

05/01356/FUL - Conversion of barns to form six dwellings, erection of one dwelling and erection of stables and hay store – application refused.

## 2. Publicity

Seven neighbours notified on 17 October 2022 and reconsulted on 3 January 2023.

A site notice was displayed on the 19 October 2022.

A press notice was published in the Derby Evening Telegraph on the 26 October 2022.

## 3. Summary of Consultations and Representations Received

The following summary of representations is provided. All responses from statutory consultees and third parties are available to view in full on the Council's website.

### No Objections from:

Leicestershire County Council – Ecology.  
Leicestershire County Council – Archaeology  
NWLDC – Conservation Officer

### Third Party Representations

Two letters of representation have been received objecting to the application with the comments raised summarised as follows:

<u>Topic of Objections</u>	<u>Summary of Objections to Topic</u>
<u>Drainage</u>	The only concern is whether sufficient work has been carried out to ensure that any runoff water has been diverted, to ensure that our property, and the rest of the properties in Kelhams Court, aren't at risk of future flooding.

## **4. Relevant Planning Policy**

### **National Policies**

#### **National Planning Policy Framework (2021)**

The following sections of the NPPF are considered relevant to the determination of this application:

Paragraphs 8 and 10 (Achieving sustainable development)  
 Paragraphs 11 and 12 (Presumption in favour of sustainable development)  
 Paragraphs 38, 39, 40, 41, 42, 44 and 47 (Decision-making)  
 Paragraphs 55, 56 and 57 (Planning conditions and obligations)  
 Paragraph 81, 82 and 83 (Building a strong, competitive economy)  
 Paragraphs 93 and 100 (Promoting healthy and safe communities)  
 Paragraphs 107, 108, 109, 110, 111, 112 and 113 (Promoting sustainable transport)  
 Paragraphs 119, 120, 122 and 124 (Making effective use of land)  
 Paragraphs 126, 128, 130, 132 and 134 (Achieving well-designed places)  
 Paragraphs 152, 153, 154, 157, 159, 161, 167 and 169 (Meeting the challenge of climate change, flooding, and coastal change)  
 Paragraphs 174, 180, 183, 184, 185, 186, 187 and 188 (Conserving and enhancing the natural environment) and  
 Paragraphs 189, 194, 195, 197, 199, 200, 202, 204 and 205 (Conserving and enhancing the historic environment)

### **Local Policies**

#### **Adopted North West Leicestershire Local Plan (2021)**

The following policies of the adopted local plan are consistent with the policies of the NPPF and should be afforded full weight in the determination of this application:

Policy S2 – Settlement Hierarchy;  
 Policy S3 – Countryside;  
 Policy D1 – Design of New Development;  
 Policy D2 – Amenity;  
 Policy En1 – Nature Conservation;  
 Policy He1 - Heritage  
 Policy Cc2 – Water – Flood Risk; and  
 Policy Cc3 – Water – Sustainable Drainage Systems.

### **Other Policies**

National Planning Practice Guidance.  
 Good Design for North West Leicestershire Supplementary Planning Document – April 2017.  
 Leicestershire Highways Design Guide (Leicestershire County Council).  
 Planning (Listed Buildings and Conservation Areas) Act 1990 – Sections 66 and 72.  
 Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System).  
 Hemington Conservation Area Study and Appraisal 2001

## 5. Assessment

### Principle of Development

The site is located outside of the Limits to Development of any settlement and is therefore in the countryside as defined by the adopted Local Plan. The proposal would result in regrading and levelling of land within the countryside for the purposes of installing land drains and a soakaway to improve drainage and prevent surface water flooding. Development in the countryside for such purposes is supported in principle by policy S3(f) providing, inter-alia, the development respects the character and appearance of the countryside and heritage assets. This is considered further in the section below.

Overall, it is considered that the principle of development is acceptable, and the proposal falls to be considered in terms of design, heritage impact, amenity, and any other relevant matters.

### Design and Impact upon Character and Heritage Assets

Policy D1 of the Local Plan (2021) requires that all developments be based upon a robust opportunities and constraints assessment and be informed by a comprehensive site and contextual appraisal. Policy S3 requires that developments in the countryside safeguard and enhance the appearance and character of the landscape, including its historic character and local distinctiveness. Policy He1 of the adopted Local Plan and the advice in the NPPF requires heritage assets to be preserved and enhanced. Where development results in harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

The proposed development must also be considered against sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which states that special regard shall be had to the desirability of preserving the character and appearance of the conservation area, a listed building or its setting or any features of special architectural or historic interest which it possesses.

Kehams Court forms a group of barns that are considered to be non-designated heritage assets by virtue of their historic use and connection with the principal listed building at Hemington House Farmhouse, a grade II listed building. Hemington House Farmhouse is located 25m to the north of the site with its associated curtilage forming the northern boundary of the application site. The barns within Kelham Court are identified within the Hemington Conservation Area Appraisal and Study to be positive unlisted buildings within the conservation area. The grade II listed Hemington House is located to the west of Kelhams Court. The land that is subject to the application positively contributes to the setting of Hemington House Farm House as a grade II listed building and the setting of the unlisted barns within Kelhams Court. The land is also considered to positively contribute to the setting of the Hemington Conservation Area.

The ground works undertaken cover an area of approximately 850 square meters with approximately 350 square meters having been levelled and flat. Prior to the works being undertaken, the shallow gradient of the land fell to the north west in the direction of the Kelhams Court. The works have reprofiled the land so that there is a more distinct drop in levels between the eastern boundary of the site (39.35 AOD) and the levelled central area (37.10 AOD). The 2.25m change in levels occurs over approximately 9.5m from the western boundary where the change in levels is most visually evident (see figures 2 and 3 below).



Figure 2



Figure 3

Whilst the change in levels has resulted in the land losing its natural sloping topography, it is not considered that this has changed its character to such an extent that it causes harm to the character and appearance of the countryside. The land in its current condition remains a grass land paddock with views of the land from any public vantage points being restricted. Furthermore, the land when viewed from Kelhams Court and Hemington House Farm House remains one which is verdant and open that continues to positively contribute to the setting of the designated and non-designated heritage assets. Furthermore, it is also considered that the change in levels does not have an impact on the setting of the Conservation area for the same reasons as set out above.

Overall, the proposal is in accordance with Policies D1, S3 and He1 of the adopted Local Plan, the Council's Good Design SPD, and relevant sections of the NPPF.

Furthermore, the proposal would serve to preserve the setting of listed buildings and the character and appearance of the Conservation area as is desirable under Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Impact upon residential amenity**

Policy D2 of the Local Plan (2021) requires that proposals for development should be designed to minimise their impact on the amenity and quiet enjoyment of both existing and future residents within the development and close to it. It is important to consider the relationship between the neighbouring property in terms of overlooking, privacy, access to light, noise and odour.

The application does not propose a change in use of the land and as such the appearance of the site in its current form and how this impacts on the amenity of neighbouring occupiers is the only consideration.

Land levels are broadly lower in the most northerly and westerly parts of the site where the land is in close proximity to neighbouring dwellings. As such, it is considered that the levels do not provide any greater opportunity for overlooking or result in any loss of privacy. Given the distance from neighbouring dwellings, there has also been no impact in terms of light or overshadowing. Additionally, there would be no impacts in terms of noise odour or outlook.

Overall, the proposal is not considered to result in significant impacts upon existing surrounding or future occupier residential amenity.

Therefore, the proposal is considered to be in accordance with Policy D2 of the adopted Local Plan, the Council's Good Design SPD, and relevant sections of the NPPF.



## Highway Considerations

Policy IF4 of the Local Plan (2021) requires that development takes account of the impact upon the highway network and the environment, including climate change, and incorporates safe and accessible connections to the transport network to enable travel choice, including by non-car modes, for residents, businesses, and employees. Policy IF7 of the Local Plan (2021) requires that development incorporate adequate parking provision for vehicles and cycles to avoid highway safety problems and to minimise the impact upon the local environment.

The site is located 70m from the edge of the public highway with no direct access between the land and the public highway. Accordingly, the proposal has and will not result in any implications for the highway network.

Overall, the application is considered to be in accordance with the guidance set out within the Leicestershire Highway Design Guide and the application is considered to be acceptable when having regard to Local Plan Policies IF4 and IF7 as well as the guidance set out within the NPPF.

## Ecology

Policy EN1 of the Local Plan supports proposals that conserve, restore or enhance the biodiversity of the district. The application is not supported by an Ecological Survey or appraisal. The site prior to its re-profiling was grassland paddock and remains as grassland paddock. No features of biodiversity have been removed to facilitate the proposed works. Accordingly, Leicestershire County Council Ecology raises no objection.

Given the extent of the works overall, it is not considered that there would be any impact on protected species, their habitats, or other features of biodiversity. The development accords with policy Ne1 and the NPPF.

## Flood Risk and Drainage

The site is situated within Flood Zone 1, an area at lowest risk from fluvial flooding, and the existing dwelling is identified as an area at low risk of surface water flooding, as defined by the Environment Agency's Surface Water Flood Maps. As the site is not at high risk of surface water flooding and is not a major application, the LLFA are not a statutory consultee in this instance.

Given that there would be no increase in hardstanding or surfacing, it is not considered the proposal would result in a material impact on flood risk or drainage. Concerns have been raised that the works undertaken in changing the land levels could result in surface water run off being rediverted away from the applicants dwelling and impact on other nearby properties.

It should be noted that the works were completed in October 2020 and no incidents or evidence of surface water flooding have been raised by neighbours out of the consultation process. The works undertaken include the levelling of land and the installation of a soakaway which retains water on the site and it is naturally filtrated underground. Furthermore, the profile of the land at the site edges is such that it will continue to contain surface water on land within the applicant's ownership rather than being redirected to any neighbouring land.

It is considered that the proposal would not result in flooding or surface water drainage issues and consequently would accord with the aims of Policies Cc2 of the adopted Local Plan, as well as the guidance set out within the NPPF.



## Conclusion

Whilst the application site is outside the defined Limits to Development Policy S3 of the adopted Local Plan allows for flood alleviation works in the countryside. Consequently, the proposal is compliant in principle with Policies S3 of the adopted Local Plan.

Is also considered that the proposal has not resulted in harm to the significance of designated heritage assets, those being the setting of the Hemington Conservation Area and the setting of Hemington House Farm House as grade II listed building. The proposal would also preserve the significance of the non-designated heritage asset, that of the existing barn, its setting and the setting of other converted barns within the wider group that forms Kelhams Court.

The scope of the works undertaken are such that there are no detrimental impacts to the character and appearance of the visual landscape, residential amenity, highway safety, ecology, archaeology, nor would the proposal exacerbate any localised flooding impact. There are no other relevant material planning considerations that indicate planning permission should not be granted and consequently the proposal is deemed to comply with the relevant policies of the adopted Local Plan the Council's adopted Good Design SPD and the advice within the NPPF.

It is therefore recommended that planning permission be granted subject to conditions as set out above.