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**Wednesday, 25 June 2025**

**Chair: Councillor A Freeman  
Vice-Chair: Councillor D Moore**

**Members of the Committee:**

**Councillor A Amer  
Councillor C Brooks  
Councillor L Dales  
Councillor S Forde  
Councillor P Harris  
Councillor K Melton  
Councillor E Oldham**

**Councillor P Rainbow  
Councillor S Saddington  
Councillor M Shakeshaft  
Councillor T Smith  
Councillor L Tift  
Councillor T Wildgust**

<b>MEETING:</b>	<b>Planning Committee</b>
<b>DATE:</b>	<b>Thursday, 3 July 2025 at 4.00 pm</b>
<b>VENUE:</b>	<b>Civic Suite, Castle House, Great North Road, Newark, NG24 1BY</b>
<p><b>You are hereby requested to attend the above Meeting to be held at the time/place and on the date mentioned above for the purpose of transacting the business on the Agenda as overleaf.</b></p> <p><b>If you have any queries please contact Catharine Saxton on <a href="mailto:catharine.saxton@newark-sherwooddc.gov.uk">catharine.saxton@newark-sherwooddc.gov.uk</a>.</b></p>	

## **AGENDA**

### **Page Nos.**

1. Notification to those present that the meeting will be recorded and streamed online
2. Apologies for Absence
3. Declarations of Interest by Members and Officers
4. Minutes of the meeting held on 5 June 2025

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### **Part 1 - Items for Decision**

5. Land At Shannon Falls, Tolney Lane, Newark On Trent, NG24 1DA - 25/00573/S73 9 - 40
6. Land Off Sandhills Sconce, Tolney Lane, Newark-On-Trent - 24/02008/S73 41 - 69
7. Land At The West Lawns, Southwell - 25/00637/FUL 70 - 92  
  
Site Visit: 10.20 am – 10.30 am
8. Field Reference Number 8890, Mansfield Road, Edwinstowe - 24/01195/RMAM 93 - 119  
  
Site Visit: 11.25 am – 11.35 am
9. Land Adjacent to Tesco Express, Kirklington Road, Rainworth, NG21 0AE - 24/01878/FUL 120 - 141  
  
Site Visit: 10.45 am – 10.55 am
10. Recycling Compound, Lorry And Coach Park, Great North Road, Newark On Trent - 25/00744/S73 142 - 156  
  
Site Visit: 12.15 pm – 12.25 pm

### **Part 2 - Items for Information**

11. Planning Reform Update 157 - 165
12. Appeals Lodged 166 - 168
13. Appeals Determined 169 - 170

### **Part 3 - Exempt and Confidential Items**

14. Exclusion of the Press and Public  
  
There were none.

## NEWARK AND SHERWOOD DISTRICT COUNCIL

Minutes of the Meeting of **Planning Committee** held in the Civic Suite, Castle House, Great North Road, Newark, NG24 1BY on Thursday, 5 June 2025 at 4.00 pm.

PRESENT: Councillor A Freeman (Chair)

Councillor A Amer, Councillor C Brooks, Councillor L Dales, Councillor K Melton, Councillor E Oldham, Councillor P Rainbow, Councillor L Tift and Councillor T Wildgust

ALSO IN ATTENDANCE: Councillor N Allen

APOLOGIES FOR ABSENCE: Councillor D Moore (Vice-Chair), Councillor S Forde, Councillor P Harris, Councillor S Saddington and Councillor M Shakeshaft

1 NOTIFICATION TO THOSE PRESENT THAT THE MEETING WILL BE RECORDED AND STREAMED ONLINE

The Chair informed the Committee that the Council was undertaking an audio recording of the meeting and that it was being live streamed.

2 DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

Councillors L Dales, A Freeman and K Melton declared an other registrable interest for any relevant items, as they were appointed representatives on the Trent Valley Internal Drainage Board.

3 MINUTES OF THE MEETING HELD ON 8 MAY 2025

AGREED that the minutes from the meeting held on 8 May 2025 were agreed as a correct record and signed by the Chair.

4 LITTLE ELMS PRE SCHOOL, THE SCHOOL BUILDING, MAIN STREET, OXTON, SOUTHWELL, NG25 0SA - 25/00133/FUL

The Committee considered the report of the Business Manager – Planning Development, which sought approval for the temporary siting of a portable classroom that would allow the current child places to increase from 55 to 72. The proposal site was identified as being within Oxtton Conservation Area, the Green Belt and within the setting of listed buildings.

A site visit had taken place prior to the commencement of the Planning Committee, for Members as there were specific site factors and/or significant policy or precedent implications that needed to be carefully addressed; and the impact of the proposed development was difficult to visualise.

Members considered the presentation from the Business Manager – Planning Development, which included photographs and plans of the proposed development.

Mr I Wigglesworth, neighbour, spoke against the application.

Councillor H Lempicki, Oxtun Parish Council, spoke against the application.

Ms S Vanner, the applicant, spoke in support of the application.

Councillor R Jackson Local Ward Member, Dover Beck, spoke against the application.

Members considered the application, and some Members commented that they could not see a problem with the temporary classroom, it would be set back from the building line of the main school building, would be located in the playground which was already tarmac. Members carefully considered the impact on adjacent residents. The noise from the children may be quieter for neighbours, with the children being in the classroom rather than being outside in the playground. There was also a need for pre-school places. Other Members felt that this should not be allowed in the Green Belt and raised concerns about the design of the portable building in a conservation area. Members also debated the need for the classroom, including noise and traffic impacts.

In accordance with the Planning Protocol, as Councillor E Oldham arrived during the Officer presentation, she took no part in the debate or vote.

AGREED (with 6 votes For and 3 votes Against) that Planning Permission be approved subject to the conditions contained within the report.

5 PARK VIEW CARAVAN PARK, TOLNEY LANE, NEWARK-ON-TRENT - 25/00131/S73

The Committee considered the report of the Business Manager – Planning Development, which sought the variation of condition 01 and 05 to make temporary and personal permission permanent attached to planning permission 21/02492/S73; Change of use of former abattoir site and paddock to gypsy and traveller caravan site. The officer recommendation was to vary the condition for a further 12 months rather than remove it. Members were advised that the proposal site was in Flood Zone 3b.

Members considered the presentation from the Business Manager – Planning Development, which included photographs and plans of the proposed development.

Members whilst considering the application sought clarification regarding the reason why a further one year was proposed and not two, as it would provide time for this issue to be resolved and prevent the application be submitted again at the end of the year. Members discussed the need for making a long-term decision to give certainty to the local community. The outcome of the Examination for the Amended Allocations and Development Management Development Plan Document (DPD) was not yet published. Officers had advised that new content around Gypsy and Traveller provision had been emerging through this process. Members considered that as the Council was close to the DPD being resolved and that a long-term solution might be secured, one year was justified. Members were concerned about where the local community would go if approval was not given. Members discussed the challenge of flooding in this area.



AGREED (unanimously) that Planning Permission be approved subject to the conditions, including the variation of Condition 01 (as proposed to its removal) and Condition 05, as contained within the report.

6 LAND TO THE NORTH OF GANDER HILL COTTAGE, BATHLEY LANE, NORWELL, NEWARK ON TRENT, NG23 6JU - 25/00599/PIP

The Committee considered the report of the Business Manager – Planning Development, which sought an application for permission in principle for residential development for one dwelling. Members were advised that the application had been referred to Committee as it was contrary to the Development Plan.

A site visit had taken place prior to the commencement of the Planning Committee, for Members as there were particular site factors which were significant in terms of the weight attached to them relative to other factors if they would be difficult to assess in the absence of a site inspection. There were specific site factors and/or significant policy or precedent implications that needed to be carefully addressed and the impact of the proposed development was difficult to visualise.

Members considered the presentation from the Business Manager – Planning Development, which included photographs and plans of the proposed development.

The Planning in Principle process was explained, noting that Members needed to consider location, land-use and number of dwellings proposed. The Business Manager advised that whilst the scheme was clearly contrary to the Council's countryside policy (DM8), officers had reasoned that the proximity to the village, modest quantum of residential proposed and acceptability in land use terms warranted a favourable decision in this case. The precise appearance and design would be considered at a later date through the Technical Consent process.

Members whilst considering the application discussed Policy DM8, as the proposal was contrary to this. They felt that one property could be considered under-intensification and a waste of the land, when the site could provide a higher density of houses, especially affordable houses which were needed. Additional houses however would provide an issue for highway access, as there were already four cottages using the current access. It was further commented that Norwell was a unique village, which had different house styles, and that one additional house would not look out of keeping with the rest of the village.

AGREED (with 8 votes For and 2 votes Against) that Permission be granted in principle.

7 NATIONAL CIVIL WAR CENTRE & PALACE THEATRE, NEWARK MUSEUM, 14 APPLETON GATE, NEWARK ON TRENT, NG24 1JY - 25/00538/LBC

The Committee considered the report of the Business Manager – Planning Development, which sought to upgrade eight doors to FD60 fire doors, provide bespoke security shutters to two doors, upgrade internal and external CCTV with additional cameras, provide additional external security lighting, provide improved means of escape from the Attic; and conservation and repair of the front entrance.

Members considered the presentation from the Business Manager – Planning Development, which included photographs and plans of the proposed development.

The Business Manager explained the significance of the Museum and Theatre, including the archaeological features on display. It was advised that although there would be some impact on the special interest of the listed buildings, Conservation Officers had worked with the applicant to secure appropriate mitigation and optimum outcomes to reduce impact (this was to be secured via conditions). One Member asked whether traditional metal designs might be more appropriate and whether they would have a matching paint finish. Fire safety was discussed.

Members considered the proposals acceptable.

AGREED (unanimously) that Planning Permission be approved subject to the conditions contained within the report.

8 NOMINATIONS TO THE PLANNING POLICY BOARD FOUR MEMBERS OF THE PLANNING COMMITTEE TO BE NOMINATED TO THE PLANNING POLICY BOARD.

The Committee were asked to nominate four Members of the Planning Committee to sit on the Planning Policy Board.

AGREED (unanimously) that Councillors A Freeman (Chair), D Moore (Vice-Chair) K Melton and E Oldham be appointed as the Planning Committee representatives on the Planning Policy Board for 2025/26.

9 ANNUAL REPORT DETAILING THE EXEMPT REPORTS CONSIDERED BY THE PLANNING COMMITTEE

The Committee considered the report of the Chief Executive which detailed the exempt business considered by the Committee for the period 1 March 2024 to date.

AGREED (unanimously) that:

- (a) the report considered at the 28 May 2024 Planning Committee, during exempt business, entitled: Implications of new evidence on pending planning appeals in relation to applications: 22/00975/FULM - Construction of a solar farm, access and all associated works, equipment and necessary infrastructure at Land At Knapthorpe Lodge, Hockerton Road, Caunton, Newark On Trent, NG23 6AZ (Knapthorpe Lodge); and 22/00976/FULM - Construction of a solar farm, access and all associated works, equipment and necessary infrastructure at Field Reference Number 2227, Hockerton Road, Caunton (Muskham Wood). The information would now be open; and
- (b) the report considered at the 11 July 2024 Planning Committee, during exempt business, entitled: 22/02341/OUT – Holly Court Rolleston - Outline application for erection of two detached dwellings and the re-alignment of Rolleston Public Footpath no.5 with all matters reserved except access. The information would now be open.

10 APPEALS LODGED

AGREED that the report be noted.

11 APPEALS DETERMINED

AGREED that the report be noted.

12 EXCLUSION OF THE PRESS AND PUBLIC

That, under section 100A (4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in Paragraphs 3 and 5 of part 1 of Schedule 12A of the Act.

13 EXEMPT SCHEDULE OF COMMUNICATION

The Planning Committee considered the exempt Schedule of Communication in relation to Appeal and Application reference: APP/B3030/W/25/3364181; and 23/01837/FULM – Land to the West of Main Street, Kelham. This information was noted. Officers advised that Members would be kept updated through the Chair and Vice-Chair on all aspects of the Appeal.

(Summary provided in accordance with Section 100C(2) of the Local Government Act 1972).

Meeting closed at 6.08 pm.

Chair

By virtue of paragraph(s) 3, 5 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted



Report to Planning Committee 3 July 2025

Business Manager Lead: Oliver Scott – Planning Development

Lead Officer: Kirsty Catlow – Planning Officer

Report Summary			
<b>Application No.</b>	25/00573/S73		
<b>Proposal</b>	Application for variation of condition 01 to use land as gypsy and traveller's site, erection of amenity blocks and associated works on a permanent basis and change occupiers names attached to planning permission 21/02613/FUL.		
<b>Location</b>	Land At Shannon Falls, Tolney Lane, Newark On Trent, NG24 1DA		
<b>Applicant</b>	Messrs Price, Herne, Calladine, Coverdale, Sheppard, Dunne, Cooper, Lee, Price, Smith, Finney.	<b>Agent</b>	N/A
<b>Web Link</b>	<a href="#">25/00573/S73   Application for variation of condition 01 to use land as gypsy and traveller's site, erection of amenity blocks and associated works on a permanent basis and change occupiers names attached to planning permission 21/02613/FUL.   Land At Shannon Falls Tolney Lane Newark On Trent NG24 1DA</a>		
<b>Registered</b>	31.03.2025	<b>Target Date</b>	26.05.2025
		<b>Extension of Time</b>	11.07.2025
<b>Recommendation</b>	That Planning Permission is <u>APPROVED</u> subject to the conditions detailed at Section 10.0.		

This S73 application is being referred to Planning Committee for determination as the previous application was dealt with by Planning Committee.

## 1.0 The Site

1.1 The site sits on the north side of Tolney Lane which runs in a westerly direction from the Great North Road and which terminates in a dead end. It sits close to the junction

where Tolney Lane forks into two and the northern arm runs towards the railway line. It is located between the River Trent to the south-east (approx. 20 from the southern boundary of the site) and the railway line to the north-west. This application site measures 0.5 hectare in area and is roughly rectangular in shape.



*Original location plan submitted under 21/02613/FUL*

- 1.2 The application site represents the eastern part of a wider site known locally as Shannon Falls which is located between the larger gypsy and traveller sites known as Church View to the east and Hoes Farm to the west. The site has a central access point along its southeastern boundary with Tolney Lane and is laid out with 13 pitches (pitch 5 is shared by two individuals), each with its own single storey detached amenity block containing a day room & kitchen, and a separate bathroom & laundry room.



*Original site plan submitted under 21/02613/FUL*

- 1.3 The application site is situated west of the defined boundary of the Newark Urban

Area, within the Rural Area as designated by the Newark and Sherwood Core Strategy and within the countryside.

- 1.4 Lying both within Flood Zone 3a and 3b (functional floodplain), the site has a high probability of fluvial flooding, according to Newark and Sherwood's Strategic Flood Risk Assessment. In addition, the adjacent section of Tolney Lane itself is the first area to flood and to significant depths. The previously submitted topographical survey shows the southern boundary of the site is the lowest part, with typical ground levels of 11.1m AOD. Ground levels on the northern boundary range from 11.6m AOD and 11.9m AOD.
- 1.5 The application site is outside the designated Newark Conservation Area but the boundary of this heritage asset runs along the southern side of Tolney Lane, opposite the site.
- 1.6 The site is surrounded on three sides by existing residential caravan sites occupied by gypsy and travellers and their existing boundary treatments. The southern boundary of the site is defined by the road. Tolney Lane accommodates a large Gypsy and Traveller community providing in excess of 300 pitches.



*Aerial view of the application site taken from Google maps*

## **2.0 Relevant Planning History**

- 2.1. **21/02613/FUL** - Use of land as a Gypsy and Travellers' site, erection of amenity blocks and associated works for temporary 3 year period (Retrospective) Re-submission of 21/01900/FUL. Application recommended for REFUSAL by Officers on the following grounds:-

*"The proposal represents highly vulnerable development that would be located within Flood Zones 3a and 3b (and relying on an access/egress within Flood Zone 3b) and*

*therefore should not be permitted in accordance with the National Planning Policy Framework and the Planning Practice Guidance. If appropriate, whilst the Sequential Test may be considered to be passed on the basis that there are no reasonably available alternative sites at a lesser risk, the proposal fails the Exception Test by not adequately demonstrating that the development will be safe for its lifetime, without increasing flood risk elsewhere. Furthermore, no weight can be afforded to the scheme in meeting any of the significant unmet need, given the temporary nature of the proposal. Although there would be some social factors which would weigh in favour of the proposal, it is not considered that these are sufficient to outweigh the severe flood risk and warrant the granting of consent, even on a limited, temporary basis. To allow occupation of a site at such high risk of flooding would put occupiers of the site and members of the emergency services at unnecessary risk.*

*In the opinion of the Local Planning Authority, the proposal would therefore place both the occupants of the site and the wider area at risk from flooding and be contrary to Core Policies 5 and 10 of the Newark and Sherwood Amended Core Strategy (2019) and Policy DM5 of the Allocations and Development Management DPD (2013) as well as the National Planning Policy Framework (2021), Planning Practice Guidance and Planning Policy for Traveller Sites (2015), which are material planning considerations.”*

The application was considered at Planning Committee, and Members overturned the recommendation, resolving to APPROVE the application on 15.02.2022, subject to conditions. Condition 1 read as follows:-

*“The development hereby permitted shall be carried on only by the following and their resident dependents:*

- o Pitches 1 and 2 - Robert Lowe*
- o Pitch 3 - Augustus Coverdale*
- o Pitch 4 - John Coverdale*
- o Pitch 5a - Selina Sheppard*
- o Pitch 5a - Amanda Dunne*
- o Pitches 6 and 7 - Luke Smith*
- o Pitch 8 - Mary Donohue*
- o Pitch 9 - Susan Winters*
- o Pitch 10 - Thomas Gaskin*
- o Pitches 11 and 12 - Ernest Smith*
- o Pitch 13 - Ann Ward*

*And shall be for a limited period being the period up to 31 January 2025, or the period during which the land is occupied by them, whichever is the shorter. When the land ceases to be occupied by those named in this condition 1, or on 31 January 2025, whichever shall first occur, the use hereby permitted shall cease and all caravans, amenity blocks, materials and equipment brought on to the land, or works undertaken to it in connection with the use and development shall be removed and the land restored to its condition before the development took place in accordance with a scheme approved under condition 05 hereof.*



*Reason: In the recognition of the current need for gypsy and traveller sites within the District and to allow for further assessment of alternative sites to meet this need including sites at less risk of flooding in accordance with the aims of Core Policy 10 of the Newark and Sherwood Amended Core Strategy (March 2019)."*

- 2.2. **21/01900/FUL** – Use of land as a Gypsy and Travellers' site, erection of amenity blocks and associated works (retrospective), refused 03.11.2021 for the following reason:

*"The proposal represents highly vulnerable development that would be located within Flood Zone 3 (and relying on an access/egress within Flood Zone 3) and therefore should not be permitted in accordance with the National Planning Policy Framework and the Planning Practice Guidance. Whilst the Sequential Test may be considered to be passed on the basis that there are no reasonably available alternative sites at a lesser risk, the proposal fails the Exception Test by not adequately demonstrating that the development will be safe for its lifetime, without increasing flood risk elsewhere. Furthermore, the applicants have failed to demonstrate that occupiers of the site fall within the definition of a gypsy and traveller, as set out within Annex 1 of the Planning Policy for Traveller Sites, 2015.*

*In the opinion of the Local Planning Authority, the proposal would therefore place both the occupants of the site and the wider area at risk from flooding and be contrary to Core Policies 5 and 10 of the Newark and Sherwood Amended Core Strategy (2019) and Policy DM5 of the Allocations and Development Management DPD (2013) as well as the National Planning Policy Framework (2021), Planning Practice Guidance and Planning Policy for Traveller Sites (2015), which are material planning considerations."*

Including the application site and adjacent land to the north and west:

- 2.3. **02/02009/FUL** - Use of land as residential caravan site (21 plots) and retention of unauthorised tipping on the land which raised land levels, refused on flooding grounds. Two enforcement notices were served which sought to firstly cease the use as a caravan site and remove all caravans from the land and secondly to remove the unauthorised tipping from the land so that no part of the site is above the level of 10.5 AOD. The applicant appealed to the Planning Inspectorate but on 25 May 2006, the appeals were dismissed and the enforcement notices upheld and still stand on the land. Whilst the site had ceased being used as a caravan site in compliance with the Enforcement Notice (prior to these retrospective works and the temporary permission approved on the remainder of the Shannon Falls site in 2019), the unauthorised tipping however, remains on the land and artificially raises ground levels.
- 2.4. **E/1/2531** - Construct a residential caravan site, refused in 1970.
- 2.5. **E/1/1129** - Use of the land as a site for caravans, refused in 1959.

On land directly to the north-west but excluding the application site:

- 2.6. **18/02087/FUL** - Change of Use of Land to a Private Gypsy and Traveller Caravan Site consisting of one mobile home, one amenity building and two touring caravans and associated works, approved on a permanent basis by Planning Committee in June 2018. Permission has been implemented.

- 2.7. **15/01770/FUL** - Change of Use of Land to a Private Gypsy and Traveller Caravan Site, consisting of One Mobile Home, Two Touring Caravans and One Amenity Building, refused by Planning Committee in May 2016 on the grounds of flood risk.

On land directly to the west but excluding the application site:

- 2.8. **22/00073/S73** - Application to remove condition 2 from planning permission 18/02167/FUL to allow the existing temporary use to become permanent – Pending Consideration.

- 2.9. **18/02167/FUL** - Change of use of scrubland for the siting of 8 touring caravans and associated amenity block for gypsy travellers was approved by Planning Committee for a 3 year temporary period until 28 February 2022. Unclear whether this has been implemented.

**16/01884/FUL** - Change of use of scrubland for the siting of 8 static mobile homes for gypsy travellers and reduce ground levels to 10.5mAOD was refused by Planning Committee on 25 January 2017 on grounds of flood risk.

This decision went to appeal and within their appeal submission, additional information was provided which gave greater clarity on the gypsy and traveller status of the proposed occupiers. Having received this additional material information, the proposal was again reported to the Planning Committee in February 2018 when Members resolved that if this further information had been submitted with the original application submission, they would have resolved to grant a temporary permission for 3 years which would have been personal to the occupiers and subject to other conditions relating to flood risk mitigation. This was duly reported to the Planning Inspector prior to the Informal Hearing which was held on 28 February 2018. However, in a decision letter dated 26 April 2018, the appeal was dismissed on flood risk grounds (a copy of this decision is attached as a link at the end of this report).

- 2.10. **12/01088/FUL** - Change of Use of scrub land for the siting of 8 static mobile homes for gypsy travellers (and 8 associated amenity blocks). Planning permission was refused by Planning Committee in July 2013 on grounds of flood risk.

### **3.0 The Proposal**

- 3.1 The application seeks permission to vary condition 01 attached to planning permission 21/02613/FUL, to allow the temporary gypsy and traveller use of the site to become permanent, and to change the named occupiers as follows:-

- Pitch 1 – Triston Price, his wife and children
- Pitch 2 – John Herne, his wife and children
- Pitch 3 – Richard Calladine
- Pitch 4 – Mrs Coverdale and children
- Pitch 5 – Amanda Dunne and children
- Pitch 5a – Selina Sheppard and daughter
- Pitch 6 – Joseph and Mary Cooper and children
- Pitch 7 – Patrick Cooper, his wife and children

- Pitches 8 and 9 – Mr Joseph Lee, his wife and children
- Pitch 10 – Sonny Price
- Pitches 11 and 12 – Ernest Smith, his wife and children
- Pitch 13 – George Finney, his wife and child

3.2 The original application, approved under 21/02613/FUL, was accompanied by the following plans and documents:

- Site and Location Plans (Drawing No: SF-21-P01 Rev B)
- Amenity Buildings (Drawing No: SF-21-P02 Rev A)
- Topographical Survey (Drawing No: 41263\_T Rev 0)
- Swept Path Assessments (Drawing No: F21179/01)
- Planning Statement
- Flood Risk Assessment dated Dec 2021
- Flood Warning and Evacuation Plan dated Dec 2021
- Supporting Text for Visibility Splays
- Additional Supporting Information in Response to Refusal dated Dec 2021
- Supporting Statements and Personal Information from Proposed Residents

3.3 In support of this application, the following supporting information has been submitted:-

- 12 letters from the occupiers of the site, detailing their local connections to the area (such as schools the children attend, and where they seek medical and dental treatment), and their familiarity with the emergency evacuation procedures, in the event of a flood.

#### **4.0 Departure/Public Advertisement Procedure**

4.1 Occupiers of 25 properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.

4.2 Site visit undertaken on 28.04.2025.

#### **5.0 Planning Policy Framework**

##### **The Development Plan**

5.1. **Newark and Sherwood Amended Core Strategy DPD (adopted March 2019)**

Spatial Policy 1 - Settlement Hierarchy

Spatial Policy 2 – Spatial Distribution of Growth

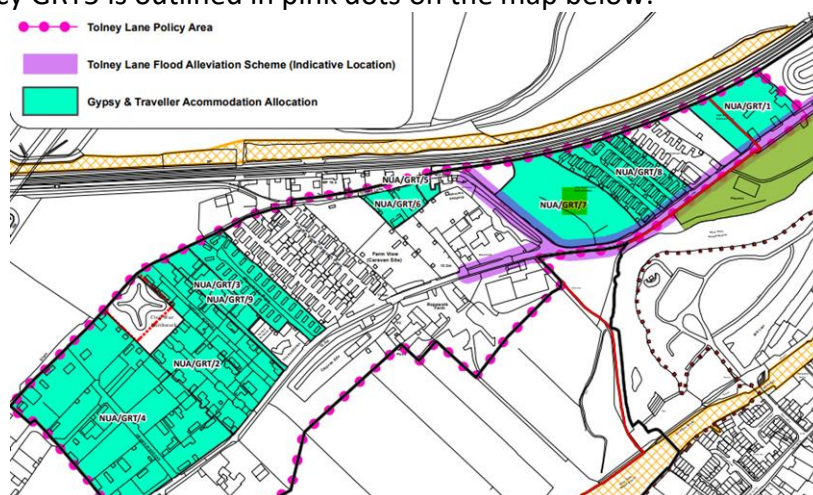
Spatial Policy 7 - Sustainable Transport  
 Core Policy 4 - Gypsies & Travellers – New Pitch Provision  
 Core Policy 5 - Criteria for Considering Sites for Gypsy & Travellers and Travelling Show People  
 Core Policy 9 - Sustainable Design  
 Core Policy 10 - Climate Change  
 Core Policy 13 - Landscape Character  
 Core Policy 14 – Historic Environment

## 5.2. **Allocations & Development Management DPD (2013)**

DM1 – Development within Settlements Central to Delivering the Spatial Strategy  
 DM5 – Design  
 DM9 – Protecting and Enhancing the Historic Environment  
 DM12 – Presumption in Favour of Sustainable Development

5.3. The [Draft Amended Allocations & Development Management DPD](#) was submitted to the Secretary of State on the 18th January 2024 and was examined in public in November. However, the outcome of the examination is not yet published and whilst the plan is at an advanced stage of preparation, there are unresolved objections to amended versions of the above policies, and new content around Gypsy and Traveller provision, emerging through that process. Therefore, the level of weight which those proposed new policies can be afforded is currently limited. As such, the application has been assessed in-line with policies from the adopted Development Plan.

5.4. It is however considered necessary to draw Members' attention to the fact that within the emerging DPD, Policy GR2 (Additional Provision on Existing Sites) identifies the application site as NUA/GRT/7 – Land at Shannon Falls, Tolney Lane, which if adopted, would, together with the site to the southwest be allocated for a total of 21 pitches for Gypsy Roma Travellers. The site also falls within the wider Policy GRT5 (Tolney Lane Policy Area) designation, which, if adopted would bring the area into the Urban Boundary for the Newark Urban Area, support additional pitch provision on existing sites, in association with the delivery of flood alleviation improvements to Tolney Lane. The proposed allocations are shown on the map below. The NUA/GRT/7 allocation under Policy GRT2 is shaded in cyan, and the wider Tolney Lane Policy Area under Policy GRT5 is outlined in pink dots on the map below:-



5.5. Following the close of the hearing sessions, as part of the examination of the Submission Amended Allocations & Development Management DPD, the plan Inspector issued a number of questions around Tolney Lane, the Tolney Lane Flood Alleviation Scheme and delivery in this location. The Council has responded to these questions and is currently awaiting further instruction from the Inspector.

5.6. **Other Material Planning Considerations**

- National Planning Policy Framework 2024 (as amended in 2025)
- Planning Practice Guidance (online resource)

The Court of Appeal recently considered the status of, and relationship between, Planning Practice Guidance (PPG) and the National Planning Policy Framework (NPPF) in *Mead Realisations Ltd v Secretary of State for Housing Communities and Local Government and another* [2025] EWCA Civ 32. The Court held that the NPPF and PPG are of the same status, and subsequently the PPG can amend the policy guidance contained within the NPPF. Both the guidance in the PPG and the policies in the NPPF are capable of being material considerations in decision-making, and the weight to be given to them is a matter for the decision-maker.

- Planning (Listed Buildings and Conservation Areas) Act 1990

Section 72 of the Act places a duty on Local Planning Authorities, when considering development on land within Conservation Areas, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

- Planning Policy for Traveller Sites – December 2024

When determining planning applications for traveller sites, the Planning Policy for Traveller Sites (PPTS) states that planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. It goes on to state that applications should be assessed and determined in accordance with the presumption in favour of sustainable development, in accordance with the NPPF and this Planning Policy for Traveller Sites.

The PPTS states that the following issues should be considered, amongst other relevant matters:

- a. Existing level of local provision and need for sites;
- b. The availability (or lack) of alternative accommodation for the applicants;
- c. Other personal circumstances of the applicant;
- d. Locally specific criteria used to guide allocation of sites in plans should be used to assess applications that come forward on unallocated sites;

e. Applications should be determined for sites from any travellers and not just those with local connections.

The PPTS goes on to state that Local Planning Authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan and sites in rural areas should respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on local infrastructure. When considering applications, Local Planning Authorities should attach weight to the following matters:

- Effective use of previously developed (brownfield), untidy or derelict land
- Sites being well planned or soft landscaped
- Promoting healthy lifestyles
- Not enclosing sites with high walls or fencing, giving the impression its occupants are isolated from the rest of the community.

In terms of housing land supply, Para 28 advises that if a Local Planning Authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, the provisions in paragraph 11(d) of the National Planning Policy Framework apply. Local Planning Authorities should consider how they could overcome planning objections to particular proposals using planning conditions or planning obligations including:

- limiting which parts of a site may be used for any business operations
- specifying the number of days the site can be occupied by more than the allowed number of caravans
- limiting the maximum number of days for which caravans might be permitted to stay on a transit site.

Annex 1 of the PPTS provides a definition of “gypsies and travellers” which reads:-  
*“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds of their own or their family’s or dependents’ educational or health needs or old age have ceased to travel temporarily or permanently, and all other persons with a cultural tradition of nomadism or of living in a caravan, but excluding members of an organized group of travelling show people or circus people travelling together as such.”*

- Newark and Sherwood Gypsy and Traveller Accommodation Assessment 2020
- Emergency Planning Guidance produced by the Nottingham and Nottinghamshire Local Resilience Forum (August 2017)

This document states: *“New developments in flood risk areas must not increase the burden on emergency services. The Emergency Services are in heavy demand during flood incidents. The Fire and Safety Regulations state that*

*“people should be able to evacuate by their own means” without support and aid from the emergency services. The emergency services and local authority emergency planners may object to proposals that increase the burden on emergency services.”*

*“New development must have access and egress routes that allow residents to exit their property during flood conditions. This includes vehicular access to allow emergency services to safely reach the development during flood conditions. It should not be assumed that emergency services will have the resource to carry out air and water resources during significant flooding incidents; therefore safe access and egress routes are essential.....*

*The emergency services are unlikely to regard developments that increase the scale of any rescue as being safe...”*

## **6.0 Consultations and Representations**

Please Note: Comments below are provided in summary - for comments in full please see the online planning file.

### **Statutory Consultations**

- 6.1. **Environment Agency** – Advised that they will not be making any formal comments on the grounds that the Environment Agency did not request the planning condition the application is seeking to vary.

The Environment Agency previously provided the following comments in response to the original planning application 21/02613/FUL, in January 2022:-

Object. The site lies within Flood Zone 3a and 3b (functional floodplain) and has a high probability of flooding. The development is classed as highly vulnerable and Tables 1 and 3 of the PPG make it clear that this type of development is not compatible with this Flood Zone and should not be permitted. The submitted FRA suggests that the impacts of climate change over this period are unlikely to be significant. The EA agree with this statement however, exclusive of the impacts of climate change the development site is still shown to experience flood depths up to 500mm in the vicinity of plot 13, and 400mm in the vicinity of plots 1 and 2 during the 1% Annual Exceedance Probability (AEP) event. Flood depths of up to 800mm are also possible during the 1% event on Tolney Lane immediately adjacent to this site. The flood risk to the site, even for a temporary permission, is clearly still significant.

They raise concern that granting of continuous temporary permissions could result in a deemed permission for permanent use.

The likely maximum flood depths on this site would be:

- 0.25m during the 5% Annual Exceedance Probability (AEP) event. The event used to determine the functional floodplain

- 0.78m during the 1% AEP event
- 1.08m during the 1% AEP event and including a 30% allowance for climate change
- 1.24m during the 1% AEP event and including a 50% allowance for climate change
- 1.32m during the 0.1% AEP event

Flooding to a depth of 0.6m represents DANGER FOR ALL. If the flooding is to a greater depth or involves moving water, the degree of hazard will be even higher. The above noted flood depths constitute a risk to life for any future occupants of the development.

Where there is reliance on flood warning and evacuation, the EA's preference is for dry access and egress routes to be provided in order to demonstrate the safety of the development and future occupants. In this particular location the access and egress route is the first area of the site to flood, and it floods to extremely significant depths. Absence of safe access and egress from the proposed development coupled with the lack of safe refuge during a flood event makes this an extremely hazardous location in with to locate highly vulnerable development.

The proposals are contrary to NPPF and the flood risk to the site is highly significant.

#### **Town/Parish Council**

- 6.2. **Newark Town Council** – Object due to the land being at risk of flooding with a threat to life, albeit there is no objection to the temporary permission being extended and the names in the condition being changed.

#### **Representations/Non-Statutory Consultation**

- 6.3. **NSDC Planning Policy Team** (comments in full)

#### **Context**

- 6.4. The site was originally granted a retrospective temporary personal consent in February 2022, via 21/02613/FUL. This consent followed the previous refusal of an application (21/01900/FUL) which sought permanent Traveller pitches, in November 2021. Flood risk figured heavily in the reasons for refusal of the earlier application. With the proposal representing a highly vulnerable use located in Flood Zone 3 and possessing a single point of access/egress, subject to that same level of risk. The granting of consent in such circumstances was considered inconsistent with the NPPF and PPG. In addition, there was a failure to demonstrate the Exceptions Test as passed. The applicant was further unable to provide demonstration that the proposed occupants would have satisfied the planning definition of a Traveller – provided in Annex one to the PPTS in place at the time. The decision to subsequently grant temporary consent through the later application was made at Committee, contrary to the Officer recommendation. Temporary consent expired on the 31st January 2025.



## Plan Review Update

- 6.5. Since the last temporary consent was granted, the Authority has continued to progress the review of its Allocations & Development Management DPD. Submission of the Draft Amended DPD to the Secretary of State occurred in January 2024 and the Hearing Sessions as part of the Examination in Public were concluded on the 12th November. Further correspondence from the Plan Inspector has been received, including questions to the Council around Tolney Lane, the Tolney Land Flood Alleviation Scheme and delivery in this location. The Council has responded to these questions, and now awaits further instruction.
- 6.6. This represents an advanced stage in the plan-making process, and the Council continues to be of the view that it has submitted what it considers to be a sound, robust and comprehensive strategy to address Traveller accommodation requirements over the plan period.
- 6.7. This incorporates a range of site allocations in the Newark and Ollerton Areas, and the designation of a 'Policy Area' to provide for the future management of the Tolney Lane area. Taken alongside completions and commitments post-2019 these new site allocations will allow for the minimum requirements of the Planning Policy for Traveller Sites (PPTS) to be exceeded, and a five-year land supply established. Through the Policy Area – those parts of Tolney Lane at least flood risk and sites where additional pitch allocations have been identified would be brought inside the Urban Boundary. There would be a presumption against further outward expansion beyond this boundary. Central to the Strategy is the design and delivery of a 'Flood Alleviation Scheme' (FAS) for Tolney Lane – intended to increase the flood resiliency of the single point of access/egress up to a 1% AEP flood event and provide site-level reductions in flood risk along its length.
- 6.8. The application site is proposed for allocation within the Submission Amended Allocations & Development Management DPD, forming part of the larger site NUA/GRT/7 (identified for around 21 pitches in total). This would allow for the 13 pitches, formerly with temporary consent here, to become permanent. The Sequential Test undertaken for the submitted Plan identified the site to (based on the data used at that point) be split across Flood Zone 3b (57%), Zone 3A (25%) and Zone 2 (18%), and was at further indirect risk due to the single point of access/egress to Tolney Lane also sitting within Flood Zone 3b. Due to a combination of the lack of suitable land at lesser risk elsewhere, and the benefits from the proposed Flood Alleviation Scheme (FAS) it was considered that the allocation of the land would pass the Test. With the FAS both directly reducing the level of flood risk to the site itself and delivering broader improvements to the flood resiliency of the area by addressing the vulnerability of the Tolney Lane access/egress. Clearly, delivery of the FAS was fundamental to the reaching of this conclusion.
- 6.9. As part of the Plan Review process the Council entered into a Statement of Common Ground with the Environment Agency. Through which the Agency welcome the principle of the FAS and its ability to deliver significant betterment. Further agreement was reached over the benefits from taking a plan-led approach to development in the area and allowing for its regularisation. Both parties seek an end to the cycle of

Environment Agency objections to proposed new pitches in locations at greatest flood risk, with temporary permissions then being granted at appeal due to a lack of alternative provision in more suitable locations.

#### Traveller Accommodation Need and Supply

- 6.10. The Gypsy and Traveller Accommodation Assessment (GTAA) for Newark & Sherwood identifies a total need for 169 pitches for Gypsies and Travellers for the period 2019 – 2034. This comprises need from Travellers who met the 2015 PPTS planning definition of a Traveller (118 pitches); from households that did not meet the 2015 PPTS planning definition of a Traveller (30 pitches); and from undetermined households where it was not possible to complete an interview with residents (21 pitches). Since the GTAA was published in February 2020 there have been changes made to the PPTS as a result of the Lisa Smith Court of Appeal Judgement, relating to the planning definition of a Traveller for planning purposes.
- 6.11. The Council's consultants Opinion Research Services (ORS) have carefully considered the implications on the assessment of need in the GTAA, reviewing the outcomes of household interviews. Concluding that 134 pitches of the overall 169 pitch requirement reflects the needs of Traveller households meeting the revised definition in Annex 1. Whilst the Council recognises 169 pitches as its overall pitch target, it is the lower 134 pitch need which provides the relevant local target for calculation of the five-year land supply – in line with the PPTS. This need has been broken down into 5-year periods, and there is an adjusted requirement for the current five-year period (2024-2029) of 100 pitches (taking account of completed pitches and the residual unmet requirement from the previous five-year period).
- 6.12. It remains necessary to forecast delivery from proposed site allocations to identify a five-year land supply. Paragraph 48 in the NPPF details the tests applicable to emerging policy in order to determine how much weight it can be afforded within the Development Management process. Until such time as the Inspector issues their report it will not be clear how the emerging Traveller strategy performs against tests b and c. These concern the extent to which there are unresolved objections to relevant policies, and the degree of consistency of the relevant policies in the emerging plan to the Framework. Accordingly, an up-to-date assessment of supply without forecast delivery from site allocations is provided below.

<b>First Five-Year Period (2019-24)</b>	
Five Year Pitch Requirement	85
Completed Pitches within period	3
Residual Requirement	82
<b>Second Five Year Period (2024 - 29)</b>	
Five Year Pitch Requirement	24
Residual Requirement 2019-24	82
Completed Pitches within period	6
Adjusted Requirement	100
Annualised Requirement	20
<b>Supply</b>	
Pitch Supply from Unimplemented Permissions	37
Pitch Supply from Allocated Sites	0
Total Supply	37
<b>No Years Supply</b>	
Against Requirement	37/20=1.85

- 6.13. Despite a number of permissions having been granted the Authority remains in a position where it lacks sufficient identifiable and deliverable sites to address either its overall pitch requirements, or to demonstrate a five-year land supply (currently being able to show a 1.85 year supply).
- 6.14. Accompanying the publication of the new NPPF of the 12th December was an updated PTS – this makes clear at paragraph 28 that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, then the provisions in paragraph 11(d) of the National Planning Policy Framework apply. Consequently, the ‘tilted balance’ towards decision-making which this requires has become engaged. This means that;
- 6.15. Where the policies which are most important for determining the application are out-of-date, granting permission unless:
- i) the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or
  - ii) 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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination

#### Flood Risk

- 6.16. The site remains at substantial flood risk – having previously been identified as being largely split between Flood Zones 3b (functional floodplain) and 3a, with a smaller portion (roughly 18%) of the site being within Zone 2. It also remains the case that the single point of access/egress to the area sits within the functional floodplain. However, at the time of writing the Agency has not signed off the District Council’s latest Strategic Flood Risk Assessment for use beyond the Plan Review process – and so there is no up-to-date local definition of the Functional Flood Plain. Under the new Environment Agency flood mapping, released through NAFRA2, it is my understanding that the flood risk information for the 1 in 30 year defended flood event ought to be used in such circumstances. With the mapping for this event being a starting point for

identifying where functional floodplain may be present, and additional site-level work being necessary from an applicant to refine the understanding of risk. However, I do not have access to this mapping. It is also noted that no up-to-date Flood Risk Assessment has been provided as part of the application. Under the latest (NAFRA2) EA flood mapping the site is shown as being predominantly in Flood Zone 3.

- 6.17. Applying the Sequential Test there is a lack of reasonably available and suitable land at lesser risk elsewhere, and so the proposal would pass the Test on this basis. The Planning Practice Guidance states that the Sequential Test should be applied prior to having regard to Table 2 'Flood Risk Vulnerability and Flood Zone Incompatibility' of its Flood Risk section. Though it should be noted that Table 2 deems a highly vulnerable use (such as that proposed here) to be incompatible with either Flood Zone 3a or 3b, and details it should not be permitted. In terms of Flood Zone 2 then Highly vulnerable uses would need to pass the Exceptions Test.
- 6.18. Through the *Mead Realisations Ltd v Secretary of State for Housing Communities and Local Government* and another [2025] EWCA Civ 32 judgement the PPG was found to hold the same legal status as the NPPF, in that they are both statements of national policy issued by the Secretary of State. Both the guidance in the PPG and the policies in the NPPF are capable of being material considerations in decision-making, and the weight to be given to them is a matter for the decision-maker. This provides a helpful steer over the status of Table 2 in the Flood Risk section of the PPG.
- 6.19. With regards to the Exception Test, I'm content that regarding its first part- there would be wider sustainability benefits to the community via the contribution towards meeting the identified accommodation needs of Travellers. In terms of the second part of the Test it was concluded as part of the now lapsed temporary consent that this had not been passed. Given the conclusions reached on the previous application, and the lack of a Flood Risk Assessment in support of the current application then as it stands there has been no demonstration that the second part of the Exceptions Test has been passed.

Were the applicant to seek to make that demonstration then we would require technical input to assist us in our determination. The Environment Agency has stated that it will not provide formal comments, as it didn't request the Condition. Notwithstanding this, it remains the relevant flood risk body and were the applicant to seek to satisfy part two of the Exceptions Test then we would require their technical input. I would therefore suggest that the position of the Agency be queried.

#### Conclusion

- 6.20. There is a significant unmet need for Traveller accommodation – with the Council in the position where it cannot currently identify sufficient land to meet either its overall requirements, or demonstrate a five year land supply. This results in the 'tilted balance' outlined at paragraph 11(d) of the NPPF becoming engaged. Part 1 of the paragraph identifies a range of areas where the application of policy in the Framework for their protection provides a strong reason for refusing the development proposed, this includes 'areas at flood risk'. The application site is at a high level of flood risk – being predominantly located within Flood Zone 3 and with a single point of

access/egress at the same level of risk. Whilst the proposal can be considered to have passed the Sequential Test, it has not demonstrated to satisfy the Exceptions Test. Under Part 1 of paragraph 11 d) national policy concerning the Exceptions Test would in my view provide a 'strong reason' for refusing the proposal.

- 6.21. Should this be concluded differently and the view be taken that the Exceptions Test fell short of providing that required 'strong reason', then the decision-maker would proceed onto part 2. Through which, permission ought to be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination. Clearly there remains the need to continue to also have regard to parts of the Development Plan which are up-to-date and in your judgement relevant to the determination of the proposal.
- 6.22. It is recognised that the proposal would make a contribution towards pitch supply, and there is a lack of reasonably available and suitable land at lesser flood risk elsewhere. The site is also proposed for allocation through the Submission Amended Allocations & Development Management DPD, and the Council has proposed the delivery of the Flood Alleviation Scheme- delivering flood risk reduction and resiliency benefits to the site. However, this emerging strategy is not at a stage where meaningful weight can be afforded to it yet – and there remains a difference in position over the phasing of pitch delivery between the District Council and Environment Agency which requires resolution.
- 6.23. Accordingly, at the current time I am unconvinced that the granting of permanent pitches on a site predominantly within Flood Zone 3 would be consistent with the purpose of the presumption to promote 'sustainable development', and it would fail to direct the proposed development to a sustainable location. The highly vulnerable use is incompatible with the level of flood risk the application site is subject to, with the PPG setting out that it should not be permitted. Furthermore, there has also been a failure to demonstrate the Exceptions Test as passed. Consequently, the adverse impact of granting permanent consent would in my view significantly and demonstrably outweigh the benefits – when assessed against the policies in the Framework and up-to-date parts of the Development Plan.
- 6.24. Whilst there are factors which weigh heavily in the favour of granting consent these would fall short of outweighing the significant flood risk concerns, to the extent that the granting of permanent consent would currently be justified – even with paragraph 11 d) of the NPPF engaged. However, I would raise no objection to a further short term temporary consent of up to a year, in order to allow the site allocation process to conclude and provide the applicants with certainty over that period. Though we would need to be in the position where the Exceptions Test had been fully passed, and the necessary details for the permission to be made personal provided. To be acceptable these individuals would need to meet the definition for planning purposes of Gypsy and Travellers provided in Annex 1 to the Planning Policy for Traveller Sites.

- 6.25. **Environmental Health** – No objections. If permanent consent is given, the site owner will require a Caravan Site Licence within the terms of the Caravan Sites and Control of Development Act 1960. No previous application has been submitted for this site to date. The site will need to meet relevant model standards appropriate to the type of site proposed and these will form part of the licence conditions. Any site licence duration will mirror the planning consent and any limitation on the maximum number or type of caravans to be stationed on the land.
- 6.26. **Environmental Health (Contaminated Land)** – Historic mapping has identified a former railway line that crosses the site linking the Nottingham to Lincoln line with the former Parnham's Island Mill. Railway land is a potentially contaminative use and the former Department for the Environment Industry Guide for Railway Land identifies multiple possible contaminants. As it appears that no desktop study/preliminary risk assessment has been submitted prior to, or with the planning application, then I would request that our standard phased contamination conditions are attached to the planning consent.
- 6.27. No comments have been received from any third parties or local residents.

## **7.0 Comments of the Business Manager**

- 7.1. The main considerations in the assessment of this application relates to the significant unmet need and the absence of a 5-year land supply for gypsy and traveller pitches, and flood risk.

### **Need**

- 7.2. The Gypsy and Traveller Accommodation Assessment (GTAA) for Newark and Sherwood identifies a total need for 169 pitches for Gypsy and Travellers for the period 2019-2034. Since the GTAA was published in February 2020 there have been changes made to the PPTS as a result of Smith v Secretary of State for Levelling Up, Housing & Communities & Anor 9 [2022] EWCA Civ 1391], relating to the planning definition of a Traveller for planning purposes. Having reviewed the assessment of 'need' in light of this appeal judgment, it has been concluded that 134 pitches reflects the needs of Traveller households meeting the revised definition. Therefore, whilst the Council recognises 169 pitches as its overall pitch target, it is the lower 134 pitch need which provides the relevant local target for calculation of the five-year land supply – in line with the PPTS. This need has been broken down into 5 year periods, and there is an adjusted requirement for the current five-year period (2024-2029) of 100 pitches (taking account of completed pitches and the residual unmet requirement from the previous five-year period).
- 7.3. It remains necessary to forecast delivery from proposed site allocations to identify a five-year land supply. Paragraph 48 in the NPPF sets out the tests applicable to emerging policy, in order to determine how much weight it can be afforded within the Development Management process. In this case, until such time as the Inspector issues their report on the emerging plan and the proposed site allocations, it is not clear how these allocations would impact the five-year land supply.

- 7.4. Despite a number of permissions having been granted for gypsy and traveller sites, the Authority remains in a position where it lacks sufficient identifiable and deliverable sites to address either its overall pitch requirements, or to demonstrate a five-year land supply (being currently able to show a 1.85 year supply).
- 7.5. An updated PPTS was published on 12th December 2024, alongside the updated NPPF, which makes clear at paragraph 28 that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, then the provisions in paragraph 11(d) of the National Planning Policy Framework apply. Consequently, the presumption in favour of sustainable development towards decision-making is engaged. This means that;

*‘Where the policies which are most important for determining the application are out-of-date, granting permission unless:*

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or*
- ii. 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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination’*

The application of the above paragraphs to this proposal are discussed further in the Conclusion and Planning Balance section below.

- 7.6. In terms of the status of the current occupiers, most of the site occupiers have changed since the original application was permitted in 2022. In support of the application 12 letters have been submitted from the present occupiers, detailing the names of the occupiers and their local connections. Officers are satisfied, based upon the information provided by the applicants, and in consultation with the Council’s Community Relations Team, that the current occupiers of the site meet the definition of a Traveller as set out in Annex 1 of the PPTS 2024.
- 7.7. It is accepted that the Council has a considerable shortfall in being able to demonstrate a five-year land supply, and a sizeable overall requirement which needs to be addressed. Both the extent of the pitch requirement and the lack of a five year land supply represent significant material considerations, which should weigh heavily in the favour of the granting of consent where proposals will contribute towards supply. Importantly, the GTAA assumed a net zero contribution from inward migration into the District - meaning that our pitch requirements are driven by locally identifiable need.
- 7.8. Accordingly, the granting of permanent permission would allow for the current planning definition need, picked up as part of the GTAA, to be met and contribute progress towards a five-year land supply. This weighs heavily in the favour of granting permanent permission, and robust and justifiable reasons are needed to depart from

a permanent approval on this basis. In this case, Officers consider that given the potential risk to people and property, flood risk has the potential to form such a reason.

#### Flood Risk

- 7.9. The site remains at substantial flood risk, as the majority of the site, approx. 80%, lies within Flood Zones 3a and 3b (functional floodplain). Furthermore, the single point of access/egress is within the functional floodplain, and modelled to flood early in an event of a sufficient magnitude. Whilst there are proposals through the Publication of the Amended DPD, for the delivery of a 'Flood alleviation Scheme' (FAS) for Tolney Lane, which is intended to increase the flood resiliency of the single point of access/egress up to a 1% AEP flood event, and provide site level reductions in flood risk along its length, as outlined above, further instruction is awaited from the Plan Inspector over the delivery of the Tolney Lane Flood Alleviation Scheme and additional proposed pitch allocations in this location.
- 7.10. The final criterion of Core Policy 5 states that 'Proposals for new pitch development on Tolney Lane will be assessed by reference to the Sequential and Exception Tests as defined in the Planning Practice Guidance. These will normally be provided temporary planning permission.' The NPPF states that local planning authorities should minimise risk by directing development away from high-risk areas to those with the lowest probability of flooding. National guidance/policy relating to flood risk since 2014 has introduced new guidance in relation to climate change that increases the bar in relation to the assessment of new development. Core Policy 10 and Policy DM5 also reflects the advice on the location of development on land at risk of flooding and aims to steer new development away from areas at highest risk of flooding.
- 7.11. Paragraph 13 (g) of the PPTS sets out a clear objective not to locate gypsy and traveller sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans.
- 7.12. Annex 3 (Flood risk vulnerability classification) of the Planning Practice Guidance states that caravans, mobile homes and park homes intended for permanent residential use are classified as "highly vulnerable" uses. Table 2 (Flood risk vulnerability and flood zone incompatibility) of the Practice Guidance states that within Flood Zone 3a or b, highly vulnerable classification development should not be permitted. The Planning Practice Guidance make it clear that this type of development is not compatible within this Flood Zone and should therefore not be permitted.
- 7.13. The application site forms part of a larger collection of sites along Tolney Lane accommodating some 317 individual pitches. The site occupies a location in the highest risk, within the functional floodplain (Flood Zone 3b), with a single point of access/egress (along Tolney Lane to the Great North Road) and which also lays within the functional floodplain. The modelling shows this access to flood before much of the land accommodating the gypsy and traveller pitches.
- 7.14. The Environment Agency (EA) have been consulted in this application, but have advised that they will not be making any formal comments on the grounds that they



did not request the planning condition the application is seeking to vary. Officers have attempted to engage with the EA, to ask them to re-consider their position, but at the time of writing this report, no further response from the EA had been received. In the interests of providing the current site occupants with some certainty, the application is being progressed in the absence of their formal comments.

- 7.15. The EA did previously object to the original application, on the grounds that the development is classed as Highly Vulnerable, and this type of development is not compatible with this Flood Zone, and should not be permitted.
- 7.16. In terms of the second part of the flood risk exception test, the NPPF and PPG clearly state that change of use applications, where the proposed use is a caravan site, are not exempt from application of the exception test. The NPPF makes it clear that both elements of the exception test must be passed for development to be permitted. Part 2 of the test requires the applicant to demonstrate, via a site-specific flood risk assessment (FRA), that the development will be safe, without increasing flood risk elsewhere. Where possible, the development should reduce flood risk overall. In this instance no FRA has been provided with the application.
- 7.17. The EA previously highlighted the risks to the site should a flood event occur, particularly having regard to the increased flood levels associated with climate change. For example, comparison of their modelled data against recent topographical survey indicates likely maximum flood depths of 0.25m during the 5% Annual Exceedance Probability (AEP) event (the event used to determine the functional floodplain); 0.78m during the 1% AEP event; 1.08m during the 1% AEP event (including a 30% allowance for climate change); 1.24m during the 1% AEP event (including a 50% allowance for climate change); and 1.32m during the 0.1% AEP event. Such flood depths constitute a risk to life for any future occupants of the development. Where a development relies on flood warning and evacuation, the preference is for dry access and egress routes to be provided, but in this particular location the access and egress route is the first area of the site to flood.
- 7.18. It is accepted that the granting of permanent pitches would pass the Sequential Test, as there are no reasonably available sites at lesser risk.
- 7.19. In terms of the Exception Test, Officers are satisfied that the proposal would pass the first part, in that there would be wider sustainability benefits to the community as a result of the contribution the site would make towards meeting the identified accommodation needs of Travellers.
- 7.20. In terms of the second part of the Exception Test (that the proposed development would be safe from flooding for its lifetime, and that it would not increase flood risk elsewhere) it was concluded under the original application that this had not been passed. Given this, and the lack of a Flood Risk Assessment in support of this application, it has not been demonstrated that the second part of the exceptions test has been passed.
- 7.21. The site is being promoted for allocation by the Local Planning Authority as a Gypsy and Traveller site, through the review of its Allocations & Development Management

DPD. However, whilst the review of this document is now at an advance stage since the previous temporary permission was granted, as outlined above, there remain outstanding issues to be resolved through the examination process, particularly in relation to the allocation of Tolney Lane, and the Tolney Lane Flood Alleviation Scheme.

- 7.22. Therefore, whilst it is accepted that the development would provide some wider sustainability benefits to the community, in terms of the occupants of the site being able to access schools, hospitals and other services within the Newark Urban Area, this does not outweigh the severity of the harm caused to that same community by the high flood risk at the site.
- 7.23. It is therefore considered that the proposal continues to be contrary to the NPPF and PPG, Core Policies 5 and 10 of the Core Strategy and Policy DM5 of the Allocations and Development Management DPD as well as the guidance within the NPPF, PPG and PPTS.
- 7.24. Flood risk therefore continues to weigh significantly against the proposal for a permanent permission, and this is considered further within the Conclusion and Planning Balance set out below.

#### Other Matters

- 7.25. **Other material planning considerations** - Whilst the comments of the Council's Environmental Health officer are noted regarding land contamination, a condition to deal with this matter should have been imposed on the original grant of temporary permission, and officers consider it would not be reasonable to add such a condition on to this permission at this stage. The impacts upon Newark Conservation Area, ecology, close to facilities and services within the Newark Urban Area, highway safety, residential amenity and visual amenity, remain unchanged from the previously considered application and as such do not require further consideration in this instance.
- 7.26. **Community Infrastructure Levy (CIL)** - The proposed development has been assessed, and it is the Council's view that CIL is not payable in this instance, as the mobile homes are classed as caravans, as opposed to buildings, and do not therefore create any additional floor space.
- 7.27. **Biodiversity Net Gain (BNG)** – In England, BNG became mandatory (under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021)) from February 2024. BNG is an approach to development which makes sure a development has a measurably positive impact ('net gain') on biodiversity, compared to what was there before development. This legislation sets out that developers must deliver a minimum BNG of 10% - this means a development will result in more, or better quality, natural habitat than there was before development. However, there are some exemptions to where BNG is applicable – these are set out in The Biodiversity Gain Requirements (Exemptions) Regulations 2024. This includes section 73 planning permissions where the original planning permission, to which the section 73 planning permission relates, was subject to

exemption. The original FUL application was submitted and approved in 2014, prior to Biodiversity Net Gain becoming Mandatory. This application seeks permission to vary Condition 1 relating to the occupation of the site. As a result, the proposal would be exempt in terms of BNG, as the application merely seeks to amend an original planning application, which itself was exempt from mandatory BNG.

## **8.0 Implications**

- 8.1. In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

### **Legal Implications – LEG2526/8307**

- 8.2. Planning Committee is the appropriate body to consider the content of this report. A Legal Advisor will be present at the meeting to assist on any legal points which may arise during consideration of the application.

## **9.0 Conclusion and Planning Balance**

- 9.1. The objection from the Town Council for a permanent permission on the site has been duly noted and taken into account in the recommendation put before Members.
- 9.2. There is a significant unmet need for Traveller accommodation within Newark and Sherwood, with the Council in the position where it cannot currently identify sufficient land to meet either its overall requirements or demonstrate a five-year land supply. The current five-year supply currently stands at 1.85 years. This results in the presumption in favour of sustainable development, outlined at paragraph 11d) of the NPPF, becoming engaged.
- 9.3. However, Paragraph 11 (d) (i), at footnote 7, of the NPPF identifies policy exceptions within the Framework that protect areas or assets of particular importance that provide a strong reason for refusing the development proposed. One of the exceptions listed include 'areas at risk of flooding.' As such, part (d) (i) represents the relevant assessment and the application of the presumption in favour of sustainable development no longer takes precedence in decision-taking and the application of (d) (ii) also falls away.
- 9.4. The application site is at the highest risk of flooding, being largely located within Flood Zones 3a and 3b (functional floodplain), with national policy requiring development to pass both the Sequential and Exceptions Test.
- 9.5. In terms of the Sequential Test, it is recognised that the proposal would make a contribution towards pitch supply, and there is currently a lack of reasonably available and suitable land at lesser flood risk elsewhere in the District. Consequently, the proposal has passed the Sequential Test.

- 9.6. However, it has not been demonstrated that the proposed development would pass the Exceptions Test. The granting of permanent pitches within the functional floodplain would not be consistent with the purpose of the presumption to promote 'sustainable development', and it would fail to direct the proposed development to a sustainable location. The highly vulnerable use is incompatible with the level of flood risk the application site is subject to and would not be adequately mitigated. As a result, under paragraph 11 (d) (i) of the NPPF, this would provide a 'strong reason' for refusing the proposal and the presumption in favour of sustainable development no longer overrides.
- 9.7. Whilst there are factors which weigh heavily in the favour of granting a permanent consent, these continue to fall short of outweighing the significant flood risk concerns, to the extent that the granting of permanent consent would be justified.
- 9.8. The plan-making process is now at an advanced stage, and there is the real prospect of site allocations at lesser flood risk being adopted in 2025, which would provide reasonably available and suitable land, at lesser flood risk than the application site.
- 9.9. The Environment Agency have previously advised that they consider the risks to this site are too significant to allow permanent 'highly vulnerable' development to proceed.
- 9.10. Whilst it is not considered appropriate to support the granting of a permanent consent on this site, it is considered reasonable to allow a further short term temporary consent of a year, in order to allow the site allocation process to conclude and provide the applicants with certainty over that period.
- 9.11. To allow a further temporary permission, Condition 1 would need to be varied to allow a further 12 months residential occupation.
- 9.12. In terms of the personal element of Condition 1, the application site remains within Flood Zones 3a and 3b, and is only acceptable on a further temporary basis to provide the current occupiers some certainty over the next 12 months as to their living arrangements. For these reasons, it is considered necessary for the permission to remain personal to those currently residing on the site, and the names are proposed to be amended to accord with the current site occupiers. Officers are satisfied, based upon the information provided by the applicants, and in consultation with the Council's Community Relations Team, that the current occupiers of the site meet the definition of a Traveller as set out in Annex 1 of the PPTS 2024.

#### **Remaining Conditions**

- 9.13. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect.
- 9.14. Conditions 02 (maximum number of caravans on site), 03 (no commercial or industrial activities), 04 (no vehicles over 3.5 tonnes), 05 (Restoration Scheme) 06 (Flood Warning System), are all considered to remain reasonable and necessary and will be repeated again.

- 9.15. In terms of Conditions 08 (surfacing of access) and 09 (visibility splays) these do not appear to have been provided in accordance with the plan reference SF-21-P01revC, therefore, in the interests of highway safety, it is necessary to repeat these condition again.
- 9.16. With regards to Condition 10 (ground levels) it does not appear that ground levels of the site have been reduced to 10.5 AOS or lower, therefore it will be necessary to repeat this condition, in the interests of flood risk.
- 9.17. With regards to Condition 11 (site to only be occupied by those meeting the definition in Annex of the Planning Policy for Traveller Sites), as Offices are satisfied that the occupiers names under condition 1 meet the definition of a gypsy and traveller, as defined in Annex of the Planning Policy for Traveller Sites, this condition is not considered necessary.
- 9.18. It is therefore recommended that the application is approved, subject to the following conditions, including the variation of Condition 1 as detailed above.

## **10.0 Conditions**

### **01**

The development hereby permitted shall be carried on only by the following and their resident dependents:

- Pitch 1 – Triston Price, his wife and children
- Pitch 2 – John Herne, his wife and children
- Pitch 3 – Richard Calladine
- Pitch 4 – Mrs Coverdale and children
- Pitch 5 – Amanda Dunne and children
- Pitch 5a – Selina Sheppard and daughter
- Pitch 6 – Joseph and Mary Cooper and children
- Pitch 7 – Patrick Cooper, his wife and children
- Pitches 8 and 9 – Mr Joseph Lee, his wife and children
- Pitch 10 – Sonny Price
- Pitches 11 and 12 – Ernest Smith, his wife and children
- Pitch 13 – George Finney, his wife and child

And shall be for a limited period being the period up to 03 July 2026, or the period during which the land is occupied by them, whichever is the shorter. When the land ceases to be occupied by those named in this condition 1, or on 03 July 2026, whichever shall first occur, the use hereby permitted shall cease and all caravans, amenity blocks, materials and equipment brought on to the land, or works undertaken to it in connection with the use and development shall be removed and the land restored to its condition before the development took place in accordance with a scheme approved under condition 05 hereof.

Reason: In the recognition of the current need for gypsy and traveller sites within the District and to allow for further assessment of alternative sites to meet this need including sites at less risk of flooding in accordance with the aims of Core Policy 10 of the Newark and Sherwood Amended Core Strategy (March 2019).

## **02**

No more than 26 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, of which none shall be a static caravan, shall be stationed on the site at any time.

Reason: In order to define the permission and protect the appearance of the wider area in accordance with the aims of Core Policy 13 of the Newark and Sherwood Amended Core Strategy (March 2019) and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

## **03**

No commercial or industrial activities shall take place on this site, including the storage of materials associated with a business.

Reason: In the interests of the appearance of the surrounding area and the amenities of surrounding land uses in accordance with the aims of Core Policies 5 and 13 of the Newark and Sherwood Amended Core Strategy (March 2019) and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

## **04**

No vehicles over 3.5 tonnes shall be stationed, parked or stored on this site.

Reason: In the interests of the appearance of the surrounding area and the amenities of surrounding land uses in accordance with the aims of Core Policies 5 and 13 of the Newark and Sherwood Amended Core Strategy (March 2019) and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

## **05**

The use hereby permitted shall cease and all caravans, equipment and materials brought onto the land for purposes of such use shall be removed within 18 months of the date of the failure to meet any one of the requirements set out in (i) to (iv) below:

(i) Within 3 months of the date of this decision a scheme for the restoration of the site to its condition before the development took place with ground levels at a maximum of 10.5m AOD across the site (except for beneath the amenity blocks) shall be submitted to the Local Planning Authority for approval in writing. The approved restoration scheme shall be commenced immediately from when the use hereby permitted ceases and shall be completed within 100 days of the use ceasing.

(ii) Within 6 months of the date of this decision the site restoration scheme shall have been approved in writing by the Local Planning Authority or, if the Local Planning Authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;

(iii) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State; and

(iv) The approved scheme shall have been carried out and completed in accordance with the timetable set out in (i).

Reason: In order to protect the long term appearance of the area in accordance with the aims of Core Policy 13 of the Newark and Sherwood Amended Core Strategy (March 2019) and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

## **06**

The development hereby permitted shall cease and all caravans, amenity blocks, equipment and materials brought onto the land for the purposes of such use shall be removed within 6 months of the date of any failure to meet any one of the requirements set out in (i) to (vii) below:

(i) Within 28 days of the date of this permission, each of the residents named in condition 1 hereof (hereafter referred to as the residents) shall (a) register with the Environment Agency's Floodline Warnings Direct Service (hereafter referred to as the Flood Warning Service which expression shall include any replacement for that Service provided by the Environment Agency); and (b) provide the local planning authority with confirmation from the Environment Agency that they have done so;

(ii) Each of the residents shall maintain their registration with the Flood Warning Service (or any replacement service) throughout the life of this permission and shall provide the Local Planning Authority with further confirmation from the Environment Agency that they are registered within 28 days of each of the following: (a) the second and third anniversaries of the date of this permission; and (b) any written request from the Local Planning Authority for such confirmation;

(iii) Each of the residents shall notify the Local Planning Authority in writing of the locations to which they could evacuate in the event of a Flood Alert, together with their current telephone contact details within 28 days of each of the following: (a) the date of this permission; (b) the second and third anniversaries of the date of this permission; and (c) any written request from the Local Planning Authority for such details;

(iv) Within 28 days of the date of this permission and throughout the life of this permission, no less than 3 of the residents shall be nominated as Flood Wardens for the site. Details of the first nominated Flood Wardens including names and telephone numbers shall be provided within 28 days of the date of this permission. Thereafter, the names and telephone numbers of the Flood Wardens shall be confirmed in writing to the Local Planning Authority within 28 days of each of the following: (a) any change to the identity of any of the nominated Flood Wardens; (b) the second and third anniversaries of the date of this permission; and (c) any written request from the Local Planning Authority for such details;

(v) Within 8 hours of a Flood Alert, this being the first alert issued through the Flood Warning Service, all of the residents will evacuate the site, bringing all caravans and vehicles with them;

(vi) Within 10 hours of a Flood Alert the Flood Wardens, or any one of them, will confirm to the Local Planning Authority that all of the residents have evacuated the site; and

(vii) None of the residents shall return to the site until notice is issued through the Flood Warning Service that the Flood Alert is at an end and the all clear has been given.

Reason: In the interests of reducing flood risk in accordance with the aims of Core Policies 5 and 10 of the Newark and Sherwood Amended Core Strategy (March 2019) and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

## **07**

Within 3 months of the date of this permission full details of soft landscape works shall have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. The approved landscaping shall be implemented within the next planting season following the date of this permission. These details shall include:

- o a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species along the Tolney Lane frontage;

- o proposed finished ground levels or contours;

- o means of drainage;

- o minor artefacts and structures for example, refuse facilities, external lighting etc.

Reason: In the interests of visual amenity and biodiversity in accordance with the aims of Core Policies 5 and 12 of the Newark and Sherwood Amended Core Strategy (2019) and Policies DM5 and DM7 of the Allocations and Development Management DPD (2013).

## **08**

Within 3 months of the date of this permission, the access to the site shall be completed and surfaced in a bound material in accordance with approved plan reference SF-21-P01revC.



Reason: - To enable vehicles to enter and leave the public highway in a slow and controlled manner and in the interests of general Highway safety.

## **09**

Within 3 months of the date of this permission, the visibility splays shown on drawing no. SF-21-P01revC shall be provided. The area within the visibility splays referred to in this condition shall thereafter for the life of the development be kept free of all obstructions, structures or erections exceeding 0.6 metres in height.

Reason: - To afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network and in the interests of general Highway safety.

## **10**

Within 6 months of the date of this permission, ground levels on the site shall be reduced so that no part of the site is above 10.5m AOD (apart from those areas directly underneath the amenity blocks).

Reason:- In order to restore ground levels to reduce flood risks within the surrounding flood plain of the River Trent.

## **Informatives**

### **01**

The application as submitted is acceptable. In granting permission without unnecessary delay the District Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

### **02**

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

The proposed development has been assessed and it is the Council's view that CIL is not payable in this instance, as the temporary accommodation is provided by caravans, and not buildings.

### **03**

The site will require a caravan licence and the applicants must comply with the site licence conditions. Please see the following link for further information [Caravan site licence | Newark & Sherwood District Council](#)

### **04**

From the information provided as part of the application, the development granted by this notice is considered exempt from the biodiversity gain condition.

Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 states that planning permission is deemed to have been granted subject to the condition “the biodiversity gain condition” that development may not begin unless:

- a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- b) the planning authority has approved the plan;

OR

- c) the development is exempt from the biodiversity gain condition.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission is Newark and Sherwood District Council (NSDC).

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. Details of these exemptions and associated legislation are set out in the planning practice guidance on biodiversity net gain (Biodiversity net gain - GOV.UK ([www.gov.uk](http://www.gov.uk)))

Based on the information available, this permission is considered by NSDC not to require the approval of a biodiversity gain plan before development is begun, because the following reason or exemption is considered to apply – The application is a section 73 planning application, where the original planning application was exemption from BNG.

#### BACKGROUND PAPERS

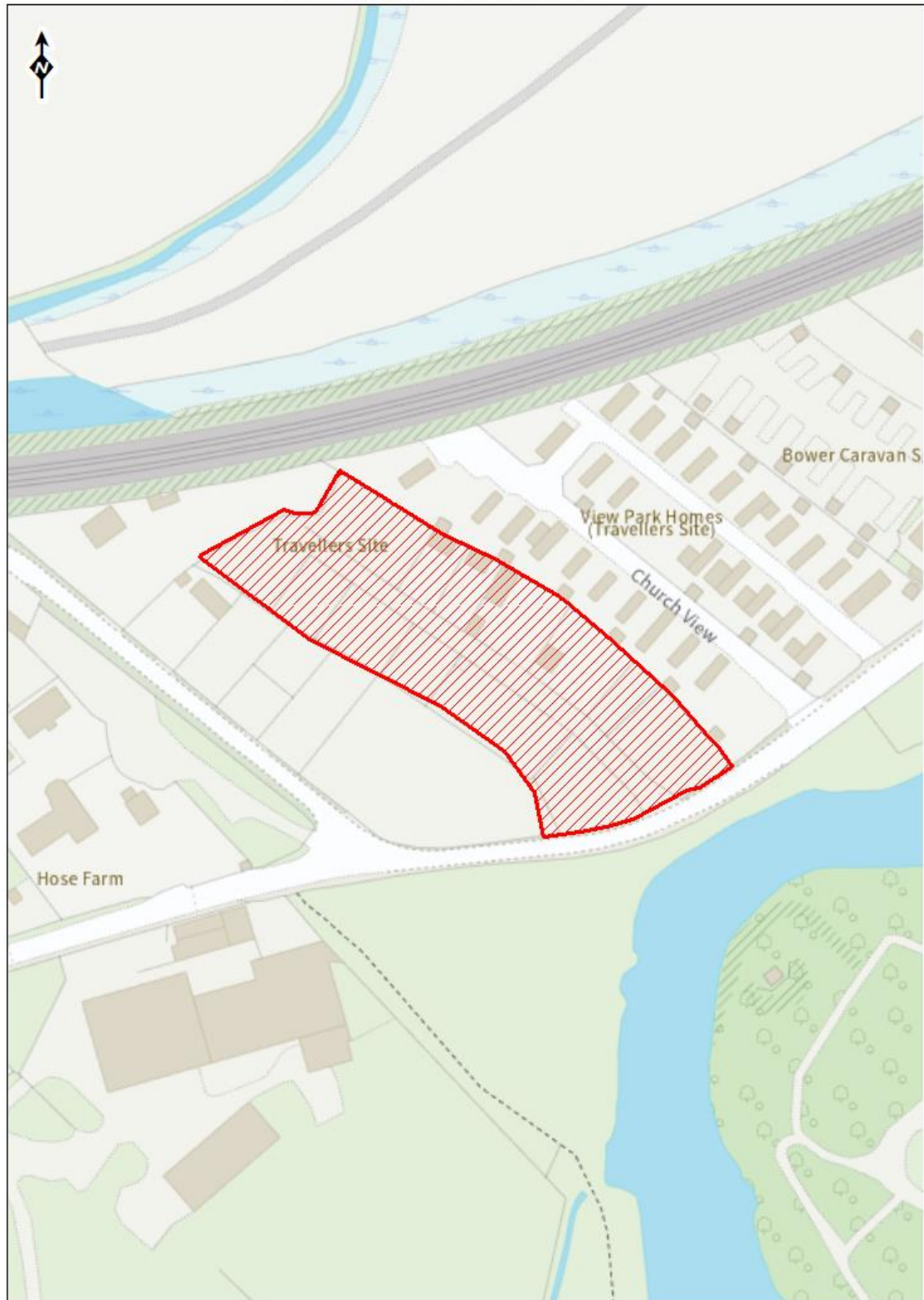
Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Application case file:-

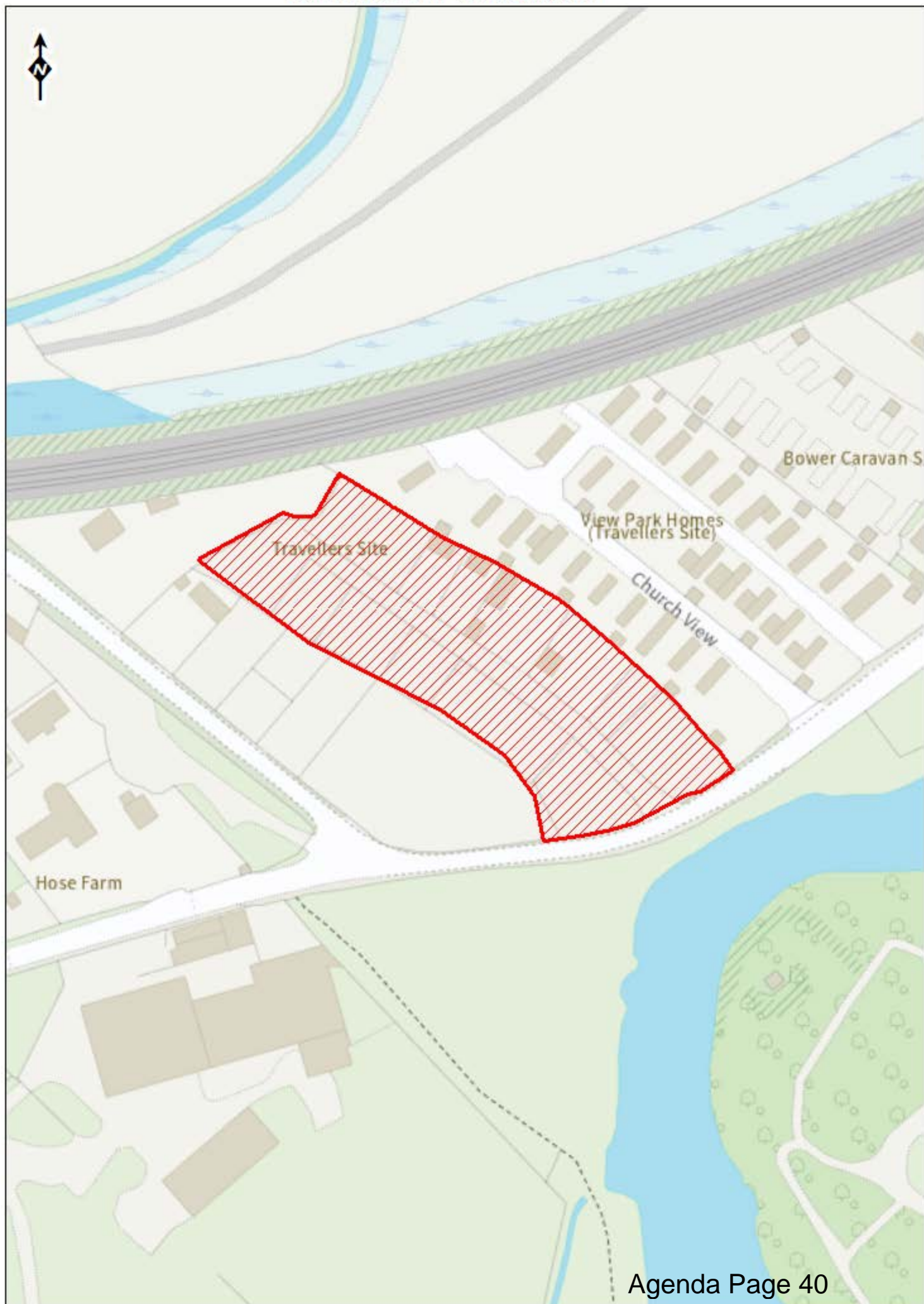
[25/00573/S73 | Application for variation of condition 01 to use land as gypsy and traveller's site, erection of amenity blocks and associated works on a permanent basis and change occupiers names attached to planning permission 21/02613/FUL. | Land At Shannon Falls Tolney Lane Newark On Trent NG24 1DA](#)

Link to documents in connection with Planning Application 21/02613/FUL:-

[21/02613/FUL | Use of land as a Gypsy and Travellers' site, erection of amenity blocks and associated works for temporary 3 year period \(Retrospective\) Re-submission of 21/01900/FUL. | Land At Shannon Falls Tolney Lane Newark On Trent NG24 1GB](#)



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Report to Planning Committee 3<sup>rd</sup> July 2025

Business Manager Lead: Oliver Scott – Planning Development

Lead Officer: Kirsty Catlow – Planning Officer

Report Summary			
<b>Application No.</b>	24/02008/S73		
<b>Proposal</b>	Application for removal of condition 01 to make temporary permission permanent and the personal permission general as attached to planning permission 21/00891/S73		
<b>Location</b>	Land Off Sandhills Sconce, Tolney Lane, Newark-On-Trent		
<b>Applicant</b>	Mr & Mrs Smith, Harris, Holmes, Calladine, Smith, Winters, Stewart, Smith, Tidd & Price.	<b>Agent</b>	Dr Angus Murdoch
<b>Web Link</b>	<a href="#">24/02008/S73   Application for removal of condition 01 to make temporary permission permanent and the personal permission general as attached to planning permission 21/00891/S73.   Land Off Sandhills Sconce Tolney Lane Newark On Trent</a>		
<b>Registered</b>	14.11.2024	<b>Target Date</b>	09.01.2025
		<b>Extension of Time Date</b>	11.07.2025
<b>Recommendation</b>	That Planning Permission is <u>APPROVED</u> subject to conditions, including the variation of Condition 1, as opposed to its removal.		

This S73 planning application is being referred to Planning Committee for determination as the previous application was dealt with by Planning Committee, and the recommendation is one of approval (subject to conditions), contrary to an objection from the Environment Agency (a Statutory Consultee).

## 1.0 The Site

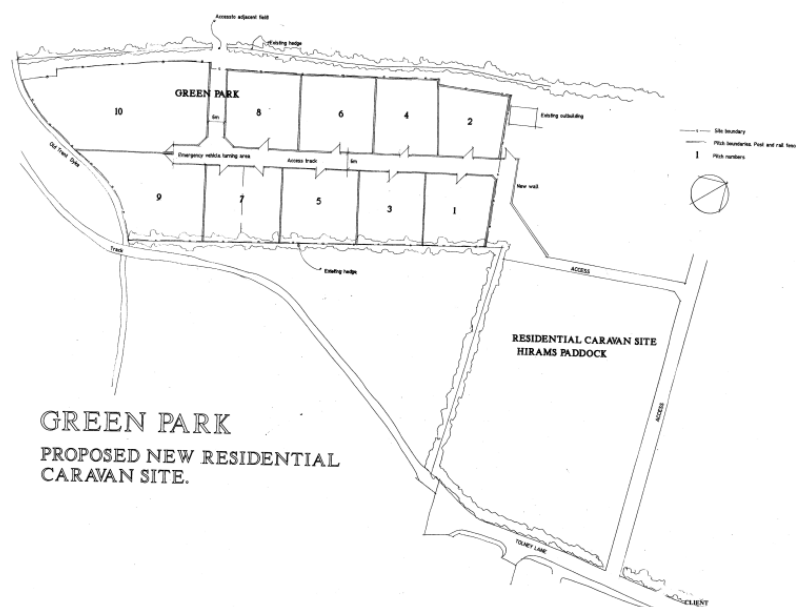
- 1.1 The application site is situated west of the Newark Urban Area defined by the Newark and Sherwood Allocations and Development Management DPD and within the open countryside. The site is located at the south-westernmost end of Tolney Lane which

runs from the Great North Road, on the northwest side of the River Trent and which leads to a dead end. The site, known as Green Park, is accessed from Tolney Lane, via an access road, which runs through an existing neighbouring gypsy and traveller site to the north-east. The road has been extended to the south-west to serve this site. Green Park represents the final gypsy and traveller site at the south-western end of Tolney Lane.



*Original site location plan submitted under 12/00562/FUL*

- 1.2 The site measures 1.35 hectares in area, is roughly rectangular in shape and its authorised use is as a gypsy and traveller residential caravan site on a temporary basis. The site is sub-divided into 10 pitches, all served by a central roadway. There are open fields to the north-west and south-west of the site, with a more recent gypsy and traveller site to the south-east.



*Original site plan submitted under 12/00562/FUL*

- 1.3 Hedges define the north-west and south-east boundaries, which are protected by a Tree Preservation Order (11/00099/TPO), and the Old Trent Dyke forms the south-western boundary of the application site.



*Aerial view of the application site taken from Google maps*

- 1.4 The majority of the site, towards the south west, is located within Flood Zone 3b on the Environment Agency's flood maps, which means it is at the highest risk of fluvial flooding, and is defined as being within the functional floodplain. Parts of Tolney Lane itself, which is the only access to and from the site, are also at high risk of flooding from the River Trent, with low points that are liable to flood before the site itself.
- 1.5 There are numerous sites off Tolney Lane which accommodate a large gypsy and traveller community, comprising of approx. 300 pitches.

## **2.0 Relevant Planning History**

- 2.1. **21/00891/S73** – Application to vary condition 1 of planning permission 18/01443/FUL to amend the temporary permission to permanent. Temporary permission was extended for a further 2 years until 30 November 2023.
- 2.2. **18/01443/FUL** - Application for the variation of condition 1, to make the temporary permission permanent, attached to planning permission 12/00562/FUL granted on appeal at Plots 1-10 Green Park, Tolney Lane (PI Ref: APP/B3030/C/12/2186072 and APP/B3030/A/12/2186071) (Change of use from paddock to gypsy and traveller residential caravan site - retrospective). Temporary permission was extended for a further 3 years until 30 November 2021.
- 2.3. **17/00954/FUL** - Removal of part of condition 1 attached to planning permission

12/00562/FUL (Change of use from paddock to gypsy and traveller residential caravan site) to allow the site to be permanent, refused 02.07.2018 by Planning Committee for the following reason:

*"The proposed development represents highly vulnerable development that would be located within Flood Zone 3b and therefore would be inappropriate and should not be permitted in accordance with the National Planning Policy Framework and the PPG. The NPPF states that all development should be directed towards areas at lower risk of flooding. When temporary permission was first granted on this site there were no available Gypsy & Traveller sites in areas at lower risk of flooding. Whilst the Local Planning Authority cannot currently demonstrate a five year supply of pitches, the shortfall of 2 pitches is not considered significant or severe. The purpose of granting temporary consent was to cater for the applicant's immediate accommodation needs whilst allowing for the possibility of identifying other sites at lesser risk of flooding. The temporary consent still has almost 8 months to run (up to 30th September 2018) and the Authority is pro-actively pursuing the identification of a suitable site to meet future gypsy and traveller needs within, or adjoining, the Newark Urban Area. Although there would be some social and economic factors which would weigh in favour of the proposal it is not considered that these, in combination with the supply position, are sufficient to outweigh the severe flood risk and warrant the granting of permanent consent.*

*In the opinion of the Local Planning Authority, to allow permanent occupation of the site at such high risk of flooding would therefore place both the occupants of the site and members of the emergency services at unnecessary risk and be contrary to the National Planning Policy Framework and the Planning Practice Guidance, Core Policies 5 and 10 of the Newark and Sherwood Core Strategy and Policy DM5 of the Allocations and Development Management DPD."*

- 2.4. **14/01640/FULM** - Remove/Vary conditions 5 and 6 attached to the planning permission granted on appeal at Plots 110 Green Park, Tolney Lane (PI Ref: APP/B3030/C/12/2186072 and APP/B3030/A/12/2186071; NSDC Ref: 12/00562/FUL). Condition 5 required the removal of all solid walls and close boarded timber fences from site and replacement with post and rail fences within 3 months of the date of the permission and Condition 6 required the ground level within Pitch 8 to be reduced within 3 months of the permission. This application was refused by Planning Committee 18.12.2015 on grounds of failure to demonstrate it would result in no increased flood risk.
- 2.5. **12/00562/FUL** - Change of use from paddock to gypsy and traveller residential caravan site (retrospective), refused by Planning Committee 12.10.2012 on grounds of impact on flood risk, harm to open countryside and prematurity. Following an extensive Public Inquiry the Inspector resolved 10.06.2014 to grant temporary planning permission for 5 years until 30 September 2018 (PI Ref: APP/B3030/C/12/2186072 and APP/B3030/A/12/2186071).

### **3.0 The Proposal**



- 3.1 Planning permission is sought to remove Condition 1 attached to the current permission under reference 21/00891/S73, to allow the temporary gypsy and traveller use of the site to become permanent and to allow for a general permission, rather than a personal permission.

- 3.2 Condition 1 attached to 21/00891/S73 states:

*'The use hereby permitted shall be carried on only by the following and their resident dependents:*

*Steven and/or Cherylanne Coates  
Adam and/or Florence Gray  
Zadie Wilson (soon to be Knowles) and/or Joe Knowles  
Danny and/or Marie Knowles  
Richard and/or Theresa Calladine  
Edward and/or Margaret Biddle  
Steven and/or Toni Coates and Peter Jones  
Amos and/or Jaqueline Smith  
John and/or Kathy Hearne  
Susie and/or Billy Wiltshire*

*And shall be for a limited period being the period up to 30 November 2023, or the period during which the land is occupied by them, whichever is the shorter. When the land ceases to be occupied by those named in this condition 1, or on 30 November 2023, whichever shall first occur, the use hereby permitted shall cease and all caravans, materials and equipment brought on to the land, or works undertaken to it in connection with the use shall be removed and the land restored to its condition before the development took place in accordance with a scheme approved under condition 7 hereof.*

*Reason: In the recognition of the current need for gypsy and traveller sites within the District and to allow for further assessment of alternative sites to meet this need including sites at less risk of flooding in accordance with the aims of Core Policy 10 of the Newark and Sherwood Amended Core Strategy (March 2019).'*

- 3.3 No Planning Statement or supporting information has been submitted with the application.
- 3.4 For the avoidance of doubt, the agent was asked to provide an up-to-date list of all current occupiers of the site. The following names were provided on 2<sup>nd</sup> May 2025:

Plot 1: Richard & Lisa Smith, kids Moses, Issac and Joseph Smith  
Plot 2: Sarah Harris, kids Thomas & Robert Harris  
Plot 3: Thomas & Olivia Holmes, kids Thomas Holmes  
Plot 4: Jason & Shayla Calladine  
Plot 5: Sam, & Grace Smith, kids Karen Lydia Smith  
Plot 6: Tyrone & Milly Winters, kids Levi, Tyrone, Storm, Creed, Beauty Winters  
Plot 7: Davey & Debbie Stewart, kids Noah, Shania and Davey Stewart

Plot 8: Amy Smith, kids Amy Smith

Plot 9: Sarah Jane Tidd

Plot 10: Leo & Montana Price

The site wardens reside on Plots 1, 8 and 9.

- 3.5 The agent has confirmed that all of the applicants who reside on the site are traditional ethnic Romany Gypsy Travellers who form part of the need for further sites in the area, and therefore meet the definition within the Annex 1 PPTS 2024.
- 3.6 As this represents a Section 73 application, no plans or Flood Risk Assessment have been submitted with the application, as reliance will be made on those submitted under reference 12/00562/FUL. The Inspector commented on the FRA's submitted with the original application that:- *"It is common ground that the 2 FRA's submitted with the application the subject of the appeal D were inadequate. For the Environment Agency (EA), Mr Andrews pointed out that the submitted FRA's did not: analyse the flood risk from the adjacent Old Trent Dyke; identify mitigation measures to take account of works undertaken on site; or analyse the hazards associated with the access and egress route, with input from the emergency services. I still do not have a document which constitutes a FRA approved by the EA and that is an additional breach of the requirements of the Framework, PPG and CS. However, during the course of this Inquiry, I have heard a considerable amount of expert evidence on behalf of the appellants and the EA regarding flood risks and it falls to me to consider the risks on that basis."* On allowing the appeal, the Inspector subsequently relied wholly upon site evacuation following a Flood Alert warning from the Environment Agency, in terms of keeping the occupiers safe, in the event of a flood.

#### **4.0 Departure/Public Advertisement Procedure**

- 4.1 Occupiers of 8 properties have been individually notified by letter.
- 4.2 Site visit undertaken on 10.02.2025.

#### **5.0 Planning Policy Framework**

##### **The Development Plan**

##### **5.1. Newark and Sherwood Amended Core Strategy DPD (adopted March 2019)**

Spatial Policy 1 - Settlement Hierarchy

Spatial Policy 3 - Rural Areas

Spatial Policy 7 - Sustainable Transport

Core Policy 4 - Gypsies & Travellers – New Pitch Provision

Core Policy 5 - Criteria for Considering Sites for Gypsy & Travellers and Travelling Show people

Core Policy 9 - Sustainable Design

Core Policy 10 - Climate Change

Core Policy 13 - Landscape Character

## 5.2. **Allocations & Development Management DPD (2013)**

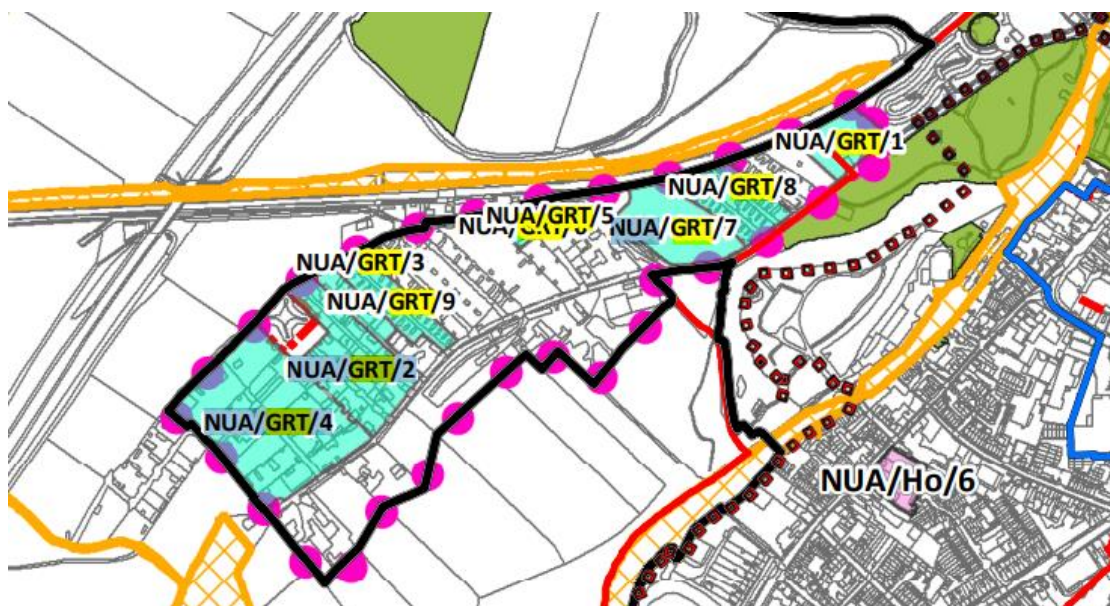
Policy DM5 – Design

Policy DM8 – Development in the Open Countryside

Policy DM12 – Presumption in Favour of Sustainable Development

5.3. The [Draft Amended Allocations & Development Management DPD](#) was submitted to the Secretary of State on the 18th January 2024 and was examined in public in November. However, the outcome of the examination is not yet published and whilst the plan is at an advanced stage of preparation, there are unresolved objections to amended versions of the above policies and new content around Gypsy and Traveller provision emerging through that process. Therefore, the level of weight which those proposed new policies can be afforded is currently limited. As such, the application has been assessed in-line with policies from the adopted Development Plan.

5.4. It is however considered necessary to draw Members' attention to the fact that within the emerging DPD, a number of sites have been identified which would support further permanent gypsy and traveller pitches, in association with the delivery of flood alleviation improvements to Tolney Lane, and the definition of the Tolney Lane Policy Area, beyond which further Gypsy and Traveller sites would not be supported, as shown below outlined in pink dots:-



5.5. Members should note that the application site falls outside of the proposed Tolney Lane Policy Area, to the south west, and is not identified as a new site allocation. Therefore, in the event the Amended Allocations & Development Management DPD is adopted as proposed, it would not support the use of this site for permanent gypsy and traveller residential occupation.

## 5.6. **Other Material Planning Considerations**

- National Planning Policy Framework 2024 (as amended in 2025)

- Planning Practice Guidance (online resource)

5.7. The Court of Appeal recently considered the status of, and relationship between, Planning Practice Guidance (PPG) and the National Planning Policy Framework (NPPF) in *Mead Realisations Ltd v Secretary of State for Housing Communities and Local Government and another* [2025] EWCA Civ 32. The Court held that the NPPF and PPG are of the same status, and subsequently the PPG can amend the policy guidance contained within the NPPF. Both the guidance in the PPG and the policies in the NPPF are capable of being material considerations in decision-making, and the weight to be given to them is a matter for the decision-maker.

- Planning Policy for Traveller Sites – December 2024

5.8. When determining planning applications for traveller sites, the Planning Policy for Traveller Sites states that planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. It goes on to state that applications should be assessed and determined in accordance with the presumption in favour of sustainable development, in accordance with the guidance contained within the NPPF and this planning policy for traveller sites.

5.9. This document states that the following issues should be considered, amongst other relevant matters:

- Existing level of local provision and need for sites;
- The availability (or lack) of alternative accommodation for the applicants;
- Other personal circumstances of the applicant;
- Locally specific criteria used to guide allocation of sites in plans should be used to assess applications that come forward on unallocated sites;
- Applications should be determined for sites from any travellers and not just those with local connections.

5.10. The document goes on to state that local planning authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan and sites in rural areas should respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on local infrastructure. When considering applications, Local Planning Authorities should attach weight to the following matters:

- Effective use of previously developed (brownfield), untidy or derelict land
- Sites being well planned or soft landscaped
- Promoting healthy lifestyles
- Not enclosing sites with high walls or fencing, giving the impression its occupants are isolated from the rest of the community.

5.11. In terms of housing land supply, Para 28 it advises that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, the provisions in paragraph 11(d) of the National Planning Policy Framework apply. Local planning authorities should consider how they could overcome planning objections to particular proposals using planning conditions or planning obligations including:

- limiting which parts of a site may be used for any business operations
- specifying the number of days the site can be occupied by more than the allowed number of caravans
- limiting the maximum number of days for which caravans might be permitted to stay on a transit site.

5.12. **Annex 1** of this policy provides a definition of “gypsies and travellers” which reads:-

*“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds of their own or their family’s or dependents’ educational or health needs or old age have ceased to travel temporarily or permanently, and all other persons with a cultural tradition of nomadism or of living in a caravan, but excluding members of an organized group of travelling show people or circus people travelling together as such.”*

- Newark and Sherwood Gypsy and Traveller Accommodation Assessment 2020
- Emergency Planning Guidance produced by the Nottingham and Nottinghamshire Local Resilience Forum (August 2017)

5.13. This document states: *“New developments in flood risk areas must not increase the burden on emergency services. The Emergency Services are in heavy demand during flood incidents. The Fire and Safety Regulations state that “people should be able to evacuate by their own means” without support and aid from the emergency services. The emergency services and local authority emergency planners may object to proposals that increase the burden on emergency services.”*

*“New development must have access and egress routes that allow residents to exit their property during flood conditions. This includes vehicular access to allow emergency services to safely reach the development during flood conditions. It should not be assumed that emergency services will have the resource to carry out air and water resources during significant flooding incidents; therefore safe access and egress routes are essential.....*

*The emergency services are unlikely to regard developments that increase the scale of any rescue as being safe...”*

## **6.0 Consultations and Representations**

Please Note: Some comments below are provided in summary - for comments in full

please see the online planning file.

### Statutory Consultations

- 6.1. **Environment Agency – Object**, to the removal of condition 1 to make the temporary permission permanent, due to the flood risk posed to the site, and recommend the LPA refuse the application on this basis. We should note that we continue to work closely with the LPA on a potential flood alleviation scheme which will hopefully provide greater protection to the wider Tolney Lane GRT site. However, we have made our position clear to the LPA that until such a scheme is in place, we remain concerned about the risk posed to residents during extreme flood events and will continue to object on planning policy grounds. Therefore, our position has not changed since our last response, which was issued on 1<sup>st</sup> October 2021, and this response should continue to be referred to. The most up to date hydraulic modelling still indicated the same level of risk posed to the site. The Environment Agency confirmed on 31<sup>st</sup> March 2025, that a large portion of the south-west of the application site remains within Flood Zone 3b, and the remainder of the site remains within Flood Zone 3a.



*Site edged in red, extent of Flood Zone 3b shown in green*

### Town/Parish Council

- 6.2. **Newark Town Council – Object**, due to the location of the land on a flood plain and the site not being a proposed allocated site in the Newark and Sherwood District Council's Development Plans.

### Representations/Non-Statutory Consultation

- 6.3. **NSDC Planning Policy Team** (comments in full)

### Context

- 6.4. The site was granted temporary consent, via a Public Inquiry, in June 2014. In doing so the Inquiry Inspector reached the conclusion that notwithstanding the lack of five year land supply, and other material considerations in support of the proposal, this was

insufficient to justify the granting of permanent consent. This balanced judgement was principally reached as a result of the 'serious flood risk' the site was subject to. With the prospect of safer and more suitable sites being allocated through the Development Plan process, and delivered with planning permission, within 5 years being referenced. Subject to effective management and minimisation of the risks over a 'finite' and temporary period- the Inspector reached the view that the material considerations weighing in favour of the granting of consent would support the granting of a temporary permission (up to the 30th September 2018).

- 6.5. Subsequently, permanent consent has been sought through a number of further applications- but with only additional temporary consents being granted. The most recent being in November 2021 (21/00891/S73), which expired on 30th November 2021. As part of the determination of the 2021 application legal advice was received outlining that providing there is good, sound reason for the continued granting of temporary consent this would not lead to a greater likelihood of permanent permission being found to be more acceptable over time.

#### Plan Review Update

- 6.6. Since the last temporary consent was granted, the Authority has continued to progress the review of its Allocations & Development Management DPD. Submission of the Draft Amended DPD to the Secretary of State occurred in January 2024 and the Hearing Sessions as part of the Examination in Public were concluded on the 12th November 2024. Further correspondence from the Plan Inspector was received, including questions to the Council around Tolney Lane, the Tolney Land Flood Alleviation Scheme and delivery in this location. The Council has responded to these questions and now awaits further instruction from the Inspector. This represents an advanced stage in the plan-making process, and the Council has submitted what it considers to be a sound, robust and comprehensive strategy to address Traveller accommodation requirements over the plan period.
- 6.7. This incorporates a range of site allocations in the Newark and Ollerton Areas, and the designation of a 'Policy Area' to provide for the future management of the Tolney Lane area. Taken alongside completions and commitments post-2019 these new site allocations will allow for the minimum requirements of the Planning Policy for Traveller Sites (PPTS) to be exceeded, and a five-year land supply established. Through the Policy Area – those part of Tolney Lane at least flood risk and sites where additional pitch allocations have been identified would be brought inside the Urban Boundary. There would be a presumption against further outward expansion beyond this boundary. Central to the Strategy is the design and delivery of a 'Flood Alleviation Scheme' (FAS) for Tolney Lane – intended to increase the flood resiliency of the single point of access/egress up to a 1% AEP flood event and provide site-level reductions in flood risk along its length.
- 6.8. No pitch allocations are proposed for the application site, and it sits outside of the extents for the Tolney Lane Policy Area. The approach taken in discounting the allocation of the site is consistent with the decision reached through the Public Inquiry. With the substantial flood risk the land is subject to making its use for permanent Traveller accommodation unsuitable.

- 6.9. As part of the Plan Review process the Council has entered into a Statement of Common Ground with the Environment Agency. Through which the Agency welcome the principle of the FAS and its ability to deliver significant betterment. Further agreement was reached over the benefits from taking a plan-led approach to development in the area and allowing for its regularisation. Both parties seek an end to the cycle of Environment Agency objections to proposed new pitches in locations at greatest flood risk, with temporary permissions then being granted at appeal due to a lack of alternative provision in more suitable locations.

#### Traveller Accommodation Need and Supply

- 6.10. The Gypsy and Traveller Accommodation Assessment (GTAA) for Newark & Sherwood identifies a total need for 169 pitches for Gypsies and Travellers for the period 2019 – 2034. This comprises need from Travellers who met the 2015 PPTS planning definition of a Traveller (118 pitches); from households that did not meet the 2015 PPTS planning definition of a Traveller (30 pitches); and from undetermined households where it was not possible to complete an interview with residents (21 pitches). Since the GTAA was published in February 2020 there have been changes made to the PPTS as a result of the Lisa Smith Court of Appeal Judgement, relating to the planning definition of a Traveller for planning purposes.
- 6.11. The Council's consultants Opinion Research Services (ORS) have carefully considered the implications on the assessment of need in the GTAA, reviewing the outcomes of household interviews. Concluding that 134 pitches of the overall 169 pitch requirement reflects the needs of Traveller households meeting the revised definition in Annex 1. Whilst the Council recognises 169 pitches as its overall pitch target, it is the lower 134 pitch need which provides the relevant local target for calculation of the five-year land supply – in line with the PPTS. This need has been broken down into 5 year periods, and there is an adjusted requirement for the current five-year period (2024-2029) of 100 pitches (taking account of completed pitches and the residual unmet requirement from the previous five-year period).
- 6.12. It remains necessary to forecast delivery from proposed site allocations to identify a five-year land supply. Paragraph 48 in the NPPF details the tests applicable to emerging policy in order to determine how much weight it can be afforded within the Development Management process. Until such time as the Inspector issues their report it will not be clear how the emerging Traveller strategy performs against tests b and c. These concern the extent to which there are unresolved objections to relevant policies, and the degree of consistency of the relevant policies in the emerging plan to the Framework. Accordingly, an up-to-date assessment of supply without forecast delivery from site allocations is provided below.

<b>First Five-Year Period (2019-24)</b>	
Five Year Pitch Requirement	85
Completed Pitches within period	3
Residual Requirement	82
<b>Second Five Year Period (2024 - 29)</b>	
Five Year Pitch Requirement	24
Residual Requirement 2019-24	82



Completed Pitches within period	6
Adjusted Requirement	100
Annualised Requirement	20
<b>Supply</b>	
Pitch Supply from Unimplemented Permissions	37
Pitch Supply from Allocated Sites	0
Total Supply	37
<b>No Years Supply</b>	
Against Requirement	37/20=1.85

- 6.13. Despite a number of permissions having been granted, the Authority remains in a position where it lacks sufficient identifiable and deliverable sites to address either its overall pitch requirements, or to demonstrate a five-year land supply (being currently able to show a 1.85 year supply).
- 6.14. Accompanying the publication of the new NPPF of the 12th December was an updated PTS – this makes clear at paragraph 28 that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, then the provisions in paragraph 11(d) of the National Planning Policy Framework apply. Consequently, the tilted balance towards decision-making which this requires becomes engaged. This means that;

*Where the policies which are most important for determining the application are out-of-date, granting permission unless:*

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or*
- ii. 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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination*

#### Flood Risk

- 6.15. The site remains at substantial flood risk – directly in having previously been identified as being located in the functional floodplain (Zone 3b), and with the single point of access/egress to Tolney Lane also being within the same zone and modelled to flood early in an event of a sufficient magnitude. However, at the time of writing the Agency has not signed off the District Council's latest Strategic Flood Risk Assessment for use beyond the Plan Review process – and so there is no up-to-date local definition of the Functional Flood Plain. The response from the Environment Agency is therefore noted, providing confirmation that the site is split between Flood Zones 3a and 3b.

- 6.16. As mentioned above, there are no proposals for the site to benefit from site-level reductions in flood risk through the delivery of the Flood Alleviation Scheme for Tolney Lane.
- 6.17. Applying the Sequential Test as required by national and local planning policy there is a lack of reasonably available and suitable land at lesser risk elsewhere, and so the proposal would pass the Test on this basis. The Planning Practice Guidance is also clear that the Sequential Test should be applied prior to having regard to Table 2 'Flood Risk Vulnerability and Flood Zone Incompatibility' of its Flood Risk section. Albeit, the Table is clear in identifying that a 'highly vulnerable' use is incompatible with Flood Zone 3a and 3b, and so should not be permitted.
- 6.18. Through the *Mead Realisations Ltd v Secretary of State for Housing Communities and Local Government and another* [2025] EWCA Civ 32 judgment the PPG was found to hold the same legal status as the NPPF, in that they are both statements of national policy issued by the Secretary of State. Both the guidance in the PPG and the policies in the NPPF are capable of being material considerations in decision-making, and the weight to be given to them is a matter for the decision-maker. This provides a helpful steer over the status of Table 2 in the Flood Risk section of the PPG.
- 6.19. With regards to the Exception Test, I'm content that regarding its first part- there would be wider sustainability benefits to the community via the contribution towards meeting the identified accommodation needs of Travellers. However, I note the objection from the Environment Agency over the second part of the Test . Given the failure to pass both parts of the test, and in-line with national policy, the proposal ought to be refused.

### Conclusion

- 6.20. There is a significant unmet need for Traveller accommodation – with the Council in the position where it cannot currently identify sufficient land to meet either its overall requirements, or demonstrate a five-year land supply. This results in the tilted balance outlined at paragraph 11(d) of the NPPF becoming engaged. Part 1 of the paragraph identifies a range of areas where the application of policy in the Framework for their protection provides a strong reason for refusing the development proposed, this includes 'areas at flood risk'. The application site is at the highest level of flood risk – being located within the functional floodplain, with national policy orientated around application of the Sequential and Exceptions Test in this regard. Whilst the proposal can be considered to have passed the Sequential Test, it has not demonstrated satisfaction of the Exceptions Test. Under Part 1 of paragraph 11 d) national policy concerning the Exceptions Test would in my view provide a 'strong reason' for refusing the proposal.
- 6.21. Were one to conclude differently and take the view that the Exceptions Test fell short of providing that required 'strong reason', then the decision-maker would proceed onto part 2. Through which, permission ought to be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making

effective use of land, securing well-designed places and providing affordable homes, individually or in combination. Clearly there remains the need to continue to also have regard to parts of the Development Plan which are up-to-date and in your judgement relevant to the determination of the proposal.

- 6.22. It is recognised that the proposal would make a contribution towards pitch supply, and there is a lack of reasonably available and suitable land at lesser flood risk elsewhere. Consequently, the proposal has passed the Sequential Test. However, I remain unconvinced that the granting of permanent pitches within Flood Zone 3a and 3b would be consistent with the purpose of the presumption to promote 'sustainable development', and it would fail to direct the proposed development to a sustainable location. The highly vulnerable use is incompatible with the level of flood risk the application site is subject to, with the PPG setting out that it should not be permitted. Furthermore, there has also been a failure to demonstrate the Exceptions Test as passed. As a consequence, the adverse impact of granting permanent consent would in my view significantly and demonstrably outweigh the benefits – when assessed against the policies in the Framework and up-to-date parts of the Development Plan.
- 6.23. There has been no material change since the original Public Inquiry, which would lead me to draw a different conclusion to the Inquiry Inspector. Whilst there are factors which weigh heavily in the favour of granting consent these continue to fall short of outweighing the significant flood risk concerns, to the extent that the granting of permanent consent would be justified – even with paragraph 11 d) of the NPPF engaged. Whilst we are clearly beyond the five year period anticipated at the time of the Public Inquiry, the plan-making process is now at an advanced stage. There is the real prospect of site allocations at lesser flood risk being adopted early in the New Year – providing reasonably available and suitable land at lesser flood risk than the application site. Whilst I do not consider there is the case to support the granting of permanent consent, I would raise no objection to a further short term temporary consent of up to a year, in order to allow the site allocation process to conclude and provide the applicants with certainty over that period.
- 6.24. No comments have been received from any local residents or third parties.

## **7.0 Comments of the Business Manager – Planning Development**

- 7.1. Temporary planning permission was originally granted for the existing use of the gypsy and traveller caravan site on 10 June 2014, following an extensive Public Inquiry. The principle of the use of the site for these purposes on a temporary basis has therefore been established.
- 7.2. The Inspector stated within his decision following the Public Inquiry that *"....the absence of a 5 year supply of deliverable sites for gypsy and travellers must carry weight, notwithstanding paragraph 28 of PPTS. Nevertheless, principally because of the serious flood risk, I am still not persuaded that all the material considerations justify a permanent permission. .... However, the section of the PPG concerning the use of planning conditions indicates that temporary permission may be appropriate where it is expected that the planning circumstances may change by the end of the relevant period. There is at least a realistic prospect of safer, more suitable sites being allocated through*

*the development plan process and delivered, with planning permission, within the next 5 years. If the risks can be effectively managed and minimized over a finite and temporary period then, in the very particular circumstance of this case, the material considerations identified as weighing in favour of the development would cumulatively indicate that permission should be granted for a temporary period, notwithstanding the national and local policy objections.”*

- 7.3. The Inspector concluded in adding to the reasons for a temporary permission that *“it still requires the occupiers to leave the appeal site at the end of the temporary period, but this is a proportionate response and interference with the residents’ rights under Article 8 of the ECHR, given the legitimate objective of ensuring safety and avoiding undue additional burdens on the Council and emergency services.”*
- 7.4. The original permission was granted following the Inspector balancing the lack of available gypsy and traveller pitches at the time of consideration, against the high level of flood risk on the site. The decision was intended to cater for the applicants’ immediate accommodation needs whilst allowing for the possibility of identifying other sites at lesser risk of flooding. The original permission was renewed for a further 3 years in 2018 (18/01443/FUL), and again in November 2021 (ref: 21/00891/S73) for a further 2 years.
- 7.5. As confirmed in the PPTS, there is no presumption that a temporary grant of planning permission should be granted permanently, and legal advice has previously been sought on this matter, which confirms that as long as there is a good, sound reason for the continued granting of temporary permission, that this would not lead to a greater likelihood of a permanent permission being found to be more acceptable over time. However, there would need to have been a material change in circumstances since the determination of the previous permissions to justify any permanent permission, and this is considered in more detail further below.

### **Need**

- 7.6. The Gypsy and Traveller Accommodation Assessment (GTAA) for Newark and Sherwood identifies a total need for 169 pitches for Gypsy and Travellers for the period 2019-2034. Since the GTAA was published in February 2020 there have been changes made to the PPTS as a result of *Smith v Secretary of State for Levelling Up, Housing & Communities & Anor* 9 [2022] EWCA Civ 1391], relating to the planning definition of a Traveller for planning purposes. Having reviewed the assessment of ‘need’ in light of this appeal judgement, it has been concluded that 134 pitches reflects the needs of Traveller households meeting the revised definition. Therefore, whilst the Council recognises 169 pitches as its overall pitch target, it is the lower 134 pitch need which provides the relevant local target for calculation of the five year land supply – in line with the PPTS.
- 7.7. Despite a number of permissions having been granted for gypsy and traveller sites, the Authority remains in a position where it lacks sufficient identifiable and deliverable sites to address either its overall pitch requirements, or to demonstrate a five-year land supply (being currently able to show a 1.85 year supply).

- 7.8. An updated PPTS was published on 12<sup>th</sup> December 2024, alongside the updated NPPF, which makes clear at paragraph 28 that if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, then the provisions in paragraph 11(d) of the National Planning Policy Framework apply. Consequently, the presumption in favour of sustainable development towards decision-making becomes engaged. This means that;

*Where the policies which are most important for determining the application are out-of-date, granting permission unless:*

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or*
- ii. 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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination'*

The application of the above paragraphs to this proposal are discussed further in the Conclusion and Planning Balance section below.

- 7.9. Both the extent of the pitch requirement and the lack of a five-year land supply represent significant material considerations, which should weigh heavily in the favour of the granting of permission, where proposals will contribute towards supply.
- 7.10. Accordingly, the granting of permanent permission would allow for the current planning definition need, picked up as part of the GTAA, to be met and contribute progress towards a five-year land supply. This weighs heavily in the favour of granting permanent permission, and robust and justifiable reasons are needed to depart from a permanent approval on this basis. Officers consider, however, as did the Inspector previously, that given the potential risk to people and property, flood risk has the potential to form such a reason.

### **Flood Risk**

- 7.11. The site remains at substantial flood risk – both directly through its location in Flood Zone 3, and indirectly as a result of the single point of access/egress to Tolney Lane also being within the same Zone, and modelled to flood early in an event of a sufficient magnitude. This position remains unchanged since the initial Public Inquiry in 2014. The Environment Agency have confirmed that the majority of the site, towards the south west where the pitches are located, remains within Flood Zone 3b – functional floodplain, with the remainder of the site towards the north east being located within Flood Zone 3a. There are no proposals for the site to benefit from site-level reductions in flood risk through the delivery of the Flood Alleviation Scheme for Tolney Lane.
- 7.12. The final criterion of Core Policy 5 states that 'Proposals for new pitch development on Tolney Lane will be assessed by reference to the Sequential and Exception Tests as

defined in the Planning Practice Guidance. These will normally be provided temporary planning permission.’ The NPPF states that local planning authorities should minimise risk by directing development away from high-risk areas to those with the lowest probability of flooding. National guidance/policy relating to flood risk since 2014 has introduced new guidance in relation to climate change that increases the bar in relation to the assessment of new development. Core Policy 10 and Policy DM5 also reflects the advice on the location of development on land at risk of flooding and aims to steer new development away from areas at highest risk of flooding.

- 7.13. Paragraph 13 (g) of the PPTS sets out a clear objective not to locate gypsy and traveller sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans.
- 7.14. Annex 3 (Flood risk vulnerability classification) of the Planning Practice Guidance states that caravans, mobile homes and park homes intended for permanent residential use are classified as “highly vulnerable” uses. Table 2 (Flood risk vulnerability and flood zone incompatibility) of the Practice Guidance states that within Flood Zone 3a or b, highly vulnerable classification development should not be permitted. The Planning Practice Guidance make it clear that this type of development is not compatible within this Flood Zone and should therefore not be permitted.
- 7.15. In coming to his decision in 2014, in the appeal on this site, the Inspector acknowledged that the development was contrary to local and national policies concerning flood risk such that it would represent a highly vulnerable use and therefore inappropriate development in Flood Zone 3 that should not be permitted. However, he concluded that if residents of the site could be evacuated within 8 hours of the first flood alert warning, before flood levels are likely to prevent safe evacuation from the site for the residents, then there would be no input required from the Council or emergency services, and the development need not give rise to an additional burden. (No comments have been received from the Council’s Emergency Planner on this application). The Inspector concluded that the lack of a five-year supply was sufficient to warrant the grant of a temporary consent, subject to managing the risk to occupants of the site through the use of very prescriptive conditions to reduce the risk and secure a site-specific evacuation plan.
- 7.16. In considering whether it would be appropriate to permit a permanent permission, it remains the case that the majority of the site is located within Flood Zone 3b (functional floodplain) and therefore remains at high risk of flooding, and as such a permanent residential caravan site represents inappropriate development in this location.
- 7.17. Applying the Sequential Test, as required by national and local planning policy, there is a lack of reasonably available and suitable land at lesser risk elsewhere, and so the proposal would pass the Test on this basis.
- 7.18. The NPPF and PPG clearly state that change of use applications, where the proposed use is a caravan site, are not exempt from assessment under the Exception Test and the NPPF makes it clear that both elements must be passed for development to be

permitted. Paragraph 178 of the NPPF states, “To pass the exception test, it should be demonstrated that:

a) The development would provide wider sustainability benefits to the community that outweigh the flood risk; and

b) The development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.”

7.19. In terms of part a, there would be wider sustainability benefits to the community via the contribution the site would make towards meeting the identified accommodation needs of gypsy’s and travellers. However, the proposal would fail part b, as confirmed by the objection received from the Environment Agency. On that basis the application for permanent residential occupation of the caravan site should be refused.

7.20. The agent continues to rely upon Flood Risk Assessments that were submitted in support of the 2012 application. Both FRA’s submitted were considered inadequate during the Inquiry process and do not address the Exception Test or the technical ability of the site itself to be safe for its proposed use and demonstrate that it would not increase flooding elsewhere. Instead the site relies wholly on the requirement to evacuate the site on receipt of a Flood Alert warning from the Environment Agency prior to a flood event occurring. There is no other mitigation proposed, such as raising of land levels, raising of touring caravans, or any other innovative proposals to reduce flood risk to the development or future occupiers. Consequently, the Environment Agency continue to object to the proposed development due to the risks posed to residents during extreme flood events. Therefore, the proposal fails to pass the Exception Test.

7.21. It is therefore considered that the proposal continues to be contrary to the NPPF and PPG, Core Policies 5 and 10 of the Core Strategy and Policy DM5 of the Allocations and Development Management DPD as well as the guidance within the NPPF, PPG and PPTS.

7.22. Flood risk therefore continues to weigh significantly against the proposal for a permanent permission, and this is considered further within the Conclusion and Planning Balance set out below.

### **Other Matters**

7.23. **Other material planning considerations** – the impacts upon the open countryside; the site’s relatively close proximity to Newark Urban Area and its facilities and services; ecology; trees and hedgerows; highway safety; and residential amenity, remain unchanged from the previously considered application and as such do not require further consideration in this instance. The Gypsy and Traveller status of the occupants of the site have already been established through past applications. For information, the full officer report from the previous 2018 application can be viewed by clicking on the link attached to the Background Papers listed at the end of this report.

7.24. **Biodiversity Net Gain (BNG)** – In England, BNG became mandatory (under Schedule

7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021)) from February 2024. BNG is an approach to development which makes sure a development has a measurably positive impact ('net gain') on biodiversity, compared to what was there before development. This legislation sets out that developers must deliver a minimum BNG of 10% - this means a development will result in more, or better quality, natural habitat than there was before development. However, there are some exemptions to where BNG is applicable – these are set out in The Biodiversity Gain Requirements (Exemptions) Regulations 2024. This includes section 73 planning permissions where the original planning permission, to which the section 73 planning permission relates, was subject to exemption.

- 7.25. The original FUL application was submitted in October 2012, prior to Biodiversity Net Gain becoming Mandatory, and planning permission was subsequently granted in June 2014. This application seeks permission to vary Condition 1 relating to the occupation of the site. As a result, the proposal would be exempt in terms of BNG, as the application merely seeks to amend an original planning application, which itself was exempt from mandatory BNG.

## **8.0 Implications**

- 8.1. In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

### **Legal Implications**

- 8.2. Planning Committee is the appropriate body to consider the content of this report. A Legal Advisor will be present at the meeting to assist on any legal points which may arise during consideration of the application.

## **9.0 Conclusion and Planning Balance**

- 9.1 The objection from the Town Council is duly noted and has been taken into account in the recommendation put before Members.
- 9.2 There is a significant unmet need for Traveller accommodation within Newark and Sherwood, with the Council in the position where it cannot currently identify sufficient land to meet either its overall requirements or demonstrate a five-year land supply. The current five-year supply currently stands at 1.85 years. This results in the presumption in favour of sustainable development, outlined at paragraph 11d) of the NPPF, becoming engaged.
- 9.3 However, Paragraph 11 (d) (i), at footnote 7, of the NPPF identifies policy exceptions within the Framework that protect areas or assets of particular importance that provide a strong reason for refusing the development proposed. One of the exceptions listed include 'areas at risk of flooding.' As such, under part (d) (i), the



application of the presumption in favour of sustainable development no longer takes precedence in decision-taking and the application of (d) (ii) also falls away.

- 9.4 The application site is at the highest risk of flooding, being located within the functional floodplain, with national policy requiring development to pass both the Sequential and Exceptions Test.
- 9.5 In terms of the Sequential Test, it is recognised that the proposal would make a contribution towards pitch supply, and there is currently a lack of reasonably available and suitable land at lesser flood risk elsewhere in the District. Consequently, the proposal has passed the Sequential Test.
- 9.6 However, it has not been demonstrated that the proposed development would pass the Exceptions Test. The granting of permanent pitches within the functional floodplain would not be consistent with the purpose of the presumption to promote 'sustainable development', and it would fail to direct the proposed development to a sustainable location. The highly vulnerable use is incompatible with the level of flood risk the application site is subject to and would not be adequately mitigated. As a result, under paragraph 11 (d) (i) of the NPPF, this would provide a 'strong reason' for refusing the proposal and the presumption in favour of sustainable development no longer overrides.
- 9.7 There has been no material change since the original appeal decision, which would justify reaching a different conclusion to the Inquiry Inspector. Whilst there are factors which weigh heavily in the favour of granting consent, these continue to fall short of outweighing the significant flood risk concerns, to the extent that the granting of permanent consent would be justified.
- 9.8 Whilst we are clearly beyond the five-year period anticipated at the time of the Public Inquiry, the plan-making process is now at an advanced stage. There is the real prospect of site allocations at lesser flood risk being adopted in 2025, which would provide reasonably available and suitable land, at lesser flood risk than the application site.
- 9.9 The Environment Agency have advised that if, as the Local Planning Authority, NSDC is minded to approve the application on a permanent basis, they would consider instigating the 'call-in' direction, as they consider the risks to this site are too significant to allow permanent 'highly vulnerable' development to proceed, without further work to reduce flood risk to the site beforehand.
- 9.10 Whilst it is not considered appropriate to support the granting of a permanent consent, it is considered reasonable to allow a further short term temporary consent of a year, in order to allow the site allocation process to conclude and provide the applicants with certainty over that period.
- 9.11 To allow a further temporary permission, Condition 1 would need to be varied as opposed to being removed. It is therefore recommended that the condition be varied to allow a further 12 months residential occupation.

- 9.12 In terms of the personal element of Condition 1, which the application also seeks to delete, the Inspector, when considering the original application, attached great weight to the ability of future residents to evacuate the site within 8 hours of the first flood alert warning. The Inspector concluded that the lack of a five-year supply was sufficient to warrant the grant of a temporary consent, subject to managing the risk to occupants of the site through the use of very prescriptive conditions to reduce the risks and secure a site-specific evacuation plan, this included naming all occupiers of the site within Condition 1, and requiring each of the residents named in condition 1 to register with the Environment Agency's Flood line Warnings Direct Service (Condition 8). The application site remains within Flood Zone 3b, and is only acceptable on a further temporary basis, firstly to provide the current occupiers some certainty over the next 12 months as to their living arrangements, and in the interests of protecting occupiers from the risks of flooding. For these reasons, it is considered necessary for the permission to remain personal to those currently residing on the site.
- 9.13 Given the length of time it has been since the original application was permitted, and the possibility that the occupiers of the site may have changed, during the course of the application an updated list of all occupiers has been provided by the Agent. Officers are satisfied, based on the information submitted by the agent, and in consultation with the Council's Community Relations Team, that the current occupiers of the site meet the definition of a Traveller as set out in Annex 1 of the PPTS 2024.

#### **Remaining conditions**

- 9.14 The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect.
- 9.15 Conditions 02 (maximum number of caravans on site), 03 (no commercial or industrial activities), 04 (no vehicles over 3.5 tonnes), 07 (site restoration) and 08 (Flood Warning Service) all remain relevant and will be repeated again.
- 9.16 In terms of Conditions 05 (replacement of walls and fences) and 06 (ground level of pitch 8 reduced), the agent has not confirmed or provided evidence to show that the works required by these conditions, have been undertaken, therefore those conditions will also be repeated.
- 9.17 It is therefore recommended that the application is **approved**, subject to the following conditions, including the variation of Condition 1, as opposed to its removal.

### **10.0 Conditions**

#### **01**

The use hereby permitted shall be carried on only by the following and their resident dependents:

Richard and/or Lisa Smith, plus children  
Sarah Harris, plus children

Thomas and/or Olivia Holmes, plus children  
Jason and/or Shayla Calladine  
Sam and/or Grace Smith, plus children  
Tyrone and/or Milly Winters, plus children  
Davey and/or Debbie Stewart, plus children  
Amy Smith, plus children  
Sarah Jane Tidd  
Leo and/or Montana Price

And shall be for a limited period being the period up to 30 July 2026, or the period during which the land is occupied by them, whichever is the shorter. When the land ceases to be occupied by those named in this condition 1, or on 30 July 2026, whichever shall first occur, the use hereby permitted shall cease and all caravans, materials and equipment brought on to the land, or works undertaken to it in connection with the use shall be removed and the land restored to its condition before the development took place in accordance with a scheme approved under condition 7 hereof.

Reason: In the recognition of the current need for gypsy and traveller sites within the District and to allow for further assessment of alternative sites to meet this need including sites at less risk of flooding in accordance with the aims of Core Policy 10 of the Newark and Sherwood Amended Core Strategy (March 2019).

## **02**

No more than 20 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, of which none shall be a static caravan, shall be stationed on the site at any time.

Reason: In order to define the permission and protect the appearance of the wider area in accordance with the aims of Core Policy 13 of the Newark and Sherwood Amended Core Strategy (March 2019) and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

## **03**

No commercial or industrial activities shall take place on this site, including the storage of materials associated with a business.

Reason: In the interests of the appearance of the surrounding area and the amenities of surrounding land uses in accordance with the aims of Core Policies 5 and 13 of the Newark and Sherwood Amended Core Strategy (March 2019) and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

## **04**

No vehicles over 3.5 tonnes shall be stationed, parked or stored on this site.

Reason: In the interests of the appearance of the surrounding area and the amenities of surrounding land uses in accordance with the aims of Core Policies 5 and 13 of the Newark

and Sherwood Amended Core Strategy (March 2019) and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

## **05**

Within 3 months of the date of this permission, all of the solid walls and close boarded fences erected on the site shall be demolished and the resultant debris removed from the site and those walls and fences shall be replaced with post and rail fences, all in accordance with the plan showing the layout of the site received by the Council on 5 April 2012, but that providing where that plan indicates a "new wall" at the access to the site, that shall also be a post and rail fence.

Reason: In the interests of reducing flood risk in accordance with the aims of Core Policies 5 and 10 of the Newark and Sherwood Amended Core Strategy (March 2019) and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

## **06**

Within 3 months of the date of this permission, the ground level within Pitch 8, which is identified on the plan showing the layout of the site received by the Council on 5 April 2012, shall be reduced so that, at the south-western boundary of Pitch 8, corresponds with the unaltered ground level on the other side of the south-western boundary fence, so that in all other respects, the ground level within Pitch 8 is no higher than the levels indicated for that area on Site Levels Drawing No 1636.A.2 received by the Council on 5 April 2012. All resultant materials shall be removed from the site.

Reason: In the interests of reducing flood risk in accordance with the aims of Core Policies 5 and 10 of the Newark and Sherwood Amended Core Strategy (March 2019) and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

## **07**

The scheme for the restoration of the site to its condition before the development took place, as shown on the submitted and approved on Drawing No 1636.A.3 dated July 2014, shall be carried out and completed in accordance with the stated timetable. At the end of the period for which planning permission is granted for the use, or the vacation of the site, whichever is the sooner, the site shall be restored in accordance with the approved drawing and the approved timetable.

Reason: In order to protect the long term appearance of the area in accordance with the aims of Core Policy 13 of the Newark and Sherwood Amended Core Strategy (March 2019) and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

## **08**

The use hereby permitted shall cease and all caravans, equipment and materials brought onto the land for the purposes of such use shall be removed within 6 months of the date of any failure to meet any one of the requirements set out in (i) to (vii) below:

(i) Within 28 days of the date of this permission, each of the residents named in condition 1 hereof (hereafter referred to as the residents) shall (a) register with the Environment Agency's Floodline Warnings Direct Service (hereafter referred to as the Flood Warning Service which expression shall include any replacement for that Service provided by the Environment Agency); and (b) provide the local planning authority with confirmation from the Environment Agency that they have done so;

(ii) Each of the residents shall maintain their registration with the Flood Warning Service (or any replacement service) throughout the life of this permission and shall provide the local planning authority with further confirmation from the Environment Agency that they are registered within 28 days of each of the following: (a) the second anniversary of the date of this permission; and (b) any written request from the local planning authority for such confirmation;

(iii) Each of the residents shall notify the Local Planning Authority in writing of the locations to which they could evacuate in the event of a Flood Alert, together with their current telephone contact details within 28 days of each of the following: (a) the date of this permission; (b) the second anniversary of the date of this permission; and (c) any written request from the local planning authority for such details;

(iv) Throughout the life of this permission, no less than 3 of the residents shall be nominated as Flood Wardens for the site. Details of the nominated Flood Wardens including names and telephone numbers shall be provided within 28 days of the date of this permission to the Local Planning Authority. Thereafter, the names and telephone numbers of the Flood Wardens shall be confirmed in writing to the Local Planning Authority within 28 days of each of the following: (a) any change to the identity of any of the nominated Flood Wardens; (b) the second anniversary of the date of this permission; and (c) any written request from the local planning authority for such details;

(v) Within 8 hours of a Flood Alert, this being the first alert issued through the Flood Warning Service, all of the residents will evacuate the site, bringing all caravans and vehicles with them;

(vi) Within 10 hours of a Flood Alert the Flood Wardens, or any one of them, will confirm to the Local Planning Authority that all of the residents have evacuated the site; and

(vii) None of the residents shall return to the site until notice is issued through the Flood Warning Service that the Flood Alert is at an end and the all clear has been given.

Reason: In the interests of reducing flood risk in accordance with the aims of Core Policies 5 and 10 of the Newark and Sherwood Amended Core Strategy (March 2019) and Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (July 2013).

### Informatives

#### **01**

This application has been the subject of discussions during the application process to ensure that the proposal is acceptable, subject to the variation of conditions, as opposed to the removal of conditions. The District Planning Authority has accordingly worked positively and

pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accord Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

## 02

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

The proposed development has been assessed and it is the Council's view that CIL is not payable in this instance, as the temporary accommodation is provided by caravans, and not buildings.

## 03

From the information provided as part of the application, the development granted by this notice is considered exempt from the biodiversity gain condition.

Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 states that planning permission is deemed to have been granted subject to the condition “the biodiversity gain condition” that development may not begin unless:

- a) a Biodiversity Gain Plan has been submitted to the planning authority, and
  - b) the planning authority has approved the plan;
- OR
- c) the development is exempt from the biodiversity gain condition.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission is Newark and Sherwood District Council (NSDC).

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. Details of these exemptions and associated legislation are set out in the planning practice guidance on biodiversity net gain ([Biodiversity net gain - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/biodiversity-net-gain))

Based on the information available, this permission is considered by NSDC not to require the approval of a biodiversity gain plan before development is begun, because the following reason or exemption is considered to apply – The application is a section 73 planning application, where the original planning application was exemption from BNG.

### BACKGROUND PAPERS

Application case file –

[24/02008/S73 | Application for removal of condition 01 to make temporary permission permanent and the personal permission general as attached to planning permission 21/00891/S73. | Land Off Sandhills Sconce Tolney Lane Newark On Trent](#)

Link to Committee Report for application 21/00891/S73

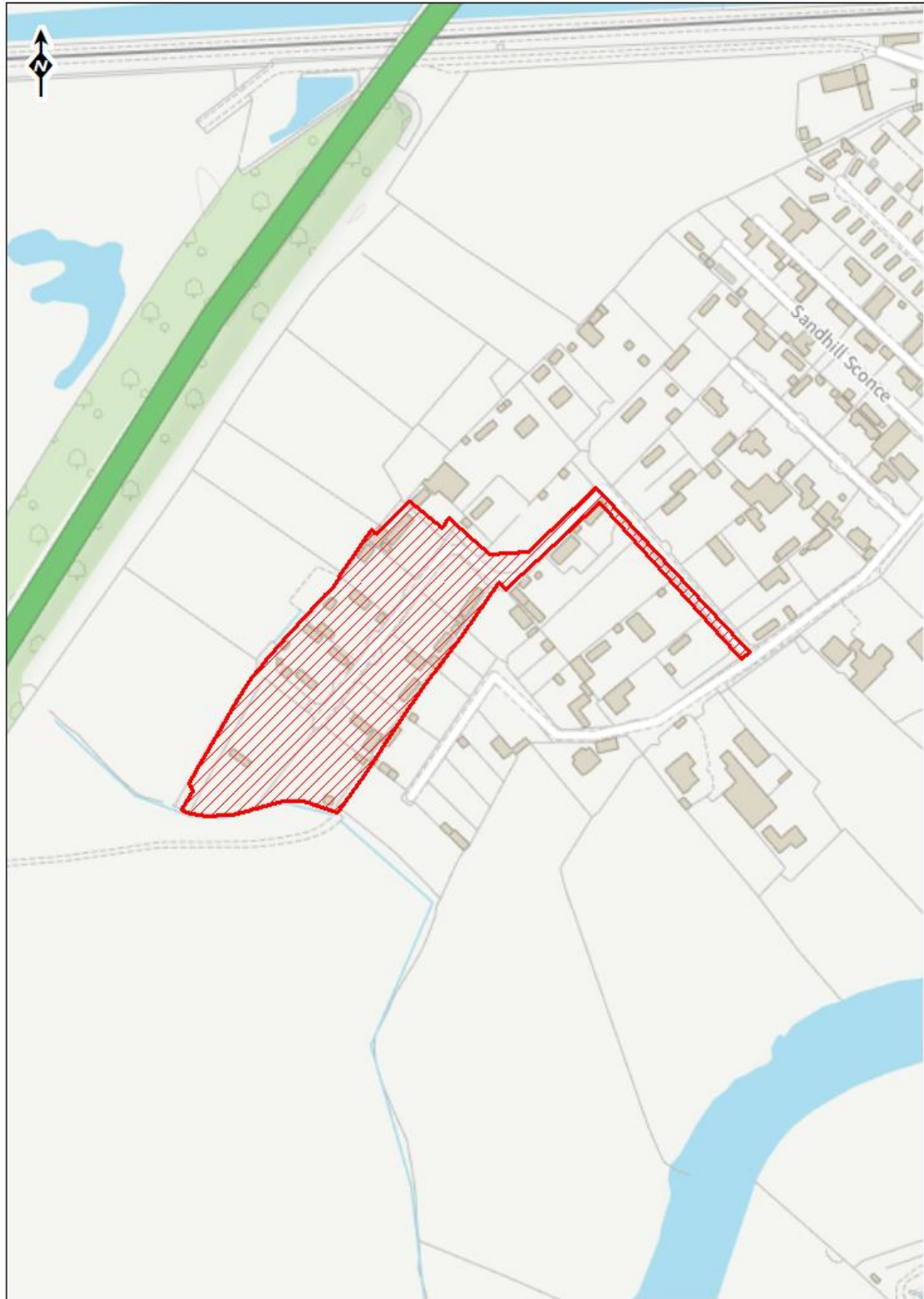
[21/00891/S73 | Application to vary condition 1 of planning permission 18/01443/FUL to amend the temporary permission to permanent | Land Off Sandhills Sconce Tolney Lane Newark On Trent](#)

Link to Committee Report for application 18/01443/FUL –

[18/01443/FUL | Application for the variation of condition 1, to make the temporary permission permanent, attached to planning permission 12/00562/FUL granted on appeal at Plots 1-10 Green Park, Tolney Lane \(Pl Ref: APP/B3030/C/12/2186072 and APP/B3030/A/12/2186071\) \(Change of use from paddock to gypsy and traveller residential caravan site\). | Green Park Tolney Lane Newark On Trent Nottinghamshire NG24 1DA](#)

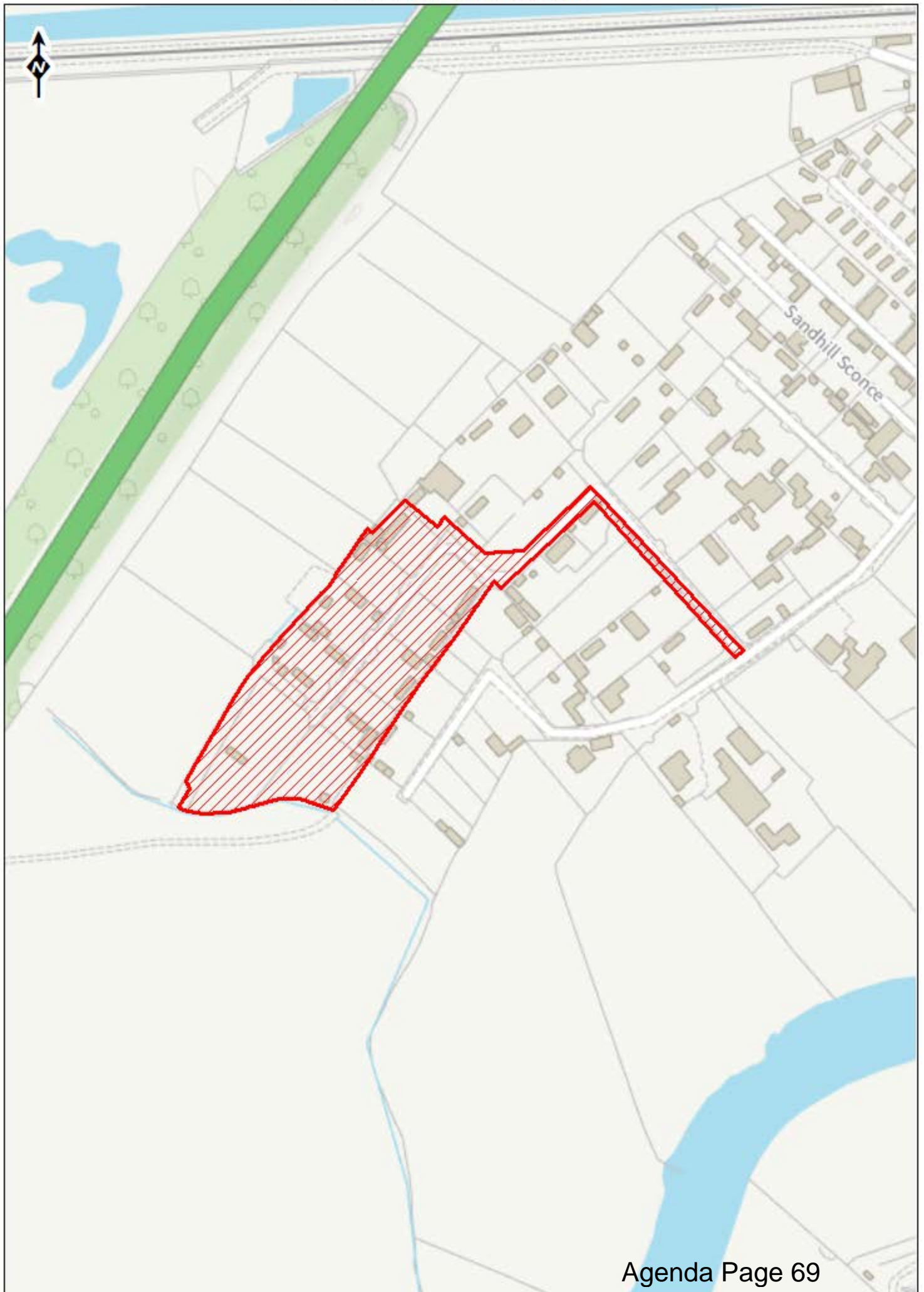
Link to Inspectors appeal decision on 12/00562/FUL

[12/00562/FUL | Change of use from paddock to gypsy and traveller residential caravan site | Land Off Sandhills Sconce Tolney Lane Newark On Trent Nottinghamshire](#)



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Report to Planning Committee 3 July 2025

Business Manager Lead: Oliver Scott – Planning Development

Lead Officer: Harry White – Planner/Conservation Planner

Report Summary			
Application No.	25/00637/FUL		
Proposal	Proposed Detached Dwelling		
Location	Land At The West Lawns, Southwell		
Applicant	Mr M & P Wagstaff	Agent	GraceMachin Planning & Property - Mr Nick Grace
Web Link	<a href="#">25/00637/FUL   Proposed Detached Dwelling   Land At The West Lawns Southwell</a>		
Registered	29.04.2025	Target Date Extension of Time	24.06.2025 04.07.2025
Recommendation	Grant Planning Permission subject to conditions.		

**This application is being referred to the Planning Committee for determination by the local ward member, Councillor Rainbow due to concern for the character and appearance of the conservation area, the encroachment and loss of open green space, the loss of trees, and loss of light affecting neighbouring properties.**

## 1.0 The Site

- 1.1 The application site is located on a parcel of grassland to the south of The West Lawns, off Westgate. The site is located outside the settlement boundary of Southwell, and within the Conservation Area of Southwell. The site is also within the Southwell Protected Views policy area.
- 1.2 Access to the site is by a shared hardstanding access used by three dwellings. The site is mostly flat and is bound by a mix of hedgerows and trees. The site is part of the 'Conserve and Reinforce' landscape character area.
- 1.3 The site is located within flood zone 1, at a low risk of flooding from rivers, and low-

medium risk of surface water flooding. Potwell Dyke sits within a deep wooded channel to the south of the application site. Public Footpath FP34 is located to the south of Potwell Dyke which, including its banks forms a Main Open Area allocated in the neighbourhood plan.

1.4 The site has the following constraints:

- Conservation Area
- Outside Settlement limits
- Southwell Protected Views
- CIL Very High

## 2.0 Relevant Planning History

- 2.1. 02/00365/FUL - Erection of 5 houses and garages – Refused 20.08.2002
- 2.2. 02/02155/FUL - Erection of 3 houses with garages – Permission 25.11.2002
- 2.3. 03/02942/FUL - Erection of two houses & associated works (Plots 3 & 4) – Refused 26.02.2004
- 2.4. Pre-application has been provided offering generally favourable views.

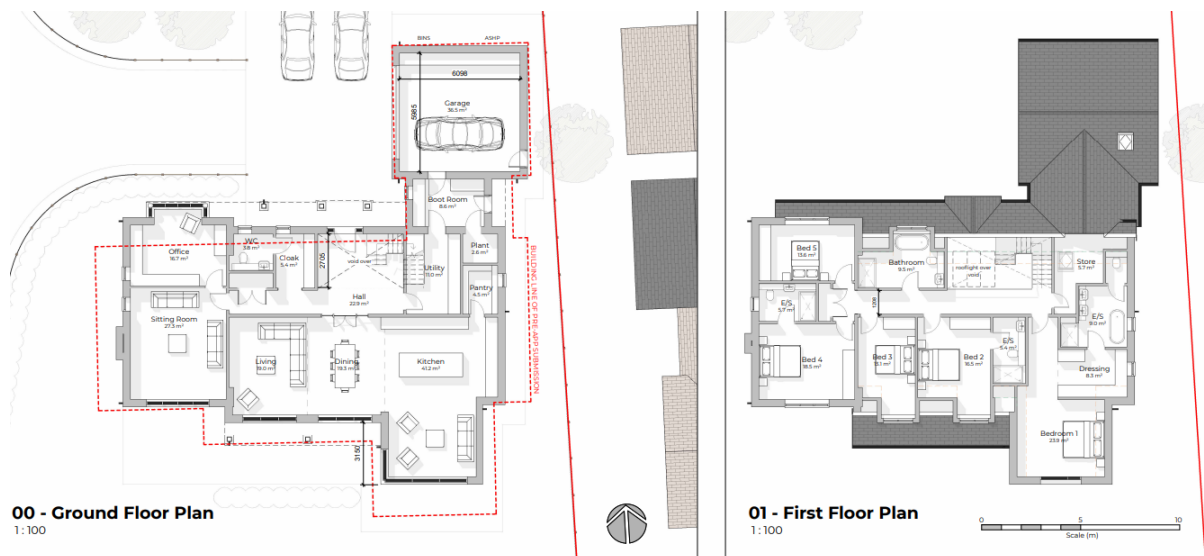
## 3.0 The Proposal

- 3.1 The application seeks permission for the construction of a two-storey 5-bedroom dwellinghouse with associated works at West Lawns in the parish of Southwell. The development would include the continuation of the access road to Westthorpe, and include a turning head, orchard, hedgerows and post and rail fencing.
- 3.2 The proposed elevations are shown below:





3.3 The proposed floorplans are shown below:



3.4

3.5 The proposed site plan is shown below:



3.6

3.7 Documents assessed in this appraisal:

- Application Form
  - Received 29 April 2025
- Site Location Plan - Drg. No. 2349-S03-001
- Site Plan – Drg. No. 2349-S03-061
- Proposed Floorplans and Elevations – Drg. No. 2349-S03-110
- Street Elevation and Site Section – Drg. No. 2349-S03-200 Rev.P01

- 3D views – Drg. No. 2349-S03-300 Rev.P01
- Transport Note – BSP Consulting – Project No. 24-0036
- Heritage Statement – Stone & Meadow- April 2025
- Daylight and Sunlight Report – MES Building Solutions – April 2025
- Arboricultural Report and Impact Assessment – AWA – Ref. AWA6540
- Arboricultural Method Statement – AWA – Ref. AWA6540
- Biodiversity Enhancement Strategy Report – JM Ecology – 14.01.2025
- Preliminary Ecological Appraisal – JM Ecology – JME\_2324\_PEA\_01\_V1
- Design & Access Statement – Reform Architecture & Interior Design Ltd – 2349 – Rev.B – 03/04/25
- Planning Statement – Grace Machin
- Flood Risk Assessment and Drainage Strategy – BSP Consulting – 24-0036 – 08 Apr 2025
- Statutory Biodiversity Metric – Completed by Joe McLaughlin – V1
  - All received 10 April 2025

#### **4.0 Departure/Public Advertisement Procedure**

- 4.1 Occupiers of 7 properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.
- 4.2 Site visit undertaken on 7<sup>th</sup> May 2025.

#### **5.0 Planning Policy Framework**

##### **5.1. Southwell Neighbourhood Plan (2016)**

SD1 – Delivering Sustainable Development  
 E3 – Green Infrastructure and Biodiversity  
 DH1 – Sense of Place  
 DH2 – Public realm  
 DH3 – Historic Environment  
 TA3 – Highways Impact  
 TA4 – Parking Standards  
 Southwell Design Guide

##### **5.2. Newark and Sherwood Amended Core Strategy DPD (adopted March 2019)**

Spatial Policy 1 – Settlement Hierarchy  
 Spatial Policy 2 – Spatial Distribution of Growth  
 Spatial policy 7 – Sustainable Transport  
 Core Policy 9 - Sustainable Design  
 Core Policy 10 – Climate Change  
 Core Policy 10A – Local Drainage Designations.  
 Core Policy 12 – Biodiversity and Green Infrastructure  
 Core Policy 14 – Historic Environment  
 SoAP1 – Role and Setting of Southwell

##### **5.3. Allocations & Development Management DPD (2013)**

Policy So/HN/1 – Southwell Housing Need  
 Policy So/MOA – Southwell – Main Open Areas  
 Policy So/PV – Southwell Protected Views  
 Policy DM3 – Developer Contributions and Planning Obligations  
 Policy DM5 – Design  
 Policy DM7 – Biodiversity and Green Infrastructure  
 Policy DM8 – Development in the Open Countryside  
 Policy DM9 – Protecting and Enhancing the Historic Environment  
 Policy DM12 – Presumption in Favour of Sustainable Development

- 5.4. The Draft Amended Allocations & Development Management DPD was submitted to the Secretary of State on the 18th January 2024 and has just completed its Examination In Public during November 2024. This is therefore at an advanced stage of preparation, albeit there are unresolved objections to amended versions of all the above DM policies (apart from DM12) emerging through that process. As such, the level of weight to which those proposed new policies can be afforded is therefore currently limited. As such, the application has been assessed in-line with all policies from the adopted Development Plan, other than DM12.

5.5. **Other Material Planning Considerations**

National Planning Policy Framework 2024  
 Planning Practice Guidance (online resource)  
 National Design Guide - Planning practice guidance for beautiful, enduring and successful places September 2019  
 Residential Cycle and Car Parking Standards & Design Guide SPD June 2021  
 Planning (Listed Buildings and Conservation Areas) Act 1990  
 Conservation Area Appraisal (2006)  
 Housing Needs Survey 2020  
 Emerging Southwell Neighbourhood Plan  
 Emerging Southwell Conservation Area Appraisal

**6.0 Consultations and Representations**

Please Note: Comments below are provided in summary - for comments in full please see the online planning file.

**Town Council**

- 6.1. The Town Council has raised concern for the encroachment and loss of open space, a loss of light/privacy to neighbouring occupants, significant loss of trees, habitat destruction, concern over the loss of habitat for bats, owls, and woodpeckers, and impacts to flooding.

**Representations/Non-Statutory Consultation**

- 6.2. Civic Society – Strongly object. Have raised concern that any development on this piece of land would be seriously detrimental to the environment and conservation

area. Need to preserve the wildlife corridor. Consider the development to be unnecessary which does not contribute to the housing need of Southwell.

6.3. Southwell Flood Forum – Have raised concerns for the historic loss of trees from the site. Proposed orchard would provide significant flood mitigation. SUDS for rain gardens, pervious paving, and sub-surface storage are important to the scheme. Raised the need for the riparian ownership responsibility. The development is an opportunity for good practice flood principles.

6.4. Mixed comments have been received from 17 third parties that can be summarised as follows:

- |   |  |
|---|--|
| - Loss of green space/buffer  | - Construction disruption  |
| - Harm to conservation area and setting of Orchard Cottage                        | - Housing need   |
| - Planning site history for development and tree removal                          | - Harm to neighbouring amenity – Overlooking, overshadowing, overbearing, noise, disruption, outlook |
| - Impact on trees – retention of shelter belt, and trees alongside heritage trail | - Development outside town boundary and adjacent to a main open area.                                |
| - Impact on traffic   | - Harm to greenbelt  |
| - Drainage connection   | - Self-build property or market housing  |
| - Loss of habitat and impact on wildlife  | - Not in line with housing strategy  |
| - Setting a precedent for further development up to the Westhorpe Dumble          | - Introduction of orchard is appreciated   |
| - Flooding  | - Impact on archaeology  |
| - Sewage  |  |

## **7.0 Appraisal**

7.1. The key issues are:

- Principle of development
- Impact on the Character of the Conservation Area and heritage assets.
- Impact on Amenity
- Impact on the Highway
- Impact on Ecology
- Impact on Flooding

- 7.2. The National Planning Policy Framework (NPPF) promotes the principle of a presumption in favour of sustainable development and recognises the duty under the Planning Acts for planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. The NPPF refers to the presumption in favour of sustainable development being at the heart of development and sees sustainable development as a golden thread running through both plan making and decision taking. This is confirmed at the development plan level under Policy DM12 'Presumption in Favour of Sustainable Development' of the Allocations and Development Management DPD.
- 7.3. The application site is located outside the Southwell urban boundary, and so is considered as open countryside. Spatial Policy 3 confirms that, development not in villages or settlements, in the open countryside, will be strictly controlled and restricted to uses which require a rural setting. Direction is then given to the relevant Development Management policies in the Allocations and Development Management DPD (Policy DM8).
- 7.4. Policy DM8 of the Allocations & Development Management Policies DPD (2013) sets out how the LPA will control development away from the main built-up areas of villages in the open countryside. New dwellings are only permitted in specific circumstances – new and replacement workers dwellings, or new dwellings where they are of exceptional quality or innovative nature of design, reflect the highest standards of architecture, significantly enhance their immediate setting and be sensitive to the defining characteristics of the local area.
- 7.5. No justification has been submitted with the application to demonstrate that the proposal would meet any of the exceptions of Policy DM8 of the Allocations & Development Management DPD (2013). Whilst the design of the proposed dwelling is not unattractive, is not truly outstanding or innovative and no evidence has been submitted to explain how the development would significantly enhance its immediate setting. The proposal would not accord with any of the exceptions set out and therefore, the principle of a new dwelling in this location would be contrary to the requirements set out in Policy DM8. Furthermore, the proposed development of this land would harm the open and undeveloped character of the surrounding countryside by encroaching into it. However, it is fully acknowledged that being on the edge of the settlement means any future occupants would be able to sustainably access the facilities within Southwell, which is well provisioned and classified as a service centre.
- 7.6. The NPPF (2024) has introduced changes to the way in which local authorities formulate the number of new homes needed to be delivered in their areas and as such the need for houses in the District has increased significantly which means that the Authority is no longer able to demonstrate a five year supply of housing. The LPA is currently only able to demonstrate a housing land supply of 3.43 years. This means that the Development Plan is now out of date in terms of housing delivery and the tilted balance has come into effect.
- 7.7. The shortfall in the supply of deliverable housing sites means that, in accordance with the presumption in favour of sustainable development (at paragraph 11d), any



adverse impacts caused by the proposal must significantly and demonstrably outweigh its benefits, for planning permission to be refused. This means the Authority has a duty to ‘...grant permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>7\*</sup>; or
- ii. 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, in particular those for the location and design of development (as set out in chapters 9 and 12) and for securing affordable homes.

- 7.8. Footnote 7 of the NPPF (2024) sets out that where there are policies protecting designated heritage assets that provide a strong reason for refusal, the presumption in favour of sustainable development would not apply. As discussed later in this report, the impacts on heritage assets may override the presumption in favour of sustainable development.
- 7.9. As the application site affects designated heritage assets, the Southwell Conservation Area, the proposed works would be subject to other heritage considerations, which have the potential to override the principle of development as will be discussed later in this letter. Furthermore, regard must also be given to the distinctive character of the area and proposals must seek to preserve and enhance the character of the area in accordance with Policy DM9 of the Allocations and Development Management DPD (2013) and Core Policy 14 of the Amended Core Strategy (2019). These two policies seek, amongst other things, to protect the historic environment and ensure that heritage assets are managed in a way that best retains their significance. The importance of considering the impact of new development on the significance of designated heritage assets, is expressed in Section 16 of the National Planning Policy Framework (NPPF) (2024). Paragraph 8 of the NPPF (2024) states that protecting and enhancing the historic environment is part of achieving sustainable development.
- 7.10. As the application concerns the designated heritage assets of a conservation area, section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is particularly relevant. Section 72(1) requires the Local Planning Authority (LPA) to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas. The duty in s.72 of the 1990 Act does not allow a local planning authority to treat the desirability of preserving the character and appearance of a conservation area as a mere material consideration to which it can simply attach such weight as it sees fit. When an authority finds that a proposed development would harm the character or appearance of a conservation area, it must give that harm considerable importance and weight.
- 7.11. Overall, it is therefore considered that in the current policy context taking account of the 3.43 year housing land supply and the tilted balance, the proposal could be considered sustainable development on the edge of the settlement, provided it would

not result in harm to the heritage asset of Southwell Conservation Area that needs to be given appropriate weight in the overall planning balance.

Impact on the character and appearance of the conservation area and impact on heritage assets

- 7.12. Core Policy 9 ‘Sustainable Design’ of the Amended Core Strategy DPD (2013) requires new development proposals to, amongst other things, “achieve a high standard of sustainable design and layout that is capable of being accessible to all and of an appropriate form and scale to its context complementing the existing built and landscape environments”. Part 12 of the NPPF (2024) seeks to create high quality, beautiful and sustainable buildings and places, and makes good design a key aspect of sustainable development. Paragraph 135 of the NPPF (2024) sets out that planning decisions should ensure that developments function well and add to the quality of the area for their lifetime. As well as ensuring that developments are visually attractive as a result of good architecture, layout, and landscaping. This seeks to ensure that developments are sympathetic to local character, landscape and history. This seeks to establish a strong sense of place, optimise the potential of a site and create safe and inclusive places.
- 7.13. Core Policy 14 of the Core Strategy (2019) seeks for continued conservation and enhancement of the character, appearance and setting of the district’s heritage assets and historic environment in line with their significance as set out in national policy. Furthermore, Policy DM9 of the Allocations and Development Management Policies DPD (2013) seeks to secure the continued protection or enhancement of heritage assets, to ensure heritage assets contribute to the wider vitality, viability and regeneration of the areas in which they are located.
- 7.14. Paragraph 212 of the NPPF (2024) sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. This is irrespective of the level of harm to its significance. Paragraph 213 of the NPPF (2024) states that any harm to the significance of the heritage asset should require clear and convincing justification. Paragraph 215 of the NPPF (2024) sets out that less than substantial harm should be weighed against the public benefits of the proposal.
- 7.15. Policy DH1 of the Southwell Neighbourhood Plan (2016) requires new development to demonstrate how they have taken account of the guidance of the Southwell Design Guide and Conservation Area Appraisals. The Conservation Area Appraisal identified the importance of maintaining the setting of Potwell Dyke and it’s natural character and not to allow building too close to it, in order to protect its historic landscape value and its flora and fauna.
- 7.16. The application site is located within the Southwell Conservation Area first allocated in 1970, and most recently revised in 2022. The conservation area was designated for its Roman and medieval origins, which were overlaid with Georgian, Victorian, and Edwardian buildings. The town is dominated by the Minster at the centre. Buildings are predominantly 2-3 storeys in height and constructed in local materials of brick and pantile. The conservation area has extensive rural landscape surroundings. The town

and conservation area still retains its rural character with large areas of greenery and mature trees integrated within the built-up area.

- 7.17. The site is located within the Westgate character area of Southwell, where a strong linear pattern of development can be observed. Within the immediate setting of the application site are three large, detached dwellings, which sit within large plots. The development at West Lawns has tried to reflect the local material and style pallet, and while there are elements that respect the historic grain, this is clearly a 20th century development. The proposed dwelling would be located on an area of green space within the conservation area, which is adjacent to the green corridor around Potwell Dyke. This area of green space makes a positive contribution to its landscape setting, as well as helping to provide a visual transition from the agricultural land south of Potwell Dyke to the urban fringe and loose grain of development found at West Lawns. The natural setting of Potwell Dyke is noted as an important feature within the Westgate character area, which should be protected from encroachment by development. Development close to the green corridor should be sensitively designed to protect its historic landscape value and flora and fauna.
- 7.18. The proposed siting of the dwelling would be roughly 10-14m back from the current site boundary and the site boundary is at least 10m away from the river bank. Consequently, it is considered that the riparian setting has been preserved through the layout and massing of the built form within the site, along with the landscaping.
- 7.19. Nevertheless, the loss of this area of green space is considered to be harmful to the open character of Westgate, especially when viewed from nearby rights of way, as well as the riparian and woodland setting of Potwell Dyke. However, the proposed development would sit against a backdrop of two storey development at the adjacent Handford Court providing a more developed and less historical character to the site.
- 7.20. Consequently, it is considered that while the introduction of new development within a green space within the conservation area would be harmful, there would be limited enhancements to the landscape setting of Potwell Dyke through the provision of the orchard and provide a public benefit in the form of the provision of one house to add to the housing supply, as well as additional tree planting and landscaping to the wider site. Therefore, the modest less than substantial level of harm to the character and appearance of the conservation area, would be outweighed by the benefits to ecology, landscaping and housing delivery, notwithstanding the requirement for the LPA to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas set out in S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and notwithstanding, footnote 7 of the NPPF (2024) that applies the policies within the NPPF in relation to designated heritage assets, on balance, the proposed single dwelling in principle, is considered to be sustainable due to its location on the edge of Southwell.

#### Impact upon Residential Amenity

- 7.21. Policy DM5 of the Allocations & Development Management DPD (2013) seeks to achieve good design and to protect residential amenity.

- 7.22. The proposed works are unlikely to prove detrimental to the amenity of neighbouring occupiers due to the large plot sizes within West Lawns, which results in ample separation distance from neighbouring residential properties. The site is separated from the neighbouring plot on Handford Court by a close boarded timber fence.
- 7.23. The proposed dwelling would sit roughly 2.5m to 3.0m from the boundary to no.18 Handford Court. There are windows serving ground floor rooms within the western elevation of this neighbouring property, which are understood to serve a kitchen, dining room, and utility room. The kitchen of no.18 Handford Court is also served by a south facing window, which would not have its outlook affected by the proposed development as the proposed dwelling would sit behind the line of these windows. The window serving the utility room is less sensitive to overshadowing impacts due to this being a 'non-habitable room' for planning purposes. The third window on this side elevation is the patio doors for a dining room, the dining room also benefits from a window on the opposite side, which ensures that this room would not be unacceptably affected by overshadowing impacts. Additionally, the site is bound by a 2.0m high close boarded timber fence and hedgerow of roughly 2.5m.
- 7.24. The windows within the first floor side elevation of the extension would be obscure glazed to ensure that there would be no significant overlooking impacts
- 7.25. While the proposed development would result in the loss of the open views across the Dumble from Eden House, a separation distance of roughly 28m to the rear of this neighbouring dwelling would ensure that there would not be an unacceptable overlooking impact.
- 7.26. Consequently, it is considered that the proposed development would be in accordance with Policy DM5 of the Allocations & Development Management DPD (2013) with regard to amenity impacts.

#### Housing Need

- 7.27. Core Policy 3 provides that the Council will seek to secure new housing which adequately addresses the housing need of the District based on any localised housing need information. This policy requires housing densities of no lower than an average of 30 dwellings per hectare. The development site measures roughly 0.13ha, and at 30pdh, could provide for at least three dwellings. However, it is acknowledged that in the previous pre-application enquiry advice provided, it was concluded that the development of 4 smaller detached dwellings on this and the adjoining land to the west, was considered to result in a harmful cramped development.
- 7.28. This policy also directs new development towards family housing, smaller houses, and housing for the elderly. Particular emphasis is placed on securing smaller houses and those for housing the elderly and disabled population. This policy also seeks to ensure that new housing reflects the local housing need and meet the needs of those on the Self-Build and Custom Housebuilding register.
- 7.29. The most recent Housing needs survey can be found in the evidence base for the emerging Southwell Neighbourhood Plan (2022). The suggested dwelling mix to balance the new housing to reach the target mix for 2031 is 70.4% 3-bedrooms, and

28.9% 2-bedrooms, with the remaining 0.7% 1-bedroom dwellings. This most recent and up to date evidence steers development away from the proposed 5-bedroom dwelling, and the proposal would result in a further imbalance to the housing stock in Southwell.

- 7.30. Although there is a housing need identified for a smaller bedroomed property within Southwell, the proposed large dwellinghouse would be commensurate to the character of West Lawns, which is exclusively composed of large, detached dwellings. The broader district need for dwellings would still be a benefit of the scheme.

#### Impact upon Highway Safety

- 7.31. Policy DM5 of the Allocations and Development Management Policies (ADMP) DPD (2013) requires provision of safe access to new development and appropriate parking provision. Spatial Policy 7 of the Amended Core Strategy (2019) seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Paragraph 115 of the NPPF (2024) states that schemes can be supported where they provide safe and suitable access for all. The Council has also adopted a Residential Cycling and Car Parking Standards Design Guide SPD (2021) which is material to decision making.
- 7.32. The shared access can provide for up to 5 dwellings in accordance with the Nottinghamshire Highways Design Guide. The access point currently serves three dwellings, and the addition of one dwelling would be compliant with the design guidance of the technical guidance.
- 7.33. The proposed dwelling would be provided with a double garage, and additional parking in front of the garage for two more cars, which exceeds the requirement of three parking spaces as set out in the Cycle and Car Parking Standards SPD (2021). A large turning head is proposed at the site to allow for a vehicle to manoeuvre within the site to enter the public highway in a forward gear. Refuse collection would not take place from the property as it is more than 25m from the adopted highway, a suitable collection point will need to be provided as part of the development.
- 7.34. Consequently, it is considered that the development would be in accordance with Policy TA4 of the Southwell Neighbourhood Plan (2016), Policy DM5 of the Site Allocations & Development Management Policies DPD (2013), paragraph 115 of the NPPF (2024), and the Residential Cycling and Car Parking Standards Design Guide SPD (2021).

#### Impact upon Ecology

- 7.35. Core Policy 12 of the Amended Core Strategy DPD (2019) and Policy DM7 of the A&DM DPD (2013) seek to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM7 of the A&DM DPD (2013) states that, where it is apparent that a site may provide a habitat for protected species, development proposals should be supported by an up-to date ecological assessment, including a habitat survey and a survey for species listed in the Nottinghamshire Biodiversity Action Plan. Significantly harmful ecological impacts should be avoided through the design, layout and detailing of the development, with mitigation, and as a last resort, compensation (including off-site measures), provided

where significant impacts cannot be avoided.

- 7.36. This application is supported by a Preliminary Ecological Appraisal and a Biodiversity Impact Assessment. A completed Statutory Biodiversity Metric (SBM) has been provided however the application form declares the proposed development would comprise custom self-build dwelling and as such would be exempt from the mandatory Biodiversity Net Gain condition.
- 7.37. The Westhorpe Dumble Local Wildlife Site (LWS) is located 35m to the west which is hydrologically linked to a watercourse known as Potwell Dyke located 10m to the south of the site within an area of off-site woodland.
- 7.38. The proposals will restore the historic orchard. From a review of historic mapping, it is confirmed that the whole of the site used to comprise an orchard, dating back to at least 1875. The provision of a new orchard in the western extent of the site is welcomed. It is recommended that fruit trees of local provenance are planted and are locally sourced where possible.
- 7.39. The site does not support any irreplaceable habitats and none of the habitats that would be affected by the proposals have any significant nature conservation value; however, loss of the area of grassland would need to be adequately compensated for.
- 7.40. Great crested newt and non-native invasive species (INNS) have been scoped out of the ecological assessment due to an absence of suitable habitat, this approach is agreed by the council's ecology team. There is negligible potential for roosting bats at the site. A sensitive lighting scheme is recommended both during construction and the operational period, this is to be secured by condition. Additionally, no evidence of water vole, otters, or white clawed crayfish.
- 7.41. It considered that the habitats present provided suitable conditions to potentially be utilised by birds, badgers and hedgehogs. Consequently, precautionary working methods are recommended to be provide by condition.
- 7.42. The preliminary ecological appraisal recommends that at least two integrated swift bricks are incorporated into the western or northern aspect of the new dwelling, that a general bird next box is to be installed on the new building, and for two bat boxes to be installed on the south-facing aspect of the new dwelling.
- 7.43. Consequently, it is considered that the development is in accordance with Core Policy 12 of the Amended Core Strategy (2019), Policies DM5 & DM7 of the Allocations & Development Management Policies DPD (2013) and Policy E3 of the Southwell Neighbourhood Plan (2016).

#### Impact on trees

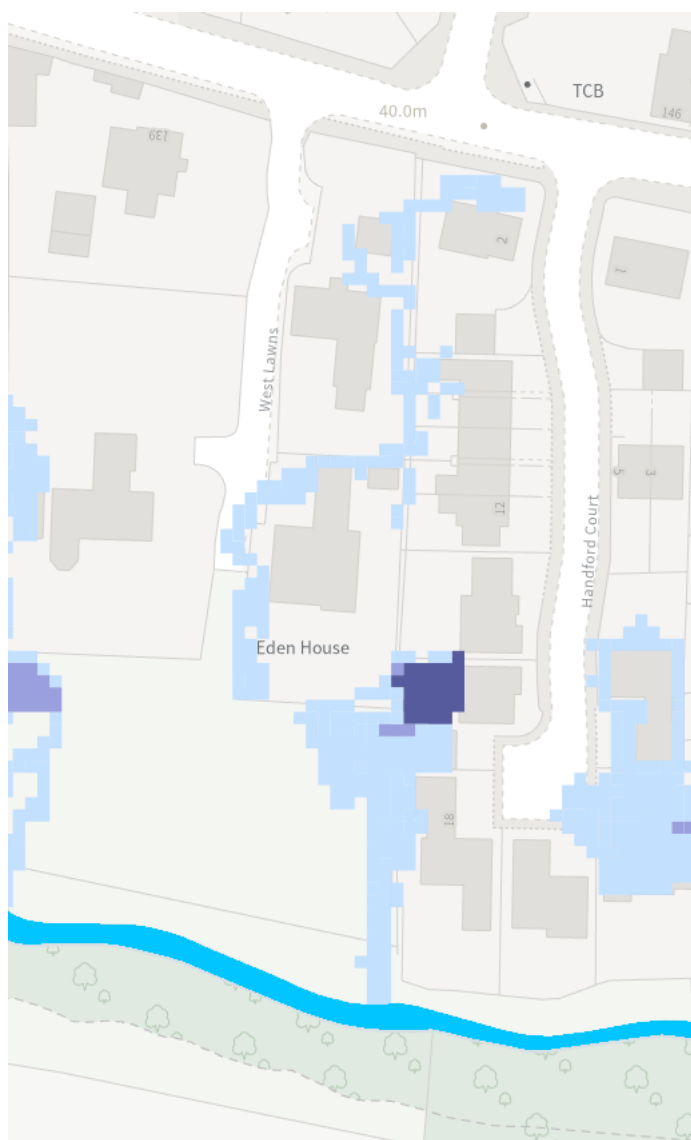
- 7.44. Core policy 12 of the Core Strategy (2019) seeks to conserve and enhance the biodiversity and geological diversity of the district. The site is mostly grass lawn, notwithstanding the sapling which was planted as a replacement for the felled Elder, and a large copper beech is located adjacent to the access road within land controlled by the applicant. It is proposed to use a Geoweb structure around the tree to prevent

the vehicle traffic from compacting the RPA and damaging the tree.

- 7.45. With regard to the historic removal of the elder tree from the application site in 2020, this has been felled in September 2020 due to the tree being evidently dead. A replacement was requested by the district council. A further visit on 12<sup>th</sup> October 2023 found that a replacement tree had been planted. The replacement tree remains in situ.
- 7.46. An Arboricultural Report and Impact Assessment by AWA Tree Consultants has been provided. The majority of trees at the wider site are not affected by the proposed development. The copper beech is a category A tree with high amenity value in good structural and physiological condition with a life expectancy of more than 40 years. No works to this tree are required to facilitate the development. An Arboricultural method statement is provided for the proposed development by AWA Tree Consultants. Ground Protection and Heras tree protection fencing would be installed to the west of the proposed driveway and to the south of the proposed dwelling, as well as in the north-east corner of the site in order to protect the trees that are on site and bordering the site.
- 7.47. As a result, the proposed development would safeguard and enhance the biodiversity of the site, and would protect the trees on site. The protection of the trees is to be secured by condition to ensure compliance with Core Policy 12 of the Core Strategy (2019).

#### Impact on flood risk

- 7.48. Core Policy 10 of the Core Strategy (2019) seeks to steer new development away from those areas at highest risk of flooding. Policy DM5 of the Allocations & Development Management Policies DPD (2013) also seeks to steer new development away from areas at highest risk of flooding. Development within flood zones 2 and 3, and areas with critical drainage problems will only be considered where it constitutes appropriate development, and it can be demonstrated that it passes the sequential test. Policy SD1 of the Southwell Neighbourhood Plan (2016) requires new development to take account of the need to avoid increasing the risk of on- and off-site flooding. Policy E1 requires proposals to submit a flood risk assessment, Policy E2 requires development requiring a flood risk assessment to be designed to avoid increasing the risk of flooding.
- 7.49. The application site is located within Flood Zone 1 (low risk of fluvial flooding), but in an area at medium risk of surface water flooding, with a 0.1% to 3.3% chance of flooding each year. Therefore, a site-specific flood risk assessment has been provided to show that the development would not increase flood risk to the new occupiers of the dwelling or elsewhere. The eastern side of the site is within the medium extent of surface water category, so a method of floodwater management has been demonstrated to ensure that this surface water would not be displaced to affect neighbouring sites.
- 7.50. Extract from NSDC Flood Map showing Risk of Flooding from Surface Water:



7.51.

- 7.52. Surface water would be managed by on-site attenuation to avoid increasing flooding to adjacent or downstream sites. This would include permeable paving and rain gardens along the access drive, and a land drain along the eastern side of the site. This is to be secured by planning condition as part of the landscaping scheme and site levels. Furthermore, an attenuation tank providing approximately 39.5 metres cubed of rainwater water storage is to be provided to the south of the main dwelling with a restricted outflow of 2l/s to avoid exacerbating flooding.
- 7.53. Consequently, the development would not increase the risk of surface water flooding elsewhere, and the development would be capable of being acceptable in regard to flood risk. This is in accordance with Policy DM5 of the Site Allocations & Development Management DPD (2013), and Core Policies 9 & 10 of the Core Strategy (2019), Policies SD1, E1 & E2 of the Southwell Neighbourhood Plan (2016) and the NPPF (2024).

#### Other Matters

- 7.54. **Community Infrastructure Levy (CIL) -**

The site is located within Housing Very High Zone of the approved Charging Schedule



for the Council's Community Infrastructure Levy. As such residential development in this area is rated at £100m<sup>2</sup> for CIL purposes. The development would result in 329.7m<sup>2</sup> of Gross Internal Area, the CIL charge on this development is therefore £39,422.84.

- 7.55. **Biodiversity Net Gain (BNG)** –In England, BNG became mandatory (under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021)) from February 2024. BNG is an approach to development which makes sure a development has a measurably positive impact ('net gain') on biodiversity, compared to what was there before development. This legislation sets out that developers must deliver a minimum BNG of 10% - this means a development will result in more, or better quality, natural habitat than there was before development. However, there are some developments that are exempt from the BNG such as self-build and custom housebuilding. 'Self-build and custom build applications' that explains that BNG does not apply to development which consists of no more than 9 dwellings, is carried out on a site which has an area no larger than 0.5 hectares; and consists exclusively of dwellings which are self- 10 build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015(1) ).

## 8.0 Implications

- 8.1. In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

### 8.2. Legal Implications – LEG2526/7497

Planning Committee is the appropriate body to consider the content of this report. A Legal Advisor will be present at the meeting to assist on any legal points which may arise during consideration of the application.

## 9.0 Conclusion

- 9.1. The proposed development is located within the Southwell conservation area, and would reduce the openness of this part of the conservation area, which would result in less than substantial harm. However this is considered to be outweighed by the public benefits of ecological enhancements and the provision of one dwelling at a time when the district council is unable to provide a 5 year housing land supply.
- 9.2. The tilted balance situation allows us to consider that the construction of one dwelling at the application site would be considered sustainable development and accord with the strategic vision of the NPPF (2024). Although the development would not address the housing needs of smaller dwellings within the Neighbourhood Area and District, it would nevertheless contribute to the Council's housing supply targets.

## 10.0 Conditions

01

The development hereby permitted shall begin before the expiration of three years from the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

02

The development hereby permitted shall be carried out in complete accordance with the approved plans and documents, that include:

- Application Form
  - o Received 29 April 2025
- Site Location Plan - Drg. No. 2349-S03-001
- Site Plan – Drg. No. 2349-S03-061
- Proposed Floorplans and Elevations – Drg. No. 2349-S03-110
- Street Elevation and Site Section – Drg. No. 2349-S03-200 Rev.P01
- Transport Note – BSP Consulting – Project No. 24-0036
- Arboricultural Report and Impact Assessment – AWA – Ref. AWA6540
- Arboricultural Method Statement – AWA – Ref. AWA6540
- Biodiversity Enhancement Strategy Report – JM Ecology – 14.01.2025
- Preliminary Ecological Appraisal – JM Ecology – JME\_2324\_PEA\_01\_V1
- Flood Risk Assessment and Drainage Strategy – BSP Consulting – 24-0036 – 08 Apr 2025
- Statutory Biodiversity Metric – Completed by Joe McLaughlin – V1
  - o All received 10 April 2025

Reason: For the avoidance of doubt and to ensure the development is carried out in accordance with the approved plans.

03

Detailed drawings and/or product specifications are to be approved in writing by the Local Planning Authority before the relevant part of work is begun. The detail thereby approved shall be carried out in accordance with that approval.

- a) Bricks
- b) Rooftiles
- c) Windows and doors
- d) Eaves treatment
- e) Dormer face and cheeks
- f) Rainwater goods
- g) Soil and vent pipe
- h) Extraction vents

Reason: In the interests of visual amenity and the character of the area.

04

No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) An annotated plan providing a summary of the elements covered by items b), c), d), e) and h).

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of the amenities of surrounding occupiers during the construction of the development.

05

The approved development shall not commence until a bat box and bird box plan has been submitted to, and been approved by, the local planning authority. The plan is to show the type and location of the proposed boxes, and details for fixing them into place. The approved boxes shall be installed prior to first use of the approved development and photographic evidence of the installed boxes to be submitted to, and approved by, the local planning authority to fully discharge the condition.

Reason: To provide a measurable gain for biodiversity as required by the NPPF, and maximise opportunities to enhance biodiversity as required by Core Strategy Policy 12.

06

Prior to the first occupation of the hereby approved dwellinghouse, the surface water attenuation tank, rain gardens, permeable paving, and perimeter cut off land drain are to be installed, and thereafter maintained for the lifetime of the development.

Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal.

07

The building hereby permitted shall not be occupied until the means of vehicular access has been constructed and completed in accordance with the approved plans and the said means of vehicular access shall thereafter be retained for access purposes only for the lifetime of the development.

Reason: To ensure that the vehicular access point is safe and includes adequate drainage.

08

The building hereby permitted shall not be occupied until there has been submitted to and approved in writing by the Local Planning Authority a scheme of hard and soft landscaping, which shall include indications of all trees and hedgerows on the land, and details of any to be retained, together with measures for their protection, during development. The approved scheme shall be implemented so that planting is carried out no later than the first planting season following the occupation of the building. All trees and plants shall be maintained for five years, and any trees or plants removed, dying, being damaged or becoming diseased within that period shall be replaced in the next planting season with others of similar size and species to those originally required to be planted.

Reason: To protect and enhance the character of the site and the area, and to ensure its appearance is satisfactory.

09

The building hereby permitted shall not be occupied until a waste management plan setting out how waste will be stored and collected has been prepared, submitted to and approved in writing by the Local Planning Authority. The measures shall thereafter be implemented in accordance with the approved waste management plan for the lifetime of the development.

Reason: To ensure appropriate waste management facilities are provided to accommodate all waste generated by the development.

### **Informatives**

01

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk)

The proposed development has been assessed and it is the Council's view that CIL IS PAYABLE on the development hereby approved as is detailed below. Full details about the CIL Charge including, amount and process for payment will be set out in the Regulation 65 Liability Notice which will be sent to you as soon as possible after this decision notice has been issued. If the development hereby approved is for a self-build dwelling, residential extension or residential

annex you may be able to apply for relief from CIL. Further details about CIL are available on the Council's website: [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/) or from the Planning Portal: [www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil](http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil)

02

#### Biodiversity Net Gain

From the information provided as part of the application, the development granted by this notice is considered exempt from the biodiversity gain condition.

Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 states that planning permission is deemed to have been granted subject to the condition “the biodiversity gain condition” that development may not begin unless:

- a) a Biodiversity Gain Plan has been submitted to the planning authority, and
  - b) the planning authority has approved the plan;
- OR
- c) the development is exempt from the biodiversity gain condition.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission is Newark and Sherwood District Council (NSDC).

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. Details of these exemptions and associated legislation are set out in the planning practice guidance on biodiversity net gain ([Biodiversity net gain - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/biodiversity-net-gain))

Based on the information available, this permission is considered by NSDC not to require the approval of a biodiversity gain plan before development is begun, because the following reason or exemption is considered to apply – The proposal is for self-build.

03

All wild bird species, their eggs and nests are protected by law. Therefore, if the proposed removal of the buildings cannot be undertaken outside of the nesting season for most species (i.e., during the period September-February, inclusive), the buildings to be removed should be checked for nesting birds by a competent ecologist immediately prior to the commencement of approved works.

04

Cadent Gas Ltd own and operate the gas infrastructure within the area of your development. There may be a legal interest (easements and other rights) in the land that restrict activity in proximity to Cadent assets in private land. The applicant must ensure that the proposed works do not infringe on legal rights of access and or restrictive covenants that exist.

If buildings or structures are proposed directly above the apparatus the development may only take place following diversion of the apparatus. The applicant should apply online to

have apparatus diverted in advance of any works, by visiting [cadentgas.com/diversions](http://cadentgas.com/diversions).

Prior to carrying out works, including the construction of access points, please register on [www.linesearchbeforeudig.co.uk](http://www.linesearchbeforeudig.co.uk) to submit details of the planned works for review, ensuring requirements are adhered to.

05

The building that you propose may affect a right of light enjoyed by the neighbouring property. This is a private right which can be acquired by prescriptive uses over 20 years; as such it is not affected in any way by the grant of planning permission.

06

You are advised to refer to BS5837:2012 Trees in relation to construction for detailed information on types of tree protection, protection zones and other relevant matters.

07

You are advised that, if it is proposed to drain this development directly into the river or carry out any work within 8 metres of the river bank then a Land Drainage Consent is required from the Environment Agency. For further information see [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)

08

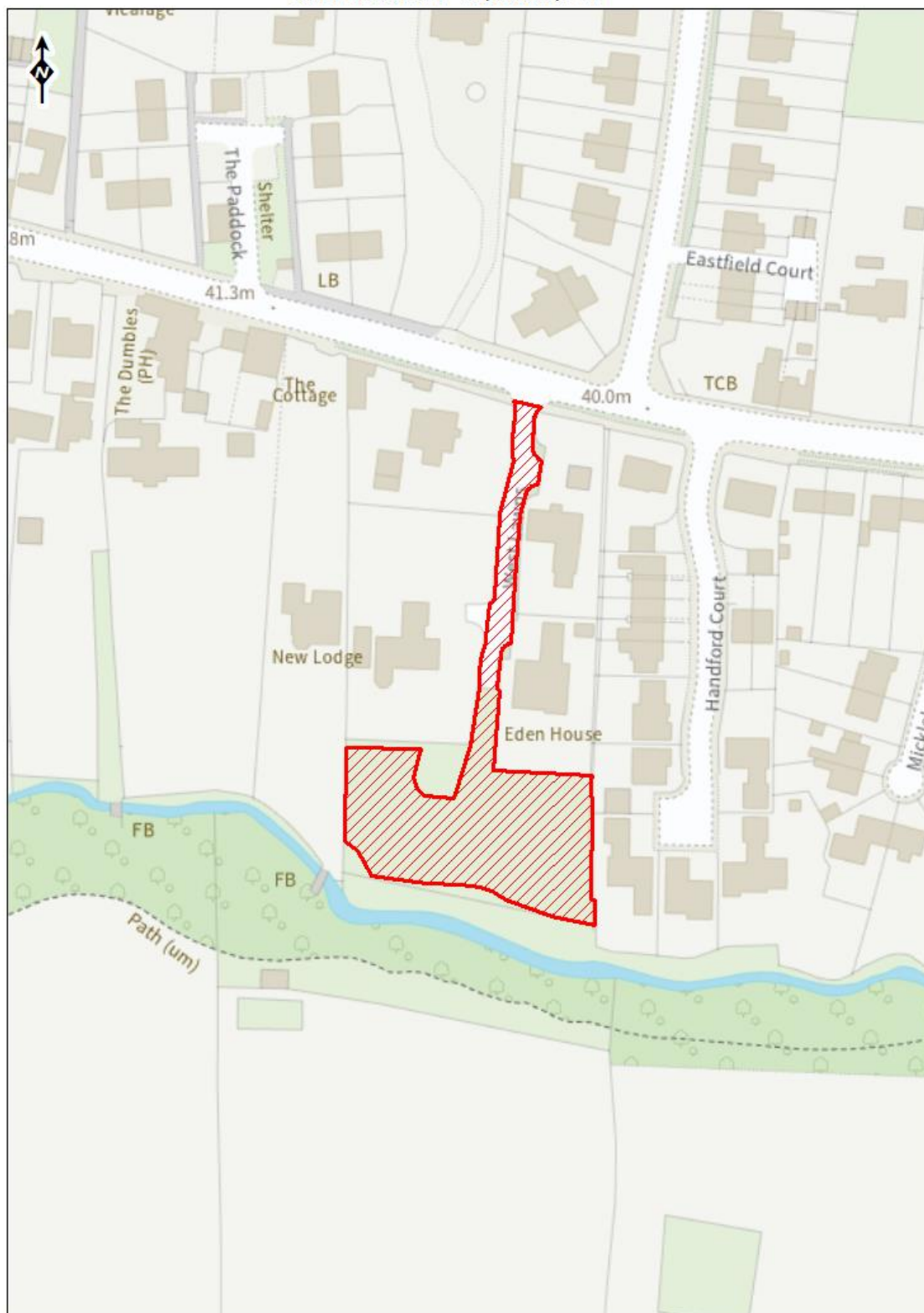
This application has been the subject of pre-application discussions and has been approved in accordance with that advice. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

#### BACKGROUND PAPERS

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

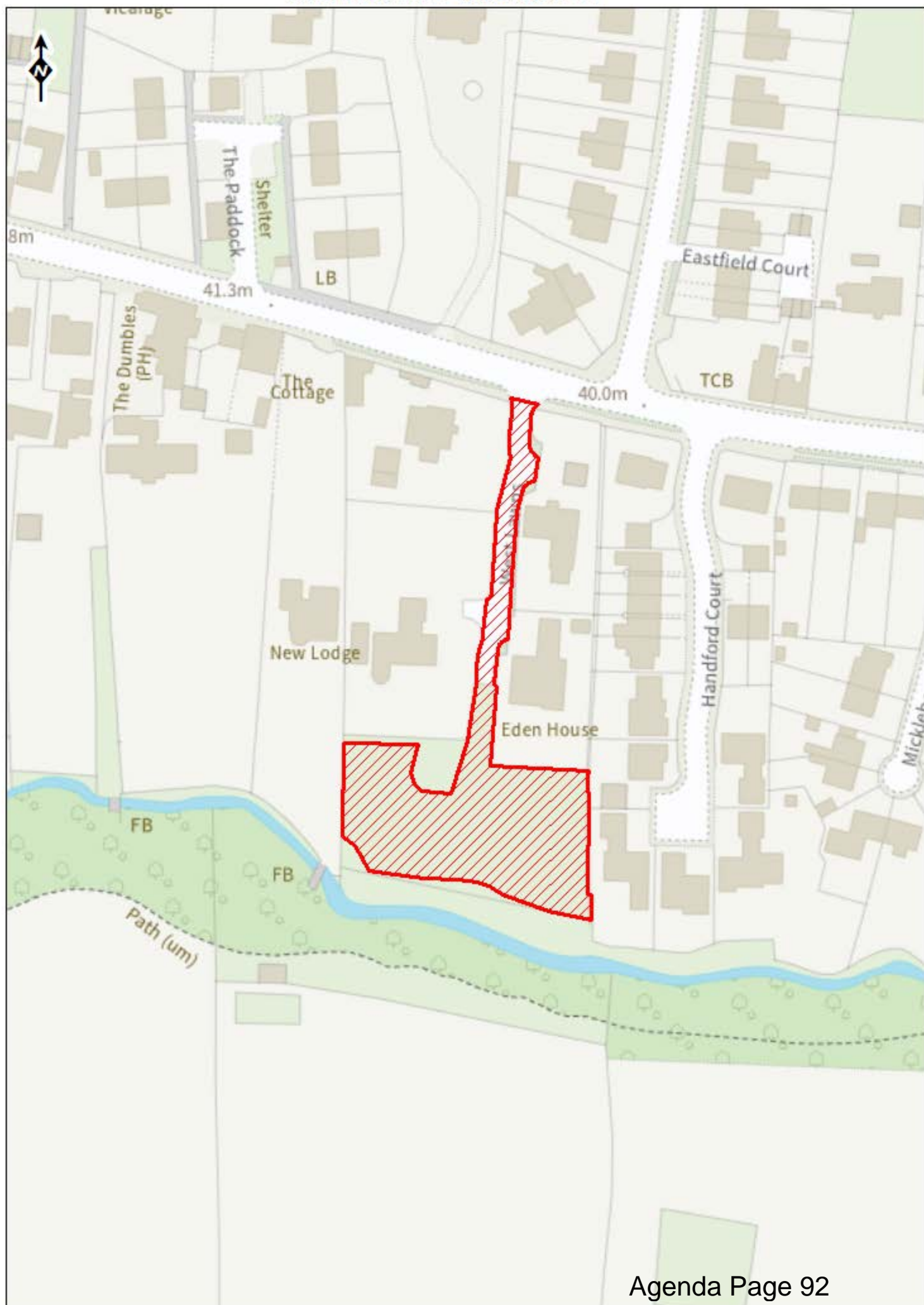
Application case file.

## Committee Plan - 25/00637/FUL



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Report to Planning Committee 3 July 2025

Business Manager Lead: Oliver Scott – Planning Development

Lead Officer: Craig Miles, Senior Planner x5865

Report Summary			
Application No.	24/01195/RMAM		
Proposal	Application for approval of reserved matters (Appearance, Landscaping, Layout and Scale) pursuant to outline application 21/02094/OUTM; Residential development of 50 dwellings (following removal of Grove Bungalow and existing outbuildings)		
Location	Field Reference Number 8890, Mansfield Road, Edwinstowe		
Applicant	Morro Partnerships	Agent	Pegasus Group
Web Link	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=SG3SB3LBH5Z00">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=SG3SB3LBH5Z00</a>		
Registered	14.05.2024	Target Date	05.11.2024 EoT: 23.01.2025
Recommendation	That planning permission is approved subject to the conditions at Section 10.0 of the report		

This application has been referred to the Planning Committee at the request of Councillor Paul Peacock, a Ward Member for Edwinstowe and Clipstone raising concerns regarding access, pedestrian safety, amenity and the location of children's play space. These points will be addressed within the main body of this report.

## 1.0 The Site

- 1.1 The site is located on the western edge of Edwinstowe, adjacent to the existing settlement edge and to the north of the A6075, Mansfield Road. The site comprises a parcel of agricultural land c2.39 hectares in area, currently in arable use that has been partially allocated in the Development Plan for housing under policy Ed/Ho/2. The site is defined by agricultural hedgerows of varying maturity to the east, south and west whilst the northern boundary appears to be open. Dwellings to the east are predominantly late twentieth century of a mixture of single storey, dormer and two

storey dwellings. There are some land level differences between the land to the east and the site as well as gradual rising landform across the site. There are also a small number of dwellings to the west alongside Mansfield Road which are outside of the defined village envelope of Edwinstowe.

- 1.2 The nearest public right of way is over 370m to the west from accessed off the A6075 in a northerly direction. The designated Conservation Area of Edwinstowe is over 600m to the east of the site. The site lies within the influence zone of a site of special scientific interest and within the 5km buffer zone of a RSBP important bird area boundary for nightjar and woodlark. The site is within Flood Zone 1 according to Environment Agency maps.
- 1.3 Other than a small area in the south eastern corner of the site, along Mansfield Road, the site is at very low risk of surface water flooding.
- 1.4 The surrounding area is predominantly residential. To the east are two-storey dwellings on Thoresby Drive and Lintin Avenue. To the south, across Mansfield Road, is Highfield School. A detached modern dormer bungalow lies to the north-west. The site is not within a Conservation Area and there are no Tree Preservation Orders on site, although the outline consent protects trees.

## **2.0 Relevant Planning History**

- 2.1. **21/02094/OUTM** - Outline planning permission for up to 50 dwellings was granted by committee on 22nd July 2022. All matters were reserved except for access. The permission is subject to a Section 106 legal agreement securing developer contributions.
- 2.2. **24/00396/DIS106** – An application to discharge the S106 requirement for a Habitat Creation and Management Plan for the off-site SANGS was approved on 24th June 2024.

## **3.0 The Proposal**

- 3.1 This application seeks approval for the reserved matters of layout, scale, appearance, and landscaping for the erection of 50 dwellings, pursuant to the outline consent 21/02094/OUTM.
- 3.2 A significant material consideration is that the applicant, Morro Partnerships (a Homes England preferred partner), proposes to deliver the development as a 100% affordable housing scheme. This is a significant over-provision compared to the 30% requirement secured under the Section 106 agreement. The tenure mix will include affordable rent and shared ownership properties.
- 3.3 The proposal provides for a mix of 1, 2 and 3-bedroom properties, comprising bungalows, maisonettes, and two-storey terraced and semi-detached houses. The specific housing mix is as follows:

- 1 bedroom dwellings: 4 units
- 2 bedroom dwellings: 14 units
- 3 bedroom dwellings: 32 units

3.4 The **layout** has been designed to respond to the site's context on the edge of the settlement. It broadly follows the linear pattern of the existing built environment on Mansfield Road and Thoresby Drive. In response to the tapering urban edge, the layout proposes lower-density bungalows adjacent to existing dwellings on Mansfield Road to the southwest. The design incorporates key urban design principles such as active frontages and prominent corner-turning plots (e.g. plots 33, 43) to assist with wayfinding and provide passive surveillance over communal areas. As detailed below:



- 3.5 It should be noted that access is not a consideration for this reserved matters application as the point of access from Mansfield Road was already approved as part of the former outline application (21/02094/OUTM). The proposed layout aligns with the approved point of access.
- 3.6 In terms of **scale and appearance**, the dwellings are predominantly two-storey in height, with single-storey bungalows proposed along the south-western boundary.

The design of the individual house types has been informed by the local vernacular, utilising a material palette of red brick and brown double roman tiles to reflect the character of Edwinstowe.

- 3.7 The **landscaping** strategy includes substantial landscape buffers to the north and west of the site. The northern buffer incorporates an area of public open space with mown footpaths and a formalised play area in the form of a trim trail. The scheme also includes the removal of a 12-metre section of hedgerow to form the vehicular access from Mansfield Road, which was approved at the outline stage.
- 3.8 The application is supported by a full suite of technical documents covering matters including Arboriculture, Noise, and a detailed schedule of plans covering house types, site sections, boundary treatments, and materials. The proposals have been amended during consideration of the application to address concerns from consultees and in part, those representation initially made in respect of the proposed development.

#### **4.0 Public Advertisement Procedure**

- 4.1 The application has been advertised by way of a site notice and press notice. A total of 134 neighbour notification letters have been sent regarding the original proposal and the amended proposals. In total 109 letters of representation have been received comprising 106 letters of objection, 1 of support and 2 neither supporting nor objecting to the proposals.
- 4.2 A Site visits undertaken on 09.09.2024 and 12.12.2024

#### **5.0 Planning Policy Framework**

- 5.1. **Newark and Sherwood Amended Core Strategy DPD (adopted March 2019)**

##### **The Development Plan**

##### **Newark and Sherwood Amended Core Strategy DPD (adopted March 2019)**

Spatial Policy 1 - Settlement Hierarchy  
 Spatial Policy 2 - Spatial Distribution of Growth  
 Spatial Policy 5 – Delivering the Strategy  
 Spatial Policy 6 – Infrastructure for Growth  
 Spatial Policy 7 - Sustainable Transport  
 Core Policy 1 – Affordable Housing Provision  
 Core Policy 3 – Housing Mix, Type and Density  
 Core Policy 9 -Sustainable Design  
 Core Policy 10 – Climate Change  
 Core Policy 10A – Local Drainage Designations  
 Core Policy 12 – Biodiversity and Green Infrastructure  
 Core Policy 13 – Landscape Character  
 Core Policy 14 – Historic Environment  
 SHAP3 – Role of Edwinstowe

**Allocations & Development Management DPD**

DM1 – Development within Settlements Central to Delivering the Spatial Strategy

DM2 – Development on Allocated Sites

DM3 – Developer Contributions and Planning Obligations

DM5 – Design

DM7 – Biodiversity and Green Infrastructure

DM9 – Protecting and Enhancing the Historic Environment

DM12 – Presumption in Favour of Sustainable Development

ED/Ho/2 – Edwinstowe - Housing Site 2

**Other Material Planning Considerations**

National Planning Policy Framework 2024

Planning Practice Guidance (online resource)

National Design Guide – Planning practice guidance for beautiful, enduring and successful places September 2019

Residential Cycle and Car Parking Standards & Design Guide SPD June 2021

District Wide Housing Needs Survey 2020, ARC4

Affordable Housing SPD

Developer Contributions SPD

Landscape and Character Appraisal SPD

- 5.2. The [Draft Amended Allocations & Development Management DPD](#) was submitted to the Secretary of State on the 18th January 2024 and has been accepted for examination (November 2024). There are unresolved objections to amended versions of policies emerging through that process, and so the level of weight which those proposed new policies can be afforded is currently limited. As such, the application has been assessed in-line with policies from the adopted Development Plan.

**6.0 Consultations and Representations**

- 6.1. Comments below are provided in summary - for comments in full please see the online planning file.

**(a) Statutory Consultations**

- 6.2. **NCC Highways Authority** – Nottinghamshire County Council as Highway Authority initially maintained an objection to the proposal due to a number of outstanding issues. These included concerns that the internal road layout did not meet the highway design guide, with a new crossroads creating potential conflict and a lack of appropriate bend widening. Further issues were raised regarding insufficient turning heads, a lack of vehicle tracking information, and pedestrian visibility splays being obstructed by proposed landscaping. A key point of contention was that approximately 50% of the parking provision was not compliant with the Newark parking SPD, which, alongside a lack of on-street visitor spaces, was considered likely to lead to obstructive parking that would compromise highway safety. Following the submission of amended plans and a formal rebuttal from the applicant on 28th March 2025, further discussions took place. In their final response of 19th May 2025, the Highway Authority confirmed it had withdrawn its objection. The officer stated that

with the introduction of a Traffic Regulation Order to restrict on-street parking (secured by condition), the remaining issue of parking provision would be one of amenity rather than highway safety, and therefore the proposal was considered acceptable on safety grounds.

- 6.3. **NCC Lead Local Flood Authority (LLFA):** Maintains an objection due to the absence of a detailed surface water drainage strategy, however in correspondence it was highlighted that the requirement for a detailed drainage design was established as a pre-commencement condition during the outline application, following the Flood Authority's original recommendation and as such, the local planning authority cannot procedurally require that same information be submitted as part of this reserved matters application as it still remain as a planning condition to discharge.

- 6.4. **Natural England: No objection.** Recommends landscaping species are native and local to the Sherwood area.

**(b) Parish Council**

- 6.5. **Edwinstowe Parish Council:** Objects to the proposals. The council's main point of objection is that the village's infrastructure cannot support more housing. They state that since the site was designated for development, approximately 1,000 new houses have already been built or are in the process of being built in the village, placing significant strain on local services. The council has also specifically requested that Newark and Sherwood District Council (N&SDC) look closely at the proposal to upgrade the pedestrian refuge on Mansfield Road. Their concern is to ensure that whatever is built is a permanent and safe crossing point for residents.

**(c) Non-Statutory Consultation**

- 6.6. **Nottinghamshire Wildlife Trust: Objects** as the ecology survey data from 2021 is out of date and likely no longer valid. They also recommend the use of native species, a sensitive lighting scheme, and the inclusion of hedgehog highways.
- 6.7. **NSDC Environmental Health: No objection** subject to the implementation of the mitigation detailed in the submitted noise report.
- 6.8. **NSDC Sports & Community Facilities:** Request a developer contribution to improve community facilities in Edwinstowe.
- 6.9. **Archaeology & Conservation:** No objections.

**(d) Representations**

- 4.3 Following public advertisement of the application, a significant number of representations during two rounds of public consultation. A total of 109 letters of have been received comprising 106 letters of objection, 1 of support and 2 neither supporting nor objecting to the proposals. The grounds of objection are wide-ranging and are summarised thematically below:

- **Impact on Infrastructure and Local Services:** This is the most prevalent concern raised.
  - Health services, including doctors' surgeries, dentists and pharmacies, are described as being "severely over stretched", at "breaking point", and unable to cope with the existing population, let alone a new development. Residents report it is "extremely difficult to get to see a doctor" and that there are "long waits for Dr appt and more stress waiting for prescriptions".
  - Education facilities are stated to be at full capacity, with both primary schools being "full to bursting". It is noted that a new secondary school has not been provided despite the demolition of the previous one.
  - There is a general feeling that the village infrastructure cannot support more houses and that the cumulative impact of recent large-scale developments (such as at Thoresby Vale) has not been properly addressed or mitigated.
- **Highways, Traffic, and Parking:**
  - Many residents state that traffic is already "awful" and that Mansfield Road is "gridlocked at school & peak rush hr times". The development is expected to add a significant number of cars to the road, worsening congestion.
  - The capacity of the wider road network, particularly the Ollerton roundabout, is a recurring concern, with one objector noting that planned upgrades to the A614 are now on hold.
  - Road safety is a key issue, with the entrance to the site being described as on a "blind bend" where traffic often exceeds the 30mph speed limit.
  - A lack of parking in the village is frequently mentioned.
- **Principle of Development and Impact on Village Character:**
  - There is a strong feeling that Edwinstowe has had more than its fair share of new housing and is losing its "beautiful village" character and "becoming a town".
  - The loss of productive, greenfield agricultural land is raised as a material objection, with residents stating it "yields two harvests per annum" and should not be used when brownfield sites are available.
  - The loss of wildlife and ecology, including skylarks, hares, and pheasants, is a concern.
- **Impact on Residential Amenity:**
  - A specific objection from the resident of a bungalow on Mansfield Road details concerns about being surrounded by the development, resulting in overlooking, overshadowing, and a "massive breach of privacy".

- A resident of Thoresby Drive also objects to four houses backing onto their bungalow.
- **Distrust and Other Matters:**
  - Some residents express a lack of faith that promised infrastructure improvements will ever be delivered.
  - Concerns about potential for localised flooding are also raised.

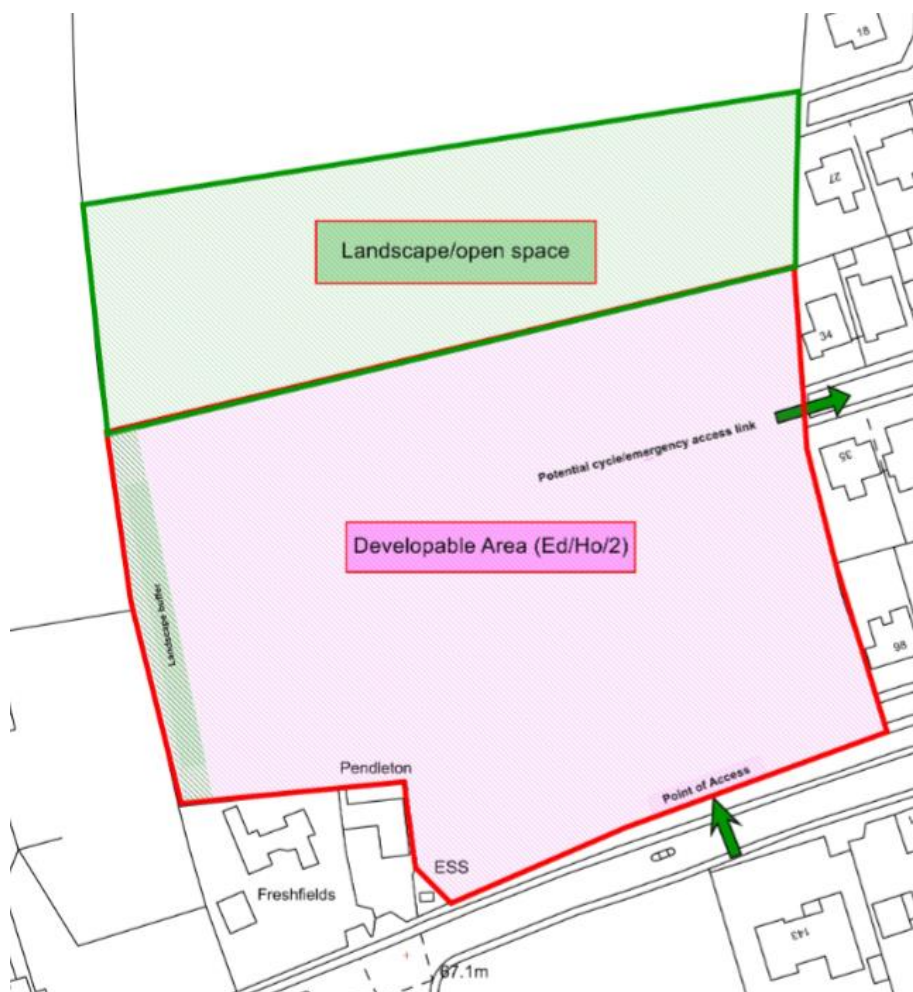
## **7.0 Comments of the Business Manager – Planning Development / Appraisal**

- 7.1. The National Planning Policy Framework (NPPF) promotes the principle of a presumption in favour of sustainable development and recognises the duty under the Planning Acts for planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. The NPPF refers to the presumption in favour of sustainable development being at the heart of development and sees sustainable development as a golden thread running through both plan making and decision taking. This is confirmed at the development plan level under Policy DM12 of the Allocations and Development Management DPD.
- 7.2. The following matters have been identified as key issues:
- The Principle
  - Housing Need, Mix and Density
  - Landscaping, Trees and Public Open Space
  - Impact on Ecology
  - Design and Character
  - Residential Amenity
  - Off Street Parking Provision
  - Drainage and Flood Risk
- 7.3. These matters shall be discussed in turn. However, before doing so, preliminary matters need to be dealt with first as follows.

### **Preliminary Matters (including Access)**

- 7.4. Comments have been received in respect of access and the impact the development would have on Mansfield Road. However, access is a matter that has already been consented by the outline permission. Layout however was reserved. The approved Block Plan (ref: P20-3462\_01) plan at outline stage detailed access from Mansfield Road into the application site, as detailed below.





- 7.5. Access is not therefore a matter for consideration at this stage and cannot be revisited, and it is clear that the proposal is for 50 new dwellings as per the consent. The outline application was supported by a Transport Assessment which was based on a maximum quantum of 50 dwellings which NCC Highways Authority considered and found to be acceptable, and consequently it would not have altered the decision to approve in any case. It is therefore considered that the application has been appropriately made in accordance with the outline consent.

#### Principle of Development

- 7.6. The National Planning Policy Framework (NPPF) promotes a presumption in favour of sustainable development. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.7. The site is allocated for housing for around 50 dwellings under policy Ed/Ho/2 of the Newark and Sherwood Allocations and Development Management DPD. Furthermore, the principle of developing this site for up to 50 dwellings has been formally established through the granting of outline planning permission (ref: 21/02094/OUTM) on 22nd July 2022. That permission also established the means of access from Mansfield Road. This current application is for the subsequent approval of the reserved matters of layout, scale, appearance, and landscaping. As the outline

permission is extant, the principle of the development is acceptable and not a matter for reconsideration at this stage.

- 7.8. It is acknowledged that a significant number of objections have been received from local residents and the Parish Council raising concerns about the impact of further housing on the village's infrastructure, particularly on healthcare and education facilities. These concerns are material planning considerations; however, they were addressed at the outline stage. To mitigate the impacts of the development, a Section 106 legal agreement was secured which requires financial contributions from the developer towards local services. These contributions, secured under application 21/02094/OUTM, include:

- **Affordable Housing:** At least 30% of the dwellings on-site.
- **Primary Education:** A contribution of £193,743.00 (index-linked).
- **Community Facilities:** A contribution of £1,384.07 per dwelling towards improvements to community facilities in Edwinstowe parish.
- **Library Contribution:** A contribution of £1,762.00 (index-linked) towards Edwinstowe Library.

- 7.9. Therefore, as the site is allocated for housing within the Development Plan and has the benefit of an extant outline permission with legal measures in place to mitigate its impact, the principle of the development is considered acceptable. The assessment must now turn to the acceptability of the detailed proposals for which approval is sought.

#### Housing Need and Mix

- 7.10. Core Policy 3 of the Amended Core Strategy (2019) sets out that the Council will seek to secure new housing development which addresses the housing need of the District, namely family housing of 3 bedrooms or more, smaller houses of 2 bedrooms or less, and housing for the elderly and disabled population. It goes on to state that the Council will seek to secure an appropriate mix of housing types to reflect local housing needs, which will be dependent on the local circumstances of the site.
- 7.11. The most up-to-date evidence for the area is the District Wide Housing Needs Assessment (HNA) published in December 2020. For the Sherwood Sub-Area, within which Edwinstowe is located, the HNA identifies a need for family housing of 3 bedrooms or more, followed by smaller houses of 2 bedrooms or less.
- 7.12. The current proposal is for a total of 50 dwellings. The mix is set out in the applicant's Planning Statement and is as follows:

Unit Size	Number of Dwellings	Percentage of Scheme
1 bedroom	4	8%
2 bedrooms	14	28%
3 bedrooms	32	64%
<b>Total</b>	<b>50</b>	<b>100%</b>

- 7.13. The proposed scheme is heavily weighted towards 2 and 3-bedroom properties, with a smaller provision of 1-bedroom units. While the scheme does not provide any 4+ bedroom units, it is considered that the focus on smaller family homes directly addresses the most pressing needs of the area as identified in the HNA.
- 7.14. The national technical guidance entitled 'Nationally described space standards' 2015, provides useful guidance on expected minimum gross internal floor space for dwellings. All of the proposed dwellings exceed the national Technical Guidance: Nationally Described Space Standards.

#### Affordable Housing Provision

- 7.15. A key material consideration for this application is the affordable housing offer. Core Policy 1 of the Core Strategy and the S106 legal agreement attached to the outline consent require the provision of 30% on-site affordable housing.
- 7.16. The applicant, Morro Partnerships, is a Homes England preferred partner that specialises in delivering affordable homes. This application proposes that the site will be brought forward as a 100% affordable housing scheme.
- 7.17. This commitment to provide 50 affordable homes represents a significant overprovision compared to the policy requirement for 15 affordable units (30% of 50). This significant uplift will make a substantial contribution to meeting the District's identified affordable housing need of 243 homes per year and is a public benefit that carries very significant positive weight in the determination of this application.
- 7.18. In conclusion, the proposed housing mix is considered acceptable. It provides a range of smaller family homes which reflects the identified local housing need, and the delivery of a 100% affordable housing scheme is a significant material consideration that strongly weighs in favour of the proposal. The scheme is therefore considered to be compliant with Core Policy 1 and Core Policy 3 of the Development Plan.

#### Layout

- 7.19. Policy ED/Ho/2 of the Allocations & Development Management DPD allocates the site for residential development of around 50 dwellings and sets out specific criteria that

any proposal must address. The proposed layout for this reserved matters application is assessed against each of these criteria in turn.

- 7.20. *i) Public open space within the site or at alternative locations within the village, provided in accordance with Policy DM3, Developer Contributions and Planning Obligations, which shall be designed to reflect the need to provide SANGS to relieve pressure on the Birklands & Bilhaugh SAC;*
- 7.21. The submitted layout provides a significant area of public open space, particularly within the landscape buffer to the north of the site. This space is designed to be a recreational asset for new residents and includes informal areas, mown footpaths, and a trim trail for formal play. The provision of this high-quality, on-site green space is designed to be attractive for residents for activities such as dog walking and informal recreation. This serves the dual purpose of providing amenity for the new residents and functioning as a Suitable Alternative Natural Greenspace (SANGS) to help relieve recreational pressure on the nearby Birklands & Bilhaugh Special Area of Conservation (SAC), a point which was welcomed in principle at the outline stage. This on-site provision is in addition to the off-site SANGS contribution at Crooked Acre, for which a management plan has been legally secured and discharged. The layout is therefore considered to be fully compliant with this criterion.
- 7.22. *ii) Appropriate design which addresses the site's gateway location and manages the transition into the main built up area. In order to protect the setting of the Sherwood Forest Country Park, appropriate buffering in accordance with the landscape character of the area should be included within the northern part of the site;*
- 7.23. The submitted layout has been designed to specifically address this requirement. The northern part of the site, which faces towards Sherwood Forest Country Park, is designated entirely as a "substantial landscaped buffer". No built development is located within this area, which will protect the setting of the wider landscape.
- 7.24. To manage the site's gateway location on the western edge of Edwinstowe, the layout proposes a lower density of development, including (in part) bungalows, directly adjacent to the existing dwellings on Mansfield Road, the dwellings are also west back form the roadside frontage in line with existing dwellings. There would be landscaping between roadside front with Mansfield Road and the proposed dwellings. A substantial 10-metre landscape buffer is also provided along the western boundary. This approach ensures a soft and appropriate transition from the open countryside to the built-up area of the village. In these circumstances, it is considered that the proposed layout is therefore considered to successfully address these specific requirement as detailed in Policy ED/Ho/2.
- 7.25. *iii) Developer funded localised sewer capacity improvements as required;*
- 7.26. This requirement was considered and found to be acceptable at the outline stage when the principle of development and its impact on infrastructure capacity was established. It is a standard requirement for developers to fund any necessary connections or upgrades to the local network, which is secured through agreements

with the statutory undertaker (e.g. Severn Trent Water). This matter does not preclude the approval of the reserved matters layout.

- 7.27. *iv) Pre-determination archaeological evaluation submitted as part of any planning application and post-determination mitigation measures secured by condition on any planning consent are likely to be required to reflect the medium archaeological potential of the site.*
- 7.28. This requirement has been addressed through the planning process. An initial geophysical survey was undertaken at the outline stage. Conditions 9, 10, and 11 were attached to the outline permission (21/02094/OUTM) to secure a full programme of archaeological investigation and mitigation. The Council's archaeological advisor has been consulted on this reserved matters application and confirms that the development should be carried out in accordance with these existing conditions. The approval of the layout is therefore acceptable in this regard, as the mechanism for securing the necessary archaeological work is already in place.

#### Design and Character

- 7.29. Core Policy 9 (Sustainable Design) of the Amended Core Strategy seeks a high standard of sustainable design and layout that, amongst other things, is capable of being accessible to all and is of an appropriate form and scale to its context, complementing the existing built and landscape environments. Policy DM5 of the Allocations & Development Management DPD builds on this, requiring all new development to ensure that the rich local distinctiveness of the District's landscape and character of built form is reflected in the scale, form, mass, layout, design, materials and detailing of proposals. At a national level, the NPPF places significant weight on design, stating that the creation of high-quality, beautiful, and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development and helps make development acceptable to communities. This assessment has also been informed by the principles within the National Design Guide and Building for a Healthy Life.
- 7.30. The scheme, as amended, proposes 50 dwellings and includes a mix of single-storey bungalows alongside two-storey semi-detached and terraced houses.
- 7.31. The scale of the housing is predominantly two-storey, which is considered to reflect the character of the locality, particularly the existing housing on Thoresby Drive and Lintin Avenue. The character of the different house types across the site is logical and responds well to the context. Notably, single-storey bungalows are proposed for the plots on the western and southern boundaries adjacent to existing residential properties, which helps to manage the transition and minimise any amenity impacts. The larger two-storey dwellings are located more centrally within the site, away from the most sensitive boundaries. The overall density of approximately 29 dwellings per hectare is appropriate for this edge-of-settlement location and allows for the provision of significant landscape buffers and public open space, successfully managing the transition into the main built-up area as required by Policy ED/Ho/2.
- 7.32. The house types themselves are considered attractive and have been designed to provide variety and interest within the street scene. The layout incorporates

prominent corner-turning plots in key, highly visible locations to create an attractive public realm and assist with wayfinding. Dwellings have also been oriented to overlook the public open space to the north, improving natural surveillance and creating a sense of safety. The proposed materials palette of red brick and brown double roman tile has taken cues from nearby residential properties to ensure the development integrates successfully into its surroundings, reflecting the unique character of Edwinstowe. While a materials plan has been submitted, the specific manufacturer details have not been provided, and this is a matter that can be dealt with through the imposition of a planning condition.

- 7.33. The amended layout plans show a reduced reliance on frontage parking, with soft landscaping used to break up areas of hardstanding where possible, which is in accordance with the Council's parking design guidance. On-plot landscaping will be used along prominent boundaries in the public realm. Full details of hard boundary treatments, such as brick walls and timber fencing, have not been submitted, but this can also be appropriately controlled by condition.
- 7.34. Overall, the proposed layout, scale, and appearance are of a high quality, responding positively to national and local design policies. The scheme has been amended to successfully address initial officer concerns and now represents a well-conceived development that respects and enhances the local character.

#### Landscaping and Trees

- 7.35. Landscaping is a reserved matter for which approval is now sought. This section assesses the acceptability of the submitted details against the relevant national and local planning policies, including Core Policy 12 (Biodiversity and Green Infrastructure), Core Policy 13 (Landscape Character), Policy DM5 (Design), and the site-specific requirements of Policy ED/Ho/2. The NPPF also places great importance on trees, stating that new streets should be tree-lined and existing trees retained wherever possible.
- 7.36. In terms of the impact on Existing Trees and Hedgerows, the application is supported by a detailed Arboricultural Impact Assessment (AIA). The site contains nine individual trees and seven hedgerows, the vast majority of which are Category C (low value). Two mature cherry trees on the frontage are protected by a Tree Preservation Order (TPO) and will be retained and protected during construction.
- 7.37. The proposal requires the removal of an approximately 12-metre section of hedgerow (H3) along Mansfield Road to create the approved vehicular access. The AIA confirms this hedgerow is Category C, comprising a small number of species, and concludes its loss is of low impact and can be effectively mitigated through new planting. All other existing boundary hedgerows and trees are shown to be retained, which will help to integrate the development into its surroundings and provide mature screening from the outset.
- 7.38. In terms of the Proposed Landscaping Strategy, the submitted Landscape Masterplan (ref: 24.1869.001 Rev F) demonstrates a comprehensive and policy-compliant approach to landscaping. It shows that the development will provide a total of

9,283m<sup>2</sup> (0.93Ha) of public open space that would be managed in accordance with the requirements of the existing S106a. The key features of the strategy are:

- 7.39. Northern Landscape Buffer: In direct accordance with Policy ED/Ho/2, the majority of the public open space is located within a substantial landscape buffer to the north of the site. This area is designed as a semi-natural space, incorporating large areas of wildflower and grass mix, mown footpaths for informal recreation, and a formal children's play provision in the form of a trim trail. This protects the setting of the wider Sherwood Forest landscape and provides a valuable recreational asset.
- 7.40. Western Buffer and Frontage: A 10-metre wide landscape buffer is proposed along the western boundary, softening the edge of the development. An avenue of trees is proposed along the Mansfield Road frontage, creating an attractive green gateway into the site.
- 7.41. Planting Palette: A significant number of new trees are proposed throughout the site. The plant schedule indicates the use of native species appropriate to the Sherwood character area, such as Silver Birch (*Betula pendula*), Alder (*Alnus glutinosa*), and Oak (*Quercus robur*). New native hedgerows are proposed for boundary treatments, and specific additional planting is shown to provide screening for existing neighbouring properties.
- 7.42. Species Selection: It is noted that the submitted plant schedule also includes non-native ornamental cultivars, such as *Prunus 'Sunset Boulevard'* and *Sorbus 'Cardinal Royal'*. This supports the comments made by Natural England and the Nottinghamshire Wildlife Trust who recommend using exclusively native species. While the overall strategy is robust, a condition is required to agree a final species list that maximises the use of native, locally-provenanced stock.
- 7.43. In conclusion, the landscaping scheme is considered to be well-designed and directly addresses the specific requirement of Policy ED/Ho/2 by providing a substantial northern buffer. The loss of a small section of low-quality hedgerow is acceptable and will be compensated for by extensive new native tree and hedgerow planting. The detailed implementation, particularly the final species list, can be secured by planning condition. The proposal is therefore considered to accord with Core Policies 12 and 13, and Policy DM5 of the Development Plan.

#### Highway Safety and Parking

- 7.44. Spatial Policy 7 of the Amended Core Strategy seeks to ensure that development proposals are appropriate for the highway network and do not adversely affect safety, while Policy DM5 of the Allocations & Development Management DPD requires the provision of safe access and appropriate parking provision. At a national level, the NPPF advises that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 7.45. The application has been subject to detailed scrutiny by Nottinghamshire County Council as the local Highway Authority (LHA). The LHA initially raised a holding objection to the scheme on several grounds. Their concerns included that the internal

road layout was unacceptable, with a new crossroads creating potential conflict and a lack of appropriate bend widening. They also noted that vehicle tracking information was missing, pedestrian visibility splays were obstructed by proposed landscaping, and there was no continuous 2-metre footway across the site frontage.

- 7.46. A primary concern for the LHA was the proposed parking provision. They noted that a significant number of the dwellings did not meet the standards set out in the Council's Parking SPD and that there was an under-provision of on-street visitor spaces. It was considered that this would be "likely to lead to vehicles being parked in obstructive places, on the bend and within the turning head area", which would be detrimental to highway safety.
- 7.47. In response to these concerns, the applicant entered into lengthy negotiations with the LHA and submitted several sets of amended plans. A formal rebuttal letter dated 28th March 2025 confirmed that a new swept path analysis had been undertaken, driveway angles had been amended where possible, and the landscaping plans were revised to remove conflicts with visibility splays.
- 7.48. Following these amendments and further discussions, the Highway Authority formally withdrew their objection in a final response dated 2nd May 2025. The officer confirmed that issues relating to bend widening were now acceptable and that the remaining issues regarding visibility splays could be controlled by condition. To resolve the on-street parking safety concern, it was agreed that the implementation of a Traffic Regulation Order (TRO) to introduce double yellow lines around the turning head and the main bend would be secured by condition.
- 7.49. In respect of parking provision to serve the proposed dwellings, the Highway Authority noted that a significant number of the 3-bedroom dwellings do not meet the Council's parking SPD requirement for 3 spaces, with 2 spaces being provided instead. The applicant has justified this departure on the basis that the scheme is 100% affordable housing and that the third bedrooms are of a smaller size, making them less likely to be occupied by someone of driving age. The LHA acknowledged this justification but maintained concerns, stating that while this approach was previously accepted on a different site, their guidance had since been updated. However, having secured the TRO to prevent dangerous obstructive parking, the officer confirmed that the LHA now considers the remaining under-provision to be an issue of amenity rather than highway safety.
- 7.50. In conclusion, the scheme has been subject to detailed review by the Highway Authority. Following initial objections, the applicant has worked proactively to amend the scheme to address all concerns relating to highway safety, leading to the withdrawal of the LHA's objection. While the parking provision is below the standard set out in the SPD for a number of the dwellings, the justification for this departure is noted. Given the scheme is for 100% affordable housing, it is considered unlikely that every 3-bedroom affordable home would necessitate three off-street car parking spaces, and on balance this approach is considered acceptable. The Highway Authority is now satisfied that with a Traffic Regulation Order secured by condition to manage on-street parking, the arrangement does not compromise highway safety. The



proposal is therefore considered to be acceptable and in accordance with Spatial Policy 7, Policy DM5, and the principles of the NPPF.

Impact on Residential Amenity

- 7.51. Policy DM5 of the Allocations & Development Management DPD states development should ensure no unacceptable reduction in amenity for neighbours, including overbearing impacts, loss of light, privacy, or disturbance. NPPF Paragraph 198 also requires impacts from noise to be mitigated and significant adverse impacts avoided. This assessment considers the impact on both existing neighbouring properties and the future occupiers of the new dwellings.
- 7.52. During the public consultation, a number of objections were received from local residents of neighbouring properties who raised specific concerns about the impact of the development on their amenity.
- 7.53. Representations from residents of bungalows on Mansfield Road expressed concerns about the close proximity of the proposed houses causing overshadowing, overlooking, and a loss of privacy. The revised submitted layout has been specifically designed to address this relationship. The dwellings proposed immediately adjacent to these properties (plots 1-2) are all single-storey bungalows. Generally, dwellings are originated north to south and not facing towards the existing dwellings. The execution to this is plots 05 and 06 which are originated at an oblique angle not directly facing any other dwelling. They would set back from 20 metres from the boundary of the application site ensures that any overbearing impact or loss of light is negligible. Likewise, immediately to the south of the site are two exiting dwelling – a bungalow and a two storey dwelling. There would be no direct overlooking towards these dwellings as a result of the proposals and given that they are to the south, there would be no loss of sunlight / daylight.
- 7.54. A resident of 35 Thoresby Drive also raised an objection regarding being overlooked by four properties to the rear. The layout shows that the rear gardens of plots 07-09 back towards are in the vicinity of property. The separation distances, combined with existing vegetation and proposed boundary treatments, are considered sufficient to prevent any unacceptable loss of privacy. The applicant amended the layout during the course of the application to improve amenity relationships, for example by reorienting plots 5-9 to reduce any potential harmful impacts relating to back-to-back window distances.
- 7.55. In terms of amenity for future residents (including Noise), the proposed layout provides adequate separation distances between the new dwellings, ensuring that future residents will not suffer from overlooking or overbearing impacts from neighbouring plots. All proposed units are provided with private garden space.
- 7.56. Condition 12 of the outline permission required a Noise Impact Assessment to be submitted to consider the impact of traffic from Mansfield Road on the new dwellings. The submitted assessment by BWB Consulting concludes that suitable internal and external noise conditions can be achieved at the proposed dwellings. External garden spaces are predicted to fall below the 50-55dB guideline value where mitigation would be considered necessary.

- 7.57. To protect internal amenity, the report recommends that dwellings closest to Mansfield Road be fitted with uprated double glazing and acoustic trickle ventilators. All other dwellings can achieve the required internal noise levels with standard double glazing. The Council's Environmental Health Officer has reviewed this report and confirmed they have no objection, stating that the condition can be discharged provided the properties are built with the specified mitigation.
- 7.58. In conclusion, the layout has been carefully designed to mitigate impacts on the amenity of existing neighbouring residents, particularly through the use of single-storey bungalows and landscape buffers on sensitive boundaries. The technical noise assessment demonstrates that, subject to a condition securing the recommended mitigation measures, a good standard of amenity can also be achieved for all future residents. Therefore, the proposal is considered to comply with the aims of Policy DM5 and the NPPF in this regard.

#### Impact on Ecology

- 7.59. Core Policy 12 (Biodiversity and Green Infrastructure) and Policy DM7 of the Development Plan seek to conserve and enhance the biodiversity of the District. They require development proposals to be supported by up-to-date ecological assessments and to incorporate mitigation and enhancement measures to protect important habitats and species.
- 7.60. In terms of Biodiversity Net Gain (BNG), based on current legislation, this application is not subject to the mandatory 10% Biodiversity Net Gain (BNG) requirement. This is because mandatory BNG applies to major developments where the planning application was made on or after 12th February 2024. As this is a reserved matters application pursuant to an outline consent granted in 2022, the BNG requirements do not apply.
- 7.61. In respect of the ecological context and mitigation strategy, the outline committee report (for application 21/02094/OUTM) established the key ecological considerations for the site. It noted the site's location within the 5km buffer zone for the Birklands and Bilhaugh Special Area of Conservation (SAC), the Birklands West and Ollerton Corner Site of Special Scientific Interest (SSSI), and the potential Sherwood Forest Special Protection Area (ppSPA) for nightjar and woodlark.
- 7.62. The original Habitats and Protected Species Report (2021) concluded that the site itself was sub-optimal for species like Nightjar but had some potential for Woodlark and foraging bats, and could be used by commuting reptiles and small mammals. To mitigate the recreational pressure of the new development on the nearby designated sites, a two-pronged approach was agreed at the outline stage: the provision of high-quality public open space on-site, and the delivery of an off-site Suitable Alternative Natural Greenspace (SANGS) at a site known as Crooked Acre, secured via a S106 legal agreement.
- 7.63. During the assessment of this reserved matters application, both Natural England and the Nottinghamshire Wildlife Trust have reiterated previous concerns that the off-site SANGS at Crooked Acre may not be fit for purpose due to its close proximity to the

SAC. While these expert opinions are noted, the legal position is that the S106 obligation to provide a management plan for this SANGS has been formally discharged by the Council.

- 7.64. Natural England has also highlighted that since the outline consent was granted, a new Impact Risk Zone (IRZ) has been introduced for Clumber Park SSSI relating to recreational pressure. They advise that the Council must be satisfied that the proposed mitigation is sufficient to address any increased recreational disturbance at this SSSI. It is considered that the combination of the legally secured off-site SANGS and the significant provision of 0.93 hectares of high-quality, on-site public open space provides a suitable mitigation package to address these recreational pressures.
- 7.65. The Nottinghamshire Wildlife Trust has correctly pointed out that the original ecological survey data is outdated, however there has been no change in the use of the agricultural field forming the application site, as it has remained in arable agricultural use since the original ecological survey was considered.
- 7.66. Importantly, it should be noted that further ecological enhancements are already required by the outline planning conditions. Condition 03 requires the landscaping scheme to include features such as new species-rich habitats, nesting boxes, and gaps in fences for hedgehogs, while Condition 13 requires adherence to the recommendations of the original ecology report, including the implementation of a bat-sensitive lighting scheme. These matters can be secured by condition on this reserved matters application to ensure the development delivers a net gain for biodiversity where possible, in accordance with Policy CP12.

#### Other Matters

- 7.67. In terms of drainage, the approval of the technical drainage details is controlled by a separate and legally binding part of the planning process that was established when outline permission was granted. When outline planning permission (ref: 21/02094/OUTM) was granted, the principle of developing the site for up to 50 homes was established. At that stage, the application was supported by a Flood Risk Assessment and a high-level drainage strategy. This information was sufficient to demonstrate to the Council and the Lead Local Flood Authority (LLFA) that the site *could* be acceptably drained in principle. To ensure the technical specifics were agreed before any work started, a **pre-commencement condition (Condition 05)** was attached to the outline decision notice. This condition states:
- 7.68. *"No part of the development hereby approved shall commence until a detailed surface water drainage scheme...has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority."* This is a legally binding requirement. It means the developer cannot start any work on site (including groundworks) until they have submitted a full technical drainage design and had it formally approved.
- 7.69. This current application is for the reserved matters of layout, scale, appearance, and landscaping. The applicant has shown an *indicative* drainage layout on the plans to demonstrate how a system could fit within the proposed layout, but they have not submitted the full technical details required by Condition 05 as part of this application.

For this reason, the LLFA has maintained an objection. Their response clarifies that this is due to "the absence of any detailed surface water drainage information," which prevents them from commenting on the suitability of the scheme with any confidence. It has been explained to the Flood Authority that there is no requirement to provide these details at this stage – primarily based on their consultation response from the outline application.

- 7.70. Many of the representations relate to the harm the proposed development would have on existing infrastructure, however as part of the outline application measures have already been secured as part of the S106 Legal agreement for contributions towards education conditions, library improvements, off-site open space provision and a requirement that the dwellings should be affordable.
- 7.71. Condition 03 of the outline planning permission (ref: 21/02094/OUTM) explicitly requires that the reserved matters application for landscaping be accompanied by a "Visitor Management Strategy". The condition states this strategy must "include details of zoning levels of activity, how public access will be controlled to limit disturbance to wildlife and physical features to prevent domestic animals from reaching habitats and how these will be monitored and enforced". The requirement for this strategy relates directly to the site's proximity to the Birklands and Bilhaugh SAC and the need for the on-site Public Open Space to function effectively as a Suitable Alternative Natural Greenspace (SANGS) to absorb recreational pressure from the new development.
- 7.72. While a Habitat Creation and Management Plan was submitted for the *off-site* SANGS at Crooked Acre, a specific, detailed Visitor Management Strategy for the extensive on-site Public Open Space (the 0.93Ha northern buffer zone containing the trim trail) does not appear to have been submitted as a standalone document with this reserved matters application. As the details of the public open space are now being approved, it is essential that its management is also formally agreed to ensure it functions as effective mitigation. As this detail is missing but was required by the outline consent, the most appropriate way to resolve this is to secure its submission and approval via a planning condition, prior to the houses being occupied.

## **8.0 Implications**

- 8.1. In writing this report and in putting forward recommendations' officers have considered the following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

### Legal Implications – LEG2526/4944

- 8.2. Planning Committee is the appropriate body to consider the content of this report. A Legal Advisor will be present at the meeting to assist on any legal points which may arise during consideration of the application.

## **9.0 Planning Balance and Conclusion**

- 9.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise.
- 9.2. The principle of residential development for up to 50 dwellings on this allocated housing site (Policy ED/Ho/2) has been established through the granting of outline planning permission 21/02094/OUTM. This reserved matters application has demonstrated that a high-quality scheme can be delivered on the site, with the submitted details of layout, scale, appearance, and landscaping considered to be in accordance with the design principles of the NPPF and policies CP9 and DM5 of the Development Plan.
- 9.3. The development proposes to deliver a 100% affordable housing scheme, providing 50 much-needed homes. This represents a substantial public benefit which far exceeds the 30% policy requirement secured via the S106 agreement and, as a material consideration, weighs very heavily in favour of the development.
- 9.4. The significant number of objections from local residents and the Parish Council have been given careful consideration. The concerns raised regarding the capacity of local infrastructure such as schools and healthcare were matters principally for the outline stage, where financial contributions were secured through the S106 agreement to mitigate the development's impact. Other concerns relating to amenity, traffic, and ecology have been addressed within the assessment of this detailed scheme.
- 9.5. Following extensive negotiation, the Highway Authority has withdrawn its initial objection and, subject to a condition to manage on-street parking, now considers the scheme acceptable in terms of highway safety. The outstanding objection from the Lead Local Flood Authority is noted; however, this matter is robustly controlled by the pre-commencement Condition 05 on the extant outline permission, which provides the necessary mechanism to ensure a technically acceptable drainage scheme is approved before any work can begin. Concerns raised by the Wildlife Trust regarding out-of-date ecological surveys can also be resolved through a pre-commencement condition.
- 9.6. On balance, the proposal is considered to represent a sustainable form of development that accords with the Development Plan when read as a whole. The significant public benefit of delivering 50 affordable homes is a material consideration that outweighs the remaining issues, which can all be reasonably and effectively controlled by planning conditions. It is therefore concluded that there are no material considerations of sufficient weight to justify a decision otherwise than in accordance with the Development Plan.

## **9.0 Recommendation**

**APPROVE** subject to the following conditions:

## **10.0 Conditions**

1. No part of the development hereby permitted shall take place until details of the new internal road have been submitted to and approved in writing by the Local Planning Authority, to include longitudinal and cross-sectional gradients, street lighting, drainage and outfall proposals, construction specification, and provision of and diversion of utilities services. The development shall be implemented in accordance with these details to the satisfaction of the Local Planning Authority prior to first occupation of any dwelling.

Reason: To ensure the development is constructed to safe and adoptable standards in the interests of highway safety.

2. Notwithstanding the submitted plans, no development above slab level shall take place until a revised detailed soft landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The revised plan shall substitute any non-native species with suitable native species of local provenance.

Reason: To ensure the development proposals are appropriate for the local landscape character and maximise biodiversity in accordance with Core Policy 12 and Core Policy 13.

3. Prior to the laying of any facing bricks above damp-proof course and the installation of any roof tiles on site, details (including manufacturers name, colour and material) of all external facing and roofing materials shall first be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out using the approved materials.

Reason: Insufficient detail has been provided and the condition is necessary to ensure a high-quality finish in the interests of visual amenity, in accordance with Policy DM5.

4. Prior to first occupation of any dwelling, a scheme detailing all hard boundary treatments (as shown locationally on the approved site layout plan) shall be submitted to and approved in writing by the Local Planning Authority. Details shall include heights, design and materials, and shall incorporate hedgehog-friendly gravel boards or 13cm x 13cm gaps in the base of all new boundary fences. The approved scheme for each respective plot shall be implemented on site prior to first occupation of each respective dwelling.

Reason: Insufficient details have been provided with the application and the condition is necessary in the interests of residential amenity and to accord with ecological mitigation measures.

5. No part of the development hereby permitted shall be brought into use until all drives and parking areas are surfaced in a bound material (not loose gravel). The surfaced drives and parking areas shall then be maintained in such bound material for the life of the development.

Reason: To reduce the possibility of deleterious material being deposited on the public highway (loose stones etc) in the interests of highway safety.

6. Prior to first occupation of any dwelling that does not have an associated garage, details of secure covered cycle parking provision shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be made available within each plot prior to first occupation.

Reason: In the interests of encouraging sustainable modes of transport.

7. Prior to first occupation of any dwelling, details of the following (to be located in the public areas of the site) shall be submitted to and approved in writing by the Local Planning Authority: street furniture such as benches; litter and dog foul bins; and any signage. The details approved shall be provided on site prior to first occupation.

Reason: Insufficient detail has been provided and the condition is necessary in the interests of amenity and public safety.

8. The development hereby permitted shall not be carried out except in complete accordance with the approved plans and documents listed below:

Proposed Site Layout (M163 0101-P16) submitted 28/03/2025

Proposed Access Arrangement (MRE-999-1500 Rev C) submitted 28/03/2025

Preliminary Access Road General Arrangement Layout (S2 P06) submitted 28/03/2025

Landscape Masterplan (24.1869.001 Rev F) submitted 28/03/2025

Detailed Landscape Proposals 1 of 4 (24.1869.002 Rev F) submitted 28/03/2025

Detailed Landscape Proposals 2 of 4 (24.1869.003 Rev E) submitted 28/03/2025

Detailed Landscape Proposals 3 of 4 (24.1869.004 Rev E) submitted 28/03/2025

Detailed Landscape Proposals 4 of 4 (24.1869.005 Rev F) submitted 28/03/2025

Housetype I Azure I 3B5P Corner Turner I Terrace B (M163 0209-P02) submitted 20/02/2025

Housetype I Azure I 3B5P Corner Turner I Semi (M163 0205-P05) submitted 20/02/2025

Housetype I Azure I 3B5P Corner Turner I Semi B (M163 0206-P05) submitted 20/02/2025

Housetype I Azure I 3B5P Corner Turner I Terrace (M163 0208-P06) submitted 20/02/2025

Boundary Treatments Plan M163-BRP-00-00-DR-A-0103-P07 submitted 20/12/2024  
Bin Storage Locations Plan M163-BRP-00-00-DR-A-0105-P05 submitted 20/12/2024

Housetype Plan 2B4P bungalow M163-BRP-00-ZZ-DR-A-0201-P02 submitted 20/12/2024

Housetype Plan 2B4P semi M163-BRP-00-ZZ-DR-A-0202-P03 submitted 20/12/2024

Housetype Plan 2B4P terrace M163-BRP-00-ZZ-DR-A-0203-P03 submitted 20/12/2024

Housetype Plan 3B5P semi M163-BRP-00-ZZ-DR-A-0204-P03 submitted 20/12/2024

Housetype Plan 3B5P terrace M163-BRP-00-ZZ-DR-A-0207-P04 submitted 20/12/2024

House type 1B2P Maisonette Semi M163 0200-P01 submitted 05/08/2024  
House type 2B3P Bungalow Semi M163 0201-P01 submitted 05/08/2024  
BWB Noise Impact Assessment (Ref: 244233 August 2024)

Reason: For the avoidance of doubt and to ensure the development is carried out in accordance with the approved plans.

9. The noise mitigation measures for dwellings identified in Figure 5.1 of the BWB Noise Impact Assessment (August 2024), shall be installed in full prior to the first occupation of those respective dwellings and shall be retained as such thereafter.

Reason: To ensure that an acceptable standard of residential amenity is achieved and maintained for future occupiers, in accordance with Policy DM5.

10. Prior to the completion of any site clearance, a binding application shall have been made for the introduction of a Traffic Regulation Order to restrict obstructive car parking within the development. For the avoidance of doubt, the measures shall include the turning head, the forward visibility splay over the bend and the junction with the A6075.

Reason: In the interests of highway safety, in accordance with the recommendations of the Highway Authority.

11. All approved soft landscaping shall be carried out in the first planting and seeding season following the first occupation of any dwelling. Any trees or plants which within a period of 5 years from completion die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure the work is carried out in a reasonable period and thereafter properly maintained, in the interests of visual amenity and biodiversity.

12. The visibility splays shown on the approved layout drawings shall be kept clear of all obstructions above 600mm above carriageway level for the lifetime of the development.

Reason: In the interests of highway safety.

### **Informatives**

1. This permission should be read in conjunction with the outline consent (planning reference 21/02094/OUTM) and the conditions imposed upon it, which remain relevant. The applicant is reminded of the need to discharge any outstanding pre-



commencement conditions on the outline consent, particularly Condition 05 (Surface Water Drainage), in a timely manner.

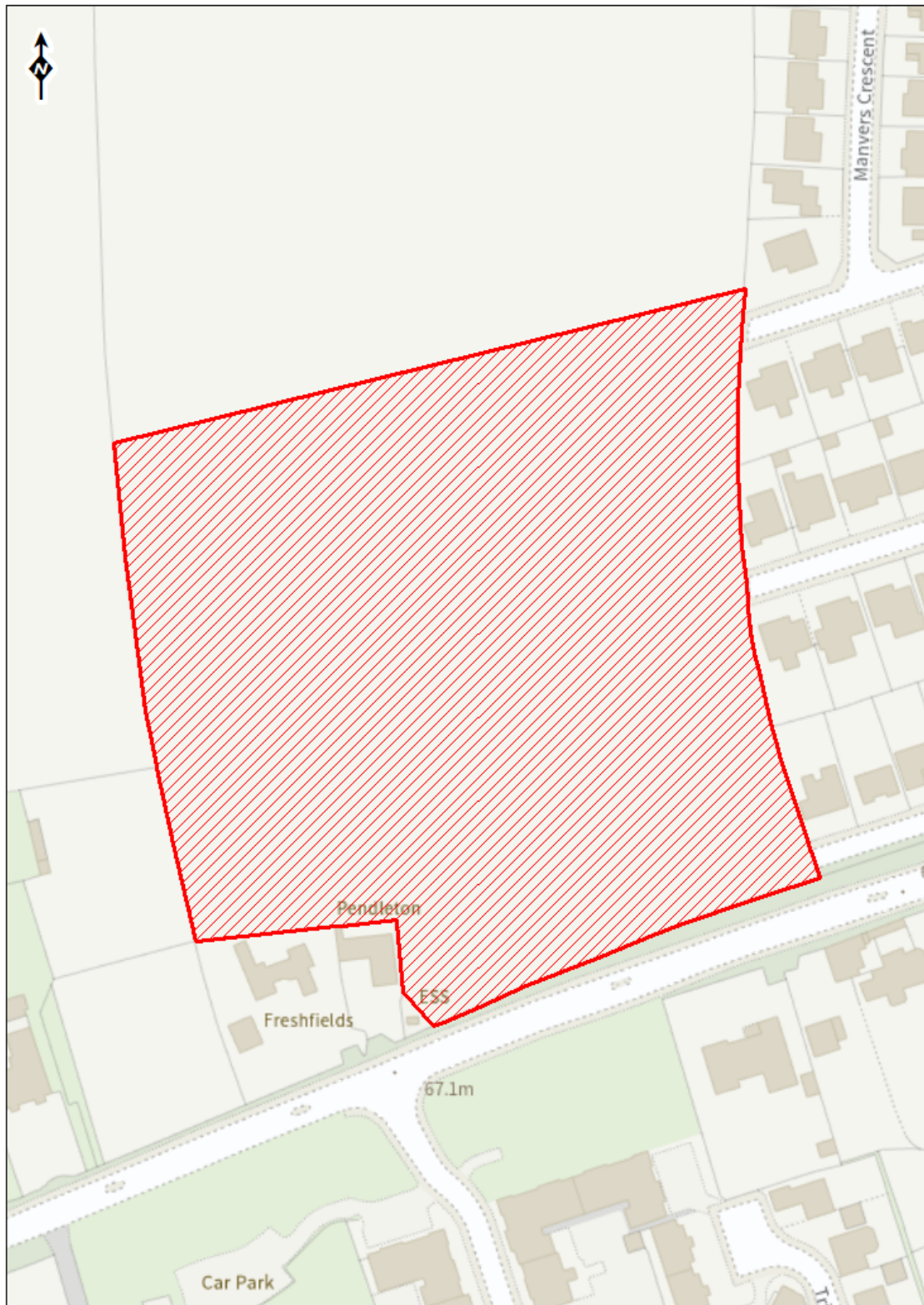
2. The applicant is advised that this permission is also subject to the terms of the Section 106 Agreement dated 22nd July 2022.
3. The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the development type proposed is zero rated in this location.
4. The applicant's attention is drawn to the advice notes provided by Nottinghamshire County Council as Highways Authority regarding the need for a Section 278 Agreement for any works within the public highway. It is an offence under S148 and S151 of the Highways Act 1980 to deposit mud on the public highway.
5. This application has been the subject of discussions during the application process to ensure that the proposal is acceptable. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accord with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).
6. You are advised that you may require building regulations approval in addition to the planning permission you have obtained.
7. Based on the information available, this permission is considered by NSDC not to require the approval of a biodiversity gain plan before development is begun, because it relates to a reserved matters application for an outline permission made before 12 February 2024.

#### BACKGROUND PAPERS

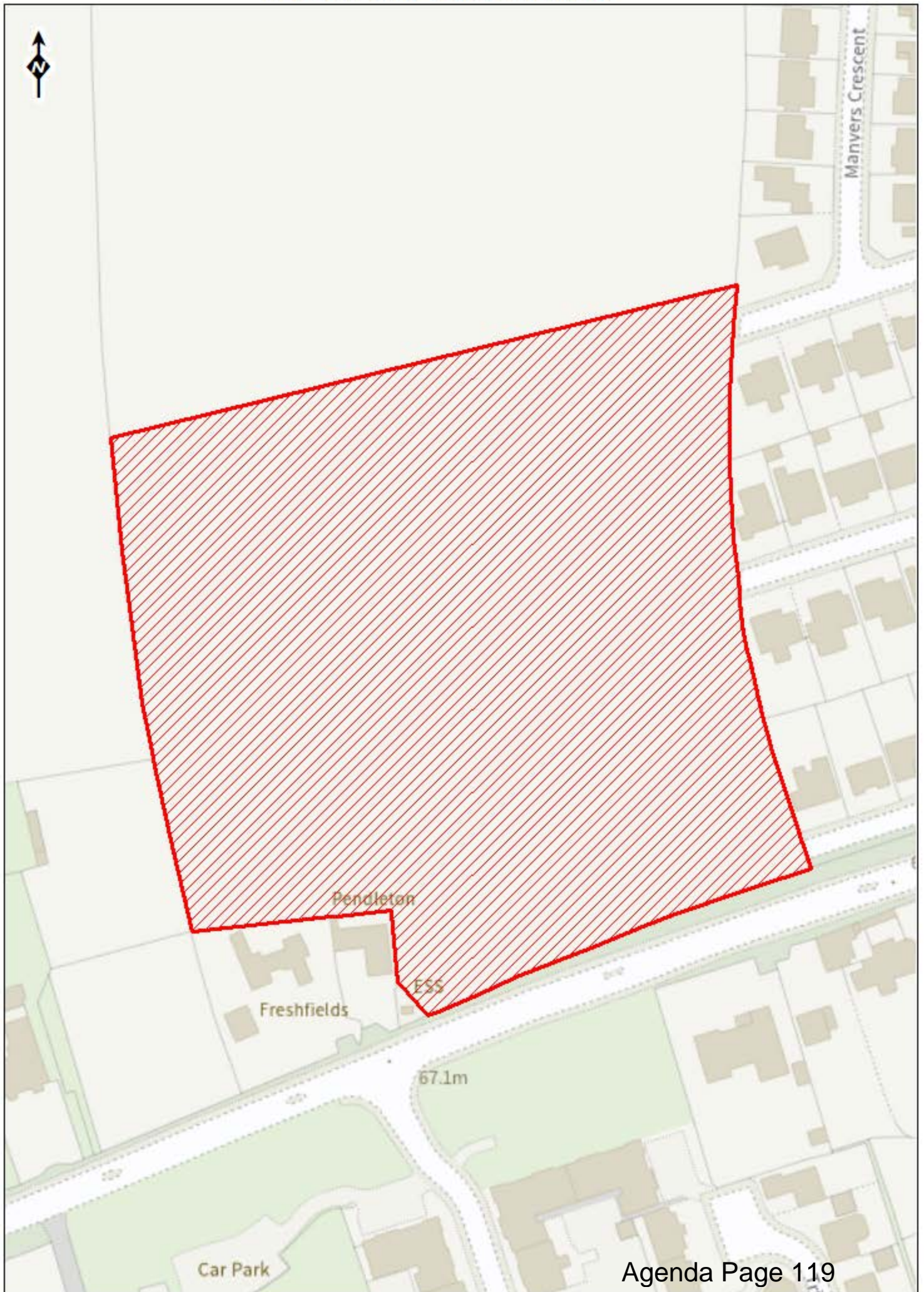
Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Application case file.

Committee Plan - 24/01195/RMAM



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Report to Planning Committee 3 July 2025

Business Manager Lead: Oliver Scott – Planning Development

Lead Officer: Craig Miles, Senior Planner x5865

Report Summary			
Application No.	24/01878/FUL		
Proposal	Proposed Retail Unit with associated parking		
Location	Land Adjacent to Tesco Express, Kirklington Road, Rainworth, NG21 0AE		
Applicant	Mr K Nijjar	Agent	Alan McGowan Architects
Web Link	<a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=SG3SB3LBH5Z00">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=documents&amp;keyVal=SG3SB3LBH5Z00</a>		
Registered	07.11.2024	Target Date	20.12.2024 EoT: 12.05.2025
Recommendation	That planning permission is approved subject to the conditions at Section 10.0 of the report		

This application has been referred to the Planning Committee at the request of Councillor Penny, a Ward Member for Rainworth North & Rufford highlighting that there is a high level of public interest especially given that the proposals are similar to the former application submitted that went to Appeal and the council's decision was upheld.

## 1.0 The Site

- 1.1 The application site comprises a vacant, disused area of land of approximately 0.2 hectares located on the prominent corner of Kirklington Road and Southwell Road East, Rainworth.
- 1.2 The land was formerly part of the car park for the Robin Hood public house, which has since been converted into the adjacent Tesco Express supermarket. The site is L-shaped and wraps around the existing Tesco store, adjacent to the existing car park that serves the Tesco Express supermarket. It is otherwise bounded by Kirklington



Road to the south, Southwell Road East to the west, and two-storey residential properties to the north and east. The site is located within the built-up area of Rainworth and is in Flood Zone 1 (low probability of flooding).

## **2.0 Relevant Planning History**

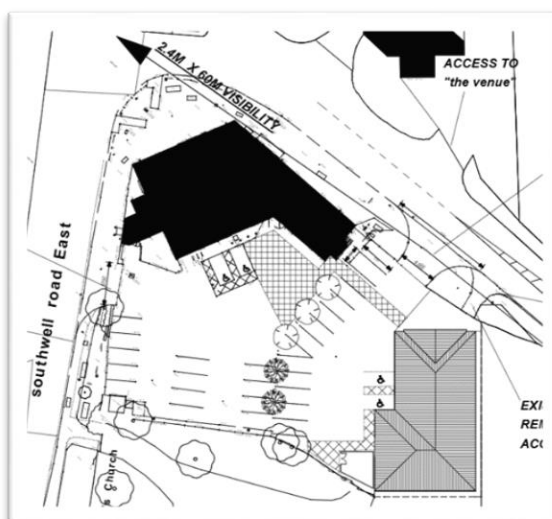
- 2.1. **22/01298/FUL** – A proposal for a similar retail unit was refused by the Planning Committee on 7th September 2023. The reason for refusal was that the proposed layout, with insufficient parking and no through-route, would likely cause conflicts between pedestrians and vehicles, representing an unsafe form of development.
- 2.2. **Appeal Ref: APP/B3030/W/23/3330745** – This refusal was subsequently dismissed at appeal by a Planning Inspector on 24th May 2024. The Inspector's main issue was "the effect of the development on highway safety". The Inspector concluded that the internal circulation of the car park was substandard and would result in significant harm to highway safety.
- 2.3. **20/02209/FULM** - Conversion of the first floor of the existing building into 4 apartments, comprising 1x3 bed unit, 2x2 bed units and 1x studio, plus the erection of a two storey apartment building to the east side of the existing building to provide a further 8 x 1 bed apartments. The proposed new building would include a hip roof with slightly elevated eaves and would be linked to the existing building by a double height glazed entrance. Application Withdrawn.
- 2.4. **19/02237/FUL** - Conversion of first floor space into 6 apartment units, 5 x one Beds and 1 x Studio, external entrance and fire exit staircase introduced on the facade facing the existing car park. Refused 30.04.2020.
- 2.5. **11/01795/FUL** – *Former Robin Hood Hotel building (ground floor)* External alterations to facilitate permitted change of use (A4 to A1). Approved 16.02.2012.

## **3.0 The Proposal**

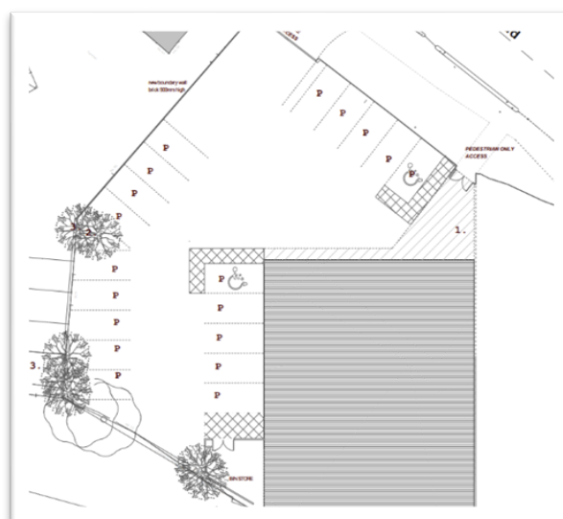
- 3.1 This is a full planning application for the erection of a single-storey retail unit with a gross internal floor area of 266 sq. m, together with the formation of a shared car park, associated access arrangements, and landscaping on underused brownfield land adjacent to the existing Tesco Express. The key elements of the proposal as detailed in the Design and Access Statement and supporting plans are as follows:
- 3.2 Retail Unit: The proposed building is a contemporary, single-storey, flat-roofed retail unit. The Design and Access Statement explains that the scale and character are intended to be in keeping with the adjacent Tesco Express store and the commercial nature of this prominent corner site. The elevations are to be finished in a simple palette of materials including brickwork and cladding, which is considered functional and appropriate for the proposed use and location.
- 3.3 Layout, Parking and Access: The proposal seeks to reconfigure the site to create a formal car park providing 19 spaces, including two disabled bays. The scheme would utilise a new and improved vehicular access from Kirklington Road. A dedicated

servicing bay is located to the rear of the proposed unit, and the application is supported by a Delivery Management Plan and vehicle tracking diagrams to demonstrate safe access for delivery and refuse vehicles.

- 3.4 **Landscaping and Biodiversity:** The scheme includes a landscaping strategy to soften the appearance of the development. This includes the planting of seven new trees within the car park area and new boundary treatments, including a 900mm high brick wall along the public frontages. Further ecological enhancements, including the provision of swift nest boxes on the new building, are also proposed.
- 3.5 The application is supported by a comprehensive suite of documents including a Design and Access Statement, a Flood Risk Assessment, an Arboricultural Impact Assessment, a Preliminary Ecological Appraisal, a Biodiversity Net Gain report, and a detailed Highways Report. The proposed layout is shown below side by side alongside the previously refused development:



Refused development (22/01298/FUL)



Proposed development

#### 4.0 **Public Advertisement Procedure**

- 4.1 The application has been advertised by way of a site notice. Neighbour notification letters have been sent regarding the original proposal and the amended proposals. In total 23 letters of representation have been received comprising 6 letters of objection, and 17 of support.

- 4.2 A Site visits undertaken on 12.12.2024 and 12.12.2024

#### 5.0 **Planning Policy Framework**

- 5.1. **Newark and Sherwood Amended Core Strategy DPD (adopted March 2019)**

##### **The Development Plan**

**Newark and Sherwood Amended Core Strategy DPD (adopted March 2019)**

Spatial Policy 1 – Settlement Hierarchy

Spatial Policy 2 – Spatial Distribution of Growth  
 Spatial Policy 9 – Sustainable Design  
 Core Policy 8 – Retail & Town Centres  
 Core Policy 12 – Biodiversity and Green Infrastructure  
 MFAP1 – Mansfield Fringe Area

### **Allocations & Development Management DPD**

Policy Ra/DC/1 – Rainworth District Centre Boundary  
 Policy DM1 – Development within Settlements Central to Delivering the Spatial Strategy  
 Policy DM5 – Design  
 Policy DM7 – Biodiversity and Green Infrastructure  
 Policy DM10 – Pollution and Hazardous Materials  
 Policy DM11 – Retail and Town Centre Uses  
 Policy DM12 – Presumption in Favour of Sustainable Development

### **Other Material Planning Considerations**

National Planning Policy Framework 2024  
 Planning Practice Guidance (online resource)  
 National Design Guide – Planning practice guidance for beautiful, enduring and successful places September 2019  
 Nottinghamshire Highway Design Guide –  
<https://www.nottinghamshire.gov.uk/transport/roads/highway-design-guide>

The [Draft Amended Allocations & Development Management DPD](#) was submitted to the Secretary of State on the 18th January 2024 and has been accepted for examination (November 2024). There are unresolved objections to amended versions of policies emerging through that process, and so the level of weight which those proposed new policies can be afforded is currently limited. As such, the application has been assessed in-line with policies from the adopted Development Plan.

## **6.0 Consultations and Representations**

- 6.1. Comments below are provided in summary - for comments in full please see the online planning file.

### **(a) Statutory Consultations**

- 6.2. **NCC Highways Authority** –The Highway Authority initially submitted a holding objection to the proposal on 31st January 2025. The reasons for this objection included an insufficient number of parking spaces (19 proposed against a requirement for 23), concerns that the internal aisle widths could not safely accommodate the proposed layout, an unenforceable Delivery Management Plan, and the inclusion of security gates which would be detrimental to highway safety.
- 6.3. In response to these detailed concerns, the applicant submitted a Rebuttal Report in April 2025 which included amended plans showing an increased provision of 19 parking spaces, and detailed swept-path analysis demonstrating that delivery and

refuse vehicles could safely manoeuvre within the site.

- 6.4. Following review of this new information, the Highway Authority issued a final response on 6th May 2025, formally withdrawing their objection. They are now satisfied that the proposal is acceptable in terms of highway safety, subject to conditions requiring the removal of the proposed gates and the implementation of a Traffic Regulation Order.

**(b) Parish Council**

- 6.5. **Rainworth Parish Council:** The Parish Council objects to the application. Their letter dated 14th January 2025 raises the following key concerns:
- 6.6. Highway Safety: They believe the access and egress are unsuitable and pose a "great risk" to highway users and pedestrians, particularly children using the nearby play area and Youth Club.
- 6.7. Traffic Data: The validity of the applicant's traffic data is questioned, suggesting it is from other locations and may not accurately reflect conditions in Rainworth.
- 6.8. Internal Site Safety: They maintain concerns regarding conflict between vehicles and pedestrians within the site, and the safety of reversing from two specific parking bays adjacent to the bin store.
- 6.9. Deliveries: They are concerned about potential clashes between delivery vehicles for the new unit and the existing Tesco, and state that the swept path analysis for delivery lorries "doesn't work".

**(c) Non-Statutory Consultation**

- 6.10. **NSDC Ecology Officer:** Following initial concerns regarding the Biodiversity Net Gain (BNG) assessment, the applicant submitted an updated Preliminary Ecological Appraisal and BNG Report in April 2025. In a response dated 19th May 2025, the Council's Ecology Officer confirmed that they are now satisfied that the proposals will deliver a measurable 20.59% net gain in habitat units and a 100% net gain in hedgerow units, which exceeds the statutory 10% requirement. They therefore raise no objection, subject to a condition securing the implementation of the associated Habitat Management Plan for a period of 30 years.

**(d) Representations**

- 6.11. Following public notification of the application, a total of 23 representations have been received. Of these, 6 are in objection to the proposal and 17 are in support.
- 6.12. In terms of the objections, the key issues raised in the letters of objection are summarised as follows:
- 6.13. Highway and Pedestrian Safety: This is the primary concern. Objectors state that the access is on a dangerous and overly congested junction, close to traffic lights. They believe the proposal will increase hazards for pedestrians, particularly children using



the nearby schools, play area, and youth club.

- 6.14. Traffic and Parking: It is argued that the existing car park is already inadequate and causes traffic to queue on the main road. Objectors believe the proposal will exacerbate congestion and that the number of proposed parking spaces is below the required standard.
- 6.15. Deliveries: Concerns are raised that delivery lorries for the existing Tesco already cause a hazard and that an additional retail unit will increase this problem.
- 6.16. Need for the Development: Some objectors feel there are already enough shops in the village.
- 6.17. Previous Refusal: The objection from the Ward Councillor notes that the application was previously dismissed at appeal and suggests the new proposal does not address the original concerns (note: this comment was made prior to the Highway Authority withdrawing its objection to the amended plans).
- 6.18. The representations in support of the application raise the following points:
- 6.19. Need and Affordability: This is the most common theme. Supporters state the store would be a "great asset for Rainworth" and would provide "quality affordable produce for struggling family[s]" and the elderly, arguing that existing shops in the village are expensive.
- 6.20. Traffic and Parking Context: Several supporters argue that traffic and parking issues already exist at other locations in the village and that this proposal would be no worse. It is suggested that many customers would be local pedestrians. One resident provides a detailed counterargument, stating that there is no accident data to prove the junction is more dangerous than other areas in the village where irresponsible parking is unchallenged.
- 6.21. Economic and Community Benefit: The proposal is welcomed for providing jobs and competition. One resident noted that they are a pensioner who "would gladly like to use a herons food shop on my doorstep". Another lifelong resident notes it would benefit the many residents who do not have cars.

## **7.0 Comments of the Business Manager – Planning Development / Appraisal**

- 7.1. The National Planning Policy Framework (NPPF) promotes the principle of a presumption in favour of sustainable development and recognises the duty under the Planning Acts for planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. The NPPF refers to the presumption in favour of sustainable development being at the heart of development and sees sustainable development as a golden thread running through both plan making and decision taking. This is confirmed at the development plan level under Policy DM12 of the Allocations and Development Management DPD.

7.2. The following matters have been identified as key issues:

- The Principle
- Housing Need, Mix and Density
- Landscaping, Trees and Public Open Space
- Impact on Ecology
- Design and Character
- Residential Amenity
- Off Street Parking Provision
- Drainage and Flood Risk

7.3. These matters shall be discussed in turn. However, before doing so, preliminary matters need to be dealt with first as follows.

#### Principle of Development

7.4. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

7.5. The site is located within the defined built-up area of Rainworth. Spatial Policy 1 of the Amended Core Strategy identifies Rainworth as a Service Centre, which is a focus for housing and employment growth in the District. The planned growth for the village is expected to increase demand for local services and facilities, such as the retail unit proposed, to meet the community's day-to-day needs.

7.6. Crucially, the site also lies within the District Centre Boundary as defined by the Allocations and Development Management DPD. Both Core Policy 8 of the Core Strategy and Policy DM11 of the Allocations DPD support new and enhanced retail provision within existing centres. This reflects the 'town centre first' approach advocated by national policy. As the proposal is for a new retail unit within a defined centre, it complies with this core principle. Because the site is located within a defined centre, there is no policy requirement for the applicant to undertake a sequential test to assess alternative sites or to provide a retail impact assessment.

7.7. Furthermore, the principle of a retail unit on this site has already been robustly tested. In dismissing the previous appeal, the Planning Inspector explicitly stated that the proposal "would accord with the development plan in a number of respects, including the provision of retail and employment within settlements". The appeal was dismissed solely on highway safety grounds.

7.8. Therefore, the proposal to bring a vacant, brownfield site within a defined District Centre back into active economic use is considered acceptable in principle and is strongly supported by the policies of the Development Plan.

#### Design and Layout

7.9. Core Policy 9 'Sustainable Design' of the Amended Core Strategy requires new development proposals to, amongst other things, "achieve a high standard of

sustainable design and layout that is capable of being accessible to all and of an appropriate form and scale to its context complementing the existing built and landscape environments". In accordance with Core Policy 9, all proposals for new development are assessed with reference to the design criteria outlined in Policy DM5 'Design' of the Allocation and Development Management DPD.

- 7.10. The application site is a vacant and disused area of land, formerly part of the Robin Hood public house car park. For a number of years, it has been fenced off and has become unkempt, which has a negative impact on the visual amenity of this prominent corner location within Rainworth.
- 7.11. This new proposal seeks to address the design and safety failings of the previously dismissed scheme. The proposed building is a contemporary, single-storey, flat-roofed retail unit. The Design and Access Statement explains that the scale and character are intended to be in keeping with the adjacent Tesco Express store and the commercial nature of the junction.
- 7.12. The layout of the car park and pedestrian routes has been significantly amended. The new layout provides a formal through-route for vehicles between Kirklington Road and Southwell Road East and includes clearly defined pedestrian footways leading from the public highway to the entrances of both the new unit and the existing Tesco store. This provides a much safer and more legible environment for pedestrians than the previously refused scheme. The proposal also incorporates new landscaping to soften the development's appearance, including the planting of seven new trees within the car park area and a new 900mm high brick wall to the site frontages.
- 7.13. Notwithstanding the submitted details, it is considered appropriate, should permission be granted, to impose conditions requiring final details of all external facing materials to be submitted to and approved in writing by the Local Planning Authority to ensure the building takes the form and quality envisaged. Subject to such conditions, the proposed development would be successfully assimilated with the site and surrounding area, and sensitively redevelop a vacant and prominent site within the village.
- 7.14. Overall, the proposed development would accord with the relevant provisions of Core Policy 9 and Policy DM5 of the DPD and is considered acceptable in this regard.

#### Residential Amenity

- 7.15. Policy DM5 of the Allocations & Development Management DPD requires development proposals to have regard to their impact on the amenity or operation of surrounding land uses and where necessary mitigate for any detrimental impact. The NPPF also requires that development should mitigate and reduce to a minimum potential adverse impacts resulting from noise.
- 7.16. The application site is located on a corner plot, with the nearest residential properties located to the north and east. However, there is a significant separation distance between the proposed retail unit itself and these dwellings. This distance, combined with the existing commercial character of the adjacent Tesco store and the ambient

noise from the busy road junction, means the development is unlikely to result in an unacceptable loss of amenity through noise and disturbance.

- 7.17. The proposed opening hours for a new retail unit of this type would typically fall comfortably within the existing opening hours of the adjacent Tesco Express. The proposed hours would be 08.00am to 08.00pm Monday to Saturday, and 09:00am to 4:00pm on Sundays and Bank Holidays. Therefore, the new unit will not introduce new activity at unsociable hours. To further protect the amenity of residents, a condition can be imposed to control the hours of deliveries.
- 7.18. Concerns were raised by Rainworth Parish Council and local residents regarding the safety of pedestrians, particularly young children using the nearby facilities, due to vehicle movements in and out of the site. The layout for this new application has been fundamentally redesigned to address these concerns. The provision of a formal through-route for vehicles and clearly defined pedestrian footways from the public highway to the store entrances creates a much safer and more legible environment than the previously refused scheme. The Highway Authority is now satisfied that the revised layout is acceptable in terms of access and road safety.
- 7.19. In summary, given the separation distances and existing commercial context, the proposal is not considered to result in any significant adverse impact on residential amenity. The revised layout has addressed previous safety concerns. Subject to a condition controlling delivery hours, the proposal is considered to comply with the aims of Policy DM5.

#### Impact on Highway Safety, Parking and Access

- 7.20. Spatial Policy 7 of the Amended Core Strategy seeks to ensure that development proposals are appropriate for the highway network and do not adversely affect safety, while Policy DM5 of the Allocations & Development Management DPD requires the provision of safe access and appropriate parking provision. At a national level, the NPPF advises that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 7.21. Spatial Policy 7 of the Amended Core Strategy seeks to ensure development proposals are appropriate for the highway network and do not adversely affect safety. Policy DM5 of the Allocations & Development Management DPD requires safe access and appropriate parking provision. The NPPF advises that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety or severe residual cumulative impacts.
- 7.22. This matter is the key determining issue for the application. The previous, similar proposal on this site (ref: 22/01298/FUL) was refused by the Planning Committee and subsequently dismissed at appeal solely on the grounds of highway and pedestrian safety. It is therefore essential to assess how this new application overcomes the specific failings identified by the Planning Inspector.
- 7.23. As a reminder, the Planning Inspector's decision from May 2024 clearly outlines the reasons for dismissing the previous appeal. The main issue was *"the effect of the*

*development on highway safety, with particular regard to parking, and pedestrian and vehicle movements".* The Inspector's key findings were:

- a. Internal Layout and Circulation: The previous dead-end car park layout was found to be "substandard". The Inspector concluded that the lack of a through-route would lead to "conflict between vehicles trying to enter and leave parking spaces, and those circulating or queuing to leave the site" and would be "detrimental to highway safety".
  - b. Pedestrian Safety: The Inspector was not satisfied that the previous layout provided a safe environment for pedestrians, who would have had to navigate through areas where cars were manoeuvring and reversing with no defined, safe route to the store entrances.
  - c. Parking Shortfall: The previous proposal for 26 spaces was deemed a "significant shortfall" against the Council's standards, with the Inspector concerned this would lead to vehicles queuing on the highway, causing obstruction.
- 7.24. The Inspector concluded that these factors would result in "significant harm" to highway safety, which was contrary to the development plan and not outweighed by the benefits of the scheme. This revised application has been specifically redesigned to address the reasons for the appeal dismissal.
- 7.25. In terms of access and internal layout, the new layout would provide a space for vehicles to enter the site from Kirklington Road safely circulate through the car park, and exit onto Kirklington Road (or vice-versa). This fundamental change addresses the Inspector's concern regarding the need for dangerous reversing manoeuvres.
- 7.26. In terms of Delivery and Service Vehicles, the applicant has submitted further information including detailed vehicle tracking drawings for various large vehicles, including a delivery lorry and a refuse truck. These plans demonstrated that an HGV vehicle can safely enter the site from Kirklington Road, that it can manoeuvre into the dedicated servicing bay at the rear of the new unit without conflicting with the proposed parking bays and crucially, that the vehicle can then turn around on-site and exit in a forward gear onto Kirklington Road.
- 7.27. This was a critical improvement, as it proved that large vehicles would not need to undertake dangerous reversing manoeuvres onto or off the public highway, which was a key safety concern with the previously dismissed appeal.
- 7.28. An updated Delivery Management Plan was also provided, setting out a clear framework for how servicing would be managed. This included protocols such as requirements that all deliveries taking place outside of the store's opening hours to avoid conflict with customers in the car park, a requirement for all vehicle manoeuvres on site being supervised by a trained banksman; protocols for quiet operation to protect the amenity of nearby residents, such as switching off refrigeration units when stationary and not slamming vehicle doors and a formal complaints procedure to be managed by the store manager.

- 7.29. This new technical evidence was reviewed by the Highway Authority and was sufficient to resolve their safety concerns, contributing to the withdrawal of their objection.
- 7.30. In respect of parking provision, it is proposed that 19 parking off street car parking spaces be formed within the application site (that includes 2 disabled spaces). The Highway Authority highlighted in their initial response, that would be below the LHA's technical guidance that requires 23 spaces.
- 7.31. The applicant's transport consultant used is an analysis of the TRICS (Trip Rate Information Computer System) database which highlighted that for a 'Food Discount Store' of this size, the 85th percentile parking accumulation (which represents the likely peak demand for spaces at the busiest time) would only result in a need for 12 off-street car parking spaces, noting that the proposals are for a smaller retail unit than previously proposed. Based on this data, the applicant concludes that providing 19 spaces is "more than sufficient to accommodate the likely demand" and that the 23 spaces required by the technical guidance would not be necessary in this specific instance.
- 7.32. Essentially, the applicant argues that the council's standard is a blanket requirement that overestimates the actual parking demand for this specific type of retail operation, and that their proposal is based on more specific, evidence-based demand forecasting.
- 7.33. In respect of pedestrian safety, the revised layout now incorporates clearly defined pedestrian footways from the public pavement on Kirklington Road to the store entrances that provides a safe, segregated route for pedestrians that was missing from the previous scheme and directly addresses the concerns raised by objectors and the Inspector.
- 7.34. As a result of these comprehensive design changes, the statutory technical consultee, the Nottinghamshire Highway Authority, has formally withdrawn its objection to the proposals and are now satisfied that the revised scheme provides for a safe and acceptable access and parking arrangement for all users, subject to conditions to include:
- a. Access Construction Details: A condition requiring the submission and approval of detailed engineering drawings for the new access works on Kirklington Road before development starts, to ensure they are built to an appropriate standard.
  - b. No Gates: An explicit condition stating that no gates are to be erected across the vehicular accesses, as this would be detrimental to highway safety.
  - c. Parking and Turning Areas: A condition to ensure all parking and manoeuvring areas are surfaced in a hard, bound material (not loose gravel) before the store opens, to prevent loose material from being deposited on the public highway.
  - d. Visibility Splays: A requirement to provide and permanently maintain clear visibility splays at the site accesses, which must be kept clear of any obstruction above 600mm.

- e. Traffic Regulation Order (TRO): A condition requiring the applicant to make a formal application for a Traffic Regulation Order to manage and restrict obstructive on-street parking before the store is occupied.
  - f. Construction Traffic Management Plan (CTMP): A pre-commencement condition requiring the submission and approval of a detailed CTMP to manage all aspects of construction, including operative parking, loading/unloading areas, storage, wheel washing, and vehicle routing, to minimise disruption and danger to the public highway.
- 7.35. In these circumstances, and noting the representations made against the proposed development, it is acknowledged that the applicant has comprehensively redesigned the scheme to directly address and resolve each of the specific safety failings identified by the Planning Inspector in the dismissed appeal. This is demonstrated by the technical evidence submitted and, crucially, is confirmed by the withdrawal of the Highway Authority's objection. It is therefore concluded that the proposal now provides a safe and acceptable arrangement and accords with Spatial Policy 7, Policy DM5, and the principles of the NPPF, subject to the range of restrictive conditions required by the Highway Authority.

#### Landscaping and Trees

- 7.36. Core Policy 12 of the Amended Core Strategy DPD seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM5 of the Allocations & Development Management DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced. The NPPF also requires planning decisions to minimise impacts and provide net gains for biodiversity.
- 7.37. The application is supported by an Arboricultural Impact Assessment (AIA), Method Statement and Tree Protection Plan prepared by RammSanderson dated August 2024.
- 7.38. The AIA identifies that the proposal will require the removal of fifteen individual trees and six groups of trees to facilitate the development. The report confirms that the majority of these are of low quality (Category C) or are unsuitable for retention (Category U). As such, the proposal will result in a low to moderate reduction in amenity value on the site. To compensate for this loss, the submitted landscaping plan shows the provision of seven new trees to be planted within the car park and along the site boundaries, which will soften the appearance of the development.
- 7.39. Based on the information within the submitted AIA, it is considered that the impact on trees is acceptable, subject to conditions. The AIA provides a detailed Tree Protection Plan and Method Statement to ensure that the trees identified for retention are protected during construction.
- 7.40. It is considered appropriate, should permission be granted, to impose conditions requiring the development to be carried out in strict accordance with the approved tree protection measures, and to secure full details of the new tree planting, including species and a long-term maintenance plan. Subject to these conditions, the proposed

development would meet the relevant aims of Core Policy 12 and Policy DM5 of the DPD and is therefore acceptable in this regard.

#### Ecology and Biodiversity Net Gain

- 7.41. Core Policy 12 of the Core Strategy seeks to conserve and enhance biodiversity, and Policy DM7 requires development to be supported by up-to-date ecological information. Furthermore, the proposed development triggers the biodiversity net gain (BNG) requirements set out in the Environment Act 2021, which mandates a minimum 10% net gain in biodiversity for new developments.
- 7.42. To assess these matters, the applicant has submitted a Preliminary Ecological Appraisal Report (PEA) and a Biodiversity Net Gain Report, both prepared by Elton Ecology and dated April 2025. The PEA confirms that the site is of low existing ecological value, comprising mainly dense bramble scrub and areas of sealed hardstanding. No significant ecological features, such as priority or irreplaceable habitats, were identified within the site boundary. The development will result in the loss of the majority of this existing scrub habitat.
- 7.43. To compensate for this habitat loss and achieve the required biodiversity net gain, the following on-site enhancements are proposed:
- The planting of seven new trees (*Pinus Pinea*) within the car park and along the site boundaries.
  - The creation of new native shrub and hedgerow planting areas.
  - The provision of integrated swift nest boxes on the eastern elevation of the new building to provide a specific enhancement for this species.
- 7.44. The proposed development triggers the Biodiversity Net Gain (BNG) requirements set out in the Environment Act 2021, which mandates a 10% net gain in biodiversity for new developments. In terms of providing Biodiversity Net Gain (as set out in Paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended), a calculation using the statutory Biodiversity Metric has been provided to demonstrate that the scheme achieves at least a 10% gain. The submitted Biodiversity Metric calculation tool was used to assess the pre-development and post-development biodiversity units. The submitted assessment indicates that the proposed enhancements would result in a +20.59% net gain in habitat units and a +100% net gain in hedgerow units. This significantly exceeds the statutory requirement.
- 7.45. The Biodiversity Net Gain is achieved by removing the existing low-value habitats on site and replacing them with a variety of new habitats and features that are of a higher value for wildlife.
- 7.46. The Preliminary Ecological Appraisal Report identifies the existing habitats as primarily: (a) Dense Bramble Scrub: An area of unmanaged scrubland; (b) Sealed Hardstanding: Disused tarmac areas from the former car park, and (c) Lowland Mixed



Deciduous Woodland: A small area of self-seeded trees. These habitats are assessed as being of low ecological value and condition.

- 7.47. To compensate for the loss of the existing habitat and deliver a net gain, the following specific enhancements are proposed on the site plans:
- New Tree Planting: The proposal includes the planting of seven new trees (species: Pinus Pinea) within the reconfigured car park and along the site boundaries. This introduces new canopy cover and long-term habitat structure to the site.
  - New Hedgerow and Shrub Planting: The landscaping scheme includes the creation of new native shrub planting areas and the planting of a new hedgerow, which provides a valuable corridor and nesting/foraging resource for wildlife.
  - Integrated Swift Boxes: The plans explicitly show the provision of integrated "Shwegler" swift nest boxes to be installed on the eastern elevation of the new retail building. This provides a specific, targeted enhancement for a priority bird species.
- 7.48. It is the combination of creating these new, higher-value habitats (trees, shrubs, hedgerows) and adding specific features for wildlife (swift boxes) that results in the calculated +20.59% net gain in habitat units and +100% net gain in hedgerow units, as verified by the Council's Ecology Officer.
- 7.49. The Council's Biodiversity and Ecology Officer has reviewed the submitted reports. Following initial concerns regarding the baseline habitat classifications in the original submission, the officer has confirmed in their final response that the revised reports and BNG calculations are now acceptable. The officer is satisfied that the development will deliver the required Biodiversity Net Gain, subject to the enhancements being secured and managed long-term. To ensure this, they recommend a condition be imposed requiring the development to be carried out in strict accordance with an approved Habitat Management Plan (HMP) for a minimum of 30 years.
- 7.50. In conclusion, the application has been supported by a detailed ecological assessment. The proposal will deliver a significant biodiversity net gain of over 20%, exceeding the statutory minimum. The Council's Ecology Officer has raised no objection, subject to a condition securing the long-term implementation and management of the on-site habitat enhancements. The proposal is therefore considered to be acceptable and accords with the aims of Core Policy 12 and the Environment Act 2021.
- 7.51. An Agreement (through Section 106 of the Town and Country Planning Act 1990) would be required to ensure future monitoring of on-site enhancements. On this basis, it is considered that the statutory biodiversity gain condition is capable of being discharged.

#### Flood Risk and Drainage

- 7.52. The application site is located within Flood Zone 1, as shown on the Environment Agency's Flood Map for Planning and is therefore at low risk of fluvial flooding.

- 7.53. The proposal involves the erection of a building on an existing area of hardstanding and would result in no significant increase in surface water run-off. Condition 07 requires all new hard surfaces to be constructed with provision to prevent the discharge of surface water to the public highway (i.e., appropriate drainage) as well as being permeable. The application form indicates wastewater would be appropriately disposed of via the existing drainage system, which is considered an acceptable drainage solution for this site.

## **8.0 Implications**

- 8.1. In writing this report and in putting forward recommendations' officers have considered the following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

### Legal Implications – LEG2526/9032

- 8.2. Planning Committee is the appropriate body to consider the content of this report. A Legal Advisor will be present at the meeting to assist on any legal points which may arise during consideration of the application.

## **9.0 Planning Balance and Conclusion**

- 9.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise.
- 9.2. The proposed development is considered acceptable in principle and would enhance retail provision and choice within the defined centre of Rainworth, bringing a vacant and untidy brownfield site back into beneficial economic use. The proposed new building has been appropriately sited and designed, and overall, the proposed development would have a positive visual impact on this prominent corner. Given the significant separation distance to the nearest residential properties and the existing commercial context, there would be no unacceptable adverse impacts on residential amenity in accordance with Policy DM5 of the Allocations & Development Management DPD.
- 9.3. The key consideration for this application was highway safety, which was the sole reason for the dismissal of the previous appeal. This revised application has comprehensively addressed the specific failings identified by the Planning Inspector through a redesigned layout which provides a safe access and agrees for customer and delivery vehicles, defined pedestrian walkways, and robust servicing arrangements. Following detailed review of this new information, the Nottinghamshire Highway Authority has formally withdrawn its objection and now considers the scheme acceptable on safety grounds. While a shortfall in parking provision against technical guidance remains, the Highway Authority is satisfied that this does not create an unacceptable or severe safety issue.

- 9.4. Furthermore, the proposal delivers a significant biodiversity net gain of over 20%, which is a tangible environmental benefit. The benefits of the scheme, including the regeneration of a vacant site and the resolution of the previous highway safety refusal, are considered to outweigh the concerns raised in objections.

### **Recommendation**

- 9.5. It is recommended that this application be **APPROVED** subject to the applicant entering a Section 106 Agreement to secure the future monitoring of the on-site biodiversity net gain enhancements, together with the following conditions:

### **10.0 Conditions**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. No development, including any site clearance, shall take place until a detailed Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. The CTMP shall include, as a minimum, details of operative and visitor parking, loading/unloading areas, storage areas, wheel washing facilities, and the routing of construction vehicles. The development shall be carried out in strict accordance with the approved CTMP.

Reason: To minimise disruption and in the interests of public and highway safety during the construction phase, in accordance with the recommendations of the Highway Authority.

3. No part of the development hereby permitted shall be brought into use until the site access onto Kirklington Road, including visibility splays, footway and dropped kerb facilities, is provided in accordance with the details illustrated on drawing numbers 0013 Rev C and 0014 Rev E.

Reason: To ensure the works to the public highway are constructed to an appropriate and safe standard.

4. No development above ground level shall take place until details and samples of all external facing and roofing materials to be used have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure a high-quality finish in the interests of visual amenity, in accordance with Policy DM5 of the Development Plan.

5. . No part of the development hereby permitted shall be brought into use until all on-site access, parking, and turning areas are surfaced in a hard bound material and are demarcated in accordance with details to be first submitted to and approved in writing

by the Local Planning Authority. The access/driveway/parking/turning areas shall not be used for any purpose other than parking/turning/loading/unloading of vehicles. The surfaced areas and demarcations shall then be maintained for the life of the development.

Reason: To ensure the development is constructed to a safe standard and to reduce the possibility of deleterious material being deposited on the public highway.

6. The development hereby permitted shall not be brought into use until a binding application has been made for the introduction of a Traffic Regulation Order to restrict obstructive car parking in the vicinity of the site, as required by the Highway Authority.

Reason: In the interests of highway safety.

7. The development hereby permitted shall be carried out in complete accordance with the approved plans and documents, that include:

Drawing reference number: 3033.19.L 01 Location Plan

Drawing reference number: 3033.19.2010- D Site Plan

Drawing reference number: 3033.19.2110-P2 GF Plan

Drawing reference number: 3033.19.2121-P2 FF and SF Plan

Drawing reference number: 3033.19.2130-P1 Roof Plan

Drawing reference number: 3033.19.2140-P3 Elevations

Reason: For the avoidance of doubt and to ensure the development is carried out in accordance with the approved plans.

8. The development shall be carried out in strict accordance with the measures and the Habitat Management Plan detailed in the Biodiversity Net Gain Report (Elton Ecology, April 2025) to secure the delivery of the 20.59% biodiversity net gain. The approved habitats shall be created, managed and maintained for a period of not less than 30 years from the first operational use of the development.

Reason: To ensure the development delivers the promised ecological enhancements and achieves a net gain for biodiversity in accordance with Core Policy 12 and the Environment Act 2021.

9. All soft landscaping shall be carried out in the first planting season following the first opening of the store. Any trees or plants which within a period of five years die or are removed shall be replaced in the next planting season with others of similar size and species. All retained trees shall be protected during construction in accordance with the approved Arboricultural Impact Assessment and Tree Protection Plan.

Reason: To ensure the landscaping scheme is implemented and established and that existing trees are protected, in the interests of visual amenity and biodiversity.

10. Notwithstanding the details on the submitted plans, no gates shall be erected or installed across either of the vehicular accesses.

Reason: In the interests of highway safety, to prevent vehicles queuing on the public highway.

- 11.** The visibility splays at the site accesses shall be provided in accordance with the approved plans before the development is brought into use and shall thereafter be kept free of all obstructions above 600mm for the lifetime of the development.

Reason: In the interests of highway safety.

- 12.** No deliveries shall be taken at or dispatched from the site outside the hours of 07:00 to 21:00 Monday to Saturday and 09:00 to 18:00 on Sundays and Bank Holidays.

Reason: To protect the amenity of nearby residential properties in accordance with Policy DM5.

- 13.** The hours of use shall for the development hereby approved be limited to between the hours would be 08.00am to 08.00pm Monday to Saturday, and 09:00am to 4:00pm on Sundays and Bank Holidays.

Reason: To define the permission and limit the hours of operation to those applied for and in the interested of protecting neighbouring amenity

- 14.** No development shall commence until a planning obligation pursuant to Section 106 of the Town and Country Planning Act 1990 relating to the land subject of this consent has been entered into and completed by all parties with an interest in the land and has been lodged with the Council. The said obligation is to secure Biodiversity Net Gain monitoring.

Reason: In order to secure the necessary contribution to mitigate the impacts of the development in the interests of achieving a sustainable development.

- 15.** The gross floor area of the proposed store shall be limited to no more than 266 sq m.

Reason: To ensure that adequate car parking provision can be provided within the site in accordance with the minimum requirements stipulated in the Nottinghamshire Highway Design Guide in the interest of highway safety.

- 16.** No part of the development hereby permitted shall be brought into use until provision has been made within the application site for secure, covered cycle parking, secure cycle equipment storage, and electric vehicle charging facilities in accordance with details to be first submitted Page 4 of 5 to and approved in writing by the Local Planning Authority. The approved facilities shall not thereafter be used for any other purpose and shall be maintained for the life of the development. Reason: In the interest of furthering travel by sustainable modes.

- 17.** Notwithstanding the submitted details, no part of the development shall be brought into use until a delivery and servicing management plan (the Plan) has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include a timetable for implementation and an enforcement mechanism. The Plan shall be

implemented in accordance with the timetable set out in the plan unless otherwise agreed in writing by the Local Planning Authority. The approved Plan shall operate for the life of the development.

Reason: In the interest of highway safety

### **Note to Applicant**

#### **01**

The development granted by this notice must not begin unless:

- a) A Biodiversity Gain Plan has been submitted to the planning authority, and
- b) The planning authority has approved the plan.

Details about how to comply with the statutory condition are set out below.

Biodiversity Net Gain - Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 states that planning permission is deemed to have been granted subject to the condition "the biodiversity gain condition" that development may not begin unless:

- a) a Biodiversity Gain Plan has been submitted to the planning authority, and b) the planning authority has approved the plan;

OR

- b) the development is exempt from the biodiversity gain condition.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission is Newark and Sherwood District Council (NSDC). There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. Details of these exemptions and associated legislation are set out in the planning practice guidance on biodiversity net gain (Biodiversity net gain - GOV.UK ([www.gov.uk](http://www.gov.uk)))

Based on the information available, this permission is considered by NSDC to require the approval of a biodiversity gain plan before development is begun, because none of the statutory exemptions or transitional arrangements are considered to apply.

To discharge the requirements of this condition, it is likely that the applicant and / or interested parties will be required to enter into a s106 agreement for onsite and / or off-site gains, and biodiversity credits together with requirements for costs for future monitoring of enhancements.

#### **02**

The applicant's attention is drawn to the comments of the Nottinghamshire Highway Authority, dated 6th May 2025, which states:

- The development makes it necessary to alter a vehicular crossing on Kirklington Road. These works shall be constructed to the satisfaction of the Highway Authority at the developer's cost. The developer is required to contact the Highway Authority's agent, VIA East Midlands (Tel. 0300 500 8080), to arrange for these works to be designed/approved and implemented under a Section 278 Agreement of the Highways Act 1980.
- Planning consent is not consent to work on or adjacent to the public highway. Prior to any works commencing on site, the developer must contact Highways Network Management at [licences@viaem.co.uk](mailto:licences@viaem.co.uk) to ensure all necessary licences and permissions are in place.
- It is an offence under S148 and S151 of the Highways Act 1980 to deposit mud or other deleterious material on the public highway. The applicant/developer must ensure that nothing is deposited on the highway from the site.

**03**

For the purposes of the Biodiversity Net Gain condition, the 'completion of development' and therefore the start of the 30-year management period is defined as the first operational use of the approved retail unit.

**04**

This application has been the subject of discussions during the application process to ensure that the proposal is acceptable. The District Planning Authority has accordingly worked positively and pro-actively, seeking solutions to problems arising in coming to its decision. This is fully in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

**05**

The applicant is advised that this planning permission may be subject to the Community Infrastructure Levy (CIL). A CIL Liability Notice will be issued separately, detailing the amount payable and the process for payment.

**06**

You are advised that you may require Building Regulations approval in addition to the planning permission you have obtained. Any amendments to the permitted scheme that may be necessary to comply with the Building Regulations must also be approved in writing by the Local Planning Authority.

**BACKGROUND PAPERS**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local

Government Act 1972.

Application case file.

Committee Plan - 24/01878/FUL



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Report to Planning Committee 3 July 2025

Business Manager Lead: Oliver Scott – Planning Development

Lead Officer: Lynsey Preston - Senior Planner.

Report Summary			
<b>Application No.</b>	25/00744/S73		
<b>Proposal</b>	Application for variation of condition 08 to allow increase of deliveries for day and removal of Condition 09 to allow use of site permanently attached to planning permission 23/01604/FUL.		
<b>Location</b>	Recycling Compound Lorry And Coach Park Great North Road Newark On Trent		
<b>Applicant</b>	Newark and Sherwood District Council – Steven Chitty	<b>Agent</b>	Aiden Bell Anotherkind Architects Ltd
<b>Web Link</b>	<a href="#">25/00744/S73   Application for variation of condition 08 to allow increase of deliveries for day and removal of Condition 09 to allow use of site permanently attached to planning permission 23/01604/FUL.   Recycling Compound Lorry And Coach Park Great North Road Newark On Trent</a>		
<b>Registered</b>	13.05.2025	<b>Target Date / Extension of Time</b>	08.07.2025
<b>Recommendation</b>	That Planning Permission is <u>APPROVED</u> subject to the condition(s) detailed at Section 10.0		

This application is being referred to the Planning Committee for determination, in accordance with the Council's Scheme of Delegation, as the applicant is Newark and Sherwood District Council.

## 1.0 The Site

- 1.1 The application site comprises an open fenced compound used for the existing glass recycling facility which was consented by Members of the Planning Committee under planning application 23/01604/FUL. The wider site is used for HGV parking laid to tarmac and concrete. The lorry park is well established and located to the south of the A46 alignment, to the east of the Great North Road and north-west of the River Trent.

The site is located within the very north-western fringe of the defined Newark Urban Area as illustrated within the Allocations and Development Management Development Plan Document 2013 (ADMDPD).

- 1.2 Within the existing site is a lorry wash, a café and an HGV fuel stop. The ASI building is located 45m to the south east, the District Council offices 100m south of the site and existing residential buildings approximately 100m east on Sikorski Close, with the intervening existing railway line running along the eastern boundary.
- 1.3 The site is located within Flood Zone 2 as defined by the Environment Agency data maps which means it is at medium risk of main river flooding and on a site at low risk from surface water flooding.
- 1.4 The Newark Conservation Area boundary is to the south east of the site and broadly forms the boundary with the railway line. Listed buildings are also located to the south east of the site and form the Castle Railway Station (Grade II), Former station masters house (Grade II) and the Goods Warehouse on Sikorski Close (now residential) (Grade II). The maltings buildings are also located on Mather Road (Grade II) the Kiln warehouse on Mather Road (Grade II\*).
- 1.5 The site has the following constraints:
  - Setting of listed buildings and Conservation Area
  - Flood Zone 2

## **2.0 Relevant Planning History**

- 2.1. 23/01604/FULM - Glass Recycling Compound Approved 01.12.2023

Condition 08 There shall be no more than two deliveries of glass to the site per day, and no more than one collection on glass from the site per week. An up to date register of deliveries and collections shall be kept for the site by the owner and shall be made available for inspection by the Local Planning Authority, at any time.

Reason: In the interests of residential amenity.

Condition 09 The use hereby permitted shall cease and all materials associated with the use be removed and the land restored to its former condition on or before 30th November 2026.

Reason: To enable evidence to be gathered of the impact of the development upon adjoining occupiers and users.

- 2.2. 24/00167/DISCON - Request for confirmation of discharge of condition 04 (Foul Water) attached to planning permission 23/01604/FUL; Glass Recycling Compound Conditions discharged 09.02.2024
- 2.3. 17/01090/FULM - Extension of Newark Lorry Park onto adjacent parcels of land which are currently unused and the provision of a fuel bunker on existing lorry park land.

Proposals are intended to accommodate the displacement lorry parking spaces which had been lost due to a neighbouring development, approved 07.11.2018

### **3.0 The Proposal**

- 3.1 The S73a application seeks permission to vary condition 08 (as stated in the relevant planning history section) which would allow for an increase in the number of deliveries per day from the permitted two to three, and an increase in the weekly glass collection visits from one per week to two. Condition 09 is proposed to be removed to allow the glass recycling site to remain in the same location as a permanent site.
- 3.2 The compound received the recyclable glass from household collections throughout Newark and Sherwood District from the kerbside recycling scheme, this is delivered to the site by the refuse lorries before being collected via a lorry service and deliver to a recycling centre.
- 3.3 The application has been assessed based on the following plans and documents:
- Application Form received 06 May 2025
  - Noise Impact Assessment – Glass Transfer Station received 06 May 2025
  - Supporting Statement received 06 May 2025

### **4.0 Departure/Public Advertisement Procedure**

- 4.1 Occupiers of 44 properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.
- 4.2 Site visit undertaken on 21 May 2025

### **5.0 Planning Policy Framework**

#### **5.1. Newark and Sherwood Amended Core Strategy DPD (adopted March 2019)**

Spatial Policy 1 - Settlement Hierarchy  
Spatial Policy 2 - Spatial Distribution of Growth  
Spatial Policy 7 - Sustainable Transport  
Core Policy 6 – Shaping our Employment Profile  
Core Policy 9 -Sustainable Design  
Core Policy 10 – Climate Change  
Core Policy 14 – Historic Environment  
NAP1 - Newark Urban Area

#### **5.2. Allocations & Development Management DPD (2013)**

DM1 – Development within Settlements Central to Delivering the Spatial Strategy  
DM5 – Design  
DM9 – Protecting and Enhancing the Historic Environment  
DM12 – Presumption in Favour of Sustainable Development

- 5.3. The [Draft Amended Allocations & Development Management DPD](#) was submitted to the Secretary of State on the 18th January 2024 and has completed its Examination In Public during November 2024 and we are awaiting the Inspectors report on this. This is therefore at an advanced stage of preparation, albeit there are unresolved objections to amended versions of all the above DM policies (apart from DM12) emerging through that process. As such, the level of weight to which those proposed new policies can be afforded is therefore currently limited. As such, the application has been assessed in-line with all policies from the adopted Development Plan, other than DM12.

5.4. **Other Material Planning Considerations**

National Planning Policy Framework 2024 (amended 2025)

Planning Practice Guidance (online resource)

S.66 Planning (Listed Buildings and Conservation Areas) Act 1990

6.0 **Consultations and Representations**

Please Note: Comments below are provided in summary - for comments in full please see the online planning file.

**Statutory Consultations** For guidance on Statutory Consultees see Table 2: [Consultation and pre-decision matters - GOV.UK \(www.gov.uk\)](#)

None

**Town/Parish Council**

- 6.1. Newark Town Council – No objection

**Representations/Non-Statutory Consultation**

- 6.2. NSDC Environmental Health – No objection
- 6.3. No comments have been received from any third party/local resident

7.0 **Comments of the Business Manager – Planning Development / Appraisal**

- 7.1. The key issues are:
- Principle of development
  - Impact on the Character of the Area including heritage impact
  - Impact on Amenity
- 7.2. An application under Section 73 is in effect a fresh planning application but should be determined in full acknowledgement that an existing permission exists on the site. This section provides a different procedure to such applications for planning permission and requires the decision maker to consider only the question of the

conditions subject to which planning permission was granted. As such, the principle of the approved development cannot be revisited as part of this application.

- 7.3. An application can be made under Section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. In determining such an application, the local planning authority is only able to consider the question of conditions subject to which planning permission should be granted and-
- (a) If the authority decides that planning permission should be granted subject to condition differing from those subjects to which the previous permission was granted, or that it should be granted unconditionally, the authority shall grant planning permission accordingly, and
  - (b) If the authority decides that planning permission should not be granted subject to the same condition as those subject to which the previous permission was granted, the authority shall refuse the application.
- 7.4. The PPG is clear that any new permission should set out all condition related to it unless they have been discharged and that it cannot be used to vary the time limit for implementation which must remain unchanged from the original permission. Whilst the application has defined which condition are sought to be varied, the local authority has the power to vary or remove other conditions if they are minded in granting a new planning consent.
- 7.5. Given the site is within the setting of various Listed Buildings, section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') is relevant. Section 66 outlines the general duty in exercise of planning functions in respect to listed buildings stating that the decision maker "shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."
- 7.6. The duty in s.66 of the Act does not allow a local planning authority to treat the desirability of preserving the settings of listed buildings as a mere material consideration to which it can simply attach weight as it sees fit. When an authority finds that a proposed development would harm the setting, it must give that harm considerable importance and weight.

#### Principle of Development

- 7.7. The principle of development is not in question under this application and the matters of details, and the suitability of the amendment is considered in the following report.
- 7.8. Other material considerations also must be taken into account, and these are explored below.

#### Impact upon Residential Amenity (amendment to Condition 8)

- 7.9. The NPPF seeks to secure high quality design and a high standard of amenity for all existing and future occupants of land and buildings. Policy DM5 advises that the layout

of development within sites and separation distances from neighbouring development should be sufficient to ensure that neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy. Development proposals should have regard to their impact on the amenity or operation of surrounding land uses and where necessary mitigate for any detrimental impact. Core Policy 9 of the Amended Core Strategy seeks to ensure a high standard of design which is appropriate.

- 7.10. A noise assessment has been submitted with the proposal which indicates some 'adverse impact' at the closest noise sensitive dwellings, this level of noise impact typically occurs during one to two hours per week. But overall the level of impact is considered low due to the limited number of events and limited duration of tipping and bulk collections.
- 7.11. Any assessment of noise should be considered in context. When a consideration of context is applied, the level of noise impact when applying British Standard (BS 4142:2014+A1:2019) is considered low to adverse. This finding is based on the limited number of tipping and bulk collection events occurring per week. The tipping and bulk collection events occur during typical business hours between 8am and 5pm and do not occur during unsociable hours, at the weekend or on public holidays.
- 7.12. The site contains other industrial/commercial sites which contributes to the background noise.
- 7.13. It is considered that the increase in the number of deliveries to three (from two) per day and collections to two (from one) per week, is considered acceptable with regards to the impact on neighbour amenity. Environmental Health colleagues are satisfied with the proposal, and they have not received any complaints on noise. It therefore falls to be considered acceptable against policy DM5 of the Allocations and Development Management DPD and Core Policy 9 of the Amended Core Strategy as well as the NPPF (2024).

Impact of allowing the use as permanent (removal of Condition 9)

- 7.14. The proposal is to an existing facility within the Newark Urban Area as defined within the Allocations and Development Management DPD (DPD). The adopted Core Strategy details the settlement hierarchy which will help deliver sustainable growth and development in the District. The intentions of this hierarchy are to direct new employment development to the Sub-regional Centre, Service Centres and Principal Villages, which are well served in terms of infrastructure and services. The Newark Urban Area is defined as a Sub-regional centre within Spatial Policy 1, which would be the main location for investment for new services and facilities within the District.
- 7.15. The glass recycling facility has been in operation at the site since April 2024. The main consideration is the impact on the existing residents within the area from the increase in the number of deliveries and collections.
- 7.16. The site was granted temporary permission under 23/01604/FUL due to the Council seeking to explore other potential sites and Members being concerned over the noise

caused by the proposal. The Council has explored the option to relocate facility to another site, but this has proved non-viable.

- 7.17. Members were concerned about the noise caused from the development which was why the development was only granted temporary consent, however as Members will see from the preceding section (Impact on Residential Amenity), the proposal does not create any adverse harm to existing sensitive users, and therefore it is considered that there is no good reason for the use not to be granted permanent permission. The site is an industrial location in a highly sustainable location within the Newark Urban Area. Therefore, the removal of Condition 9 is considered acceptable.

#### Other matters

- 7.18. **Heritage** The proposal would not result in any greater built development and thus the proposal would not result in any further harm to the significance of the surrounding heritage assets.
- 7.19. **Highways** Although the proposal would result in an increase in the number of vehicle movements to and from the site, this is not considered to result in harm to the surrounding highway network.
- 7.20. **Flood Risk** The proposal would not result in the creation of any further built development which would result in an increase in flood risk to the surrounding area. Flooding/surface water conditions have already been satisfied through the original planning consent 23/01604/FUL.
- 7.21. **Ecology** The proposal would not result in the creation of any further built development which would result in an increase in harm to the local ecology or to the surrounding area.
- 7.22. **Community Infrastructure Levy (CIL)** – There is no floorspace created.
- 7.23. **Biodiversity Net Gain (BNG)** – In England, BNG became mandatory (under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021)) from February 2024. BNG is an approach to development which makes sure a development has a measurably positive impact ('net gain') on biodiversity, compared to what was there before development. This legislation sets out that developers must deliver a minimum BNG of 10% - this means a development will result in more, or better quality, natural habitat than there was before development. However, there are some developments that are exempt from the BNG. The approval is a section 73 permission, where the original permission which the section 73 relates to was either granted before 12 February 2024 or the application for the original permission was made before 12 February 2024, BNG is therefore not applicable in this case.

## **8.0 Implications**

- 8.1. In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder



and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

## 8.2. Legal Implications – LEG2526/8391

Planning Committee is the appropriate body to consider the content of this report. A Legal Advisor will be present at the meeting to assist on any legal points which may arise during consideration of the application.

## 9.0 Conclusion

- 9.1. It is considered that the increase in the number of deliveries from two per day to three, and collections per week from one to two, is not considered to result in harm to residential amenity from noise. The proposal would result in a permanent use of the site for the facility, which given the sustainable location within an industrial/commercial area within the defined Newark Urban Area, is considered acceptable.
- 9.2. The proposal would not result in harm to highways, heritage (designated listed buildings), ecology or to flood risk and therefore the proposal accords with Spatial Policy 1, 2 and 7 and Core Strategy policies 9 and 10 as well as Policy DM5 of the Allocations and Development Management DPD and the NPPF and S.66 of the Planning and Listed Building Act.
- 9.3. It is therefore recommended that the application for variation of condition 08 to allow increase of deliveries for day and removal of Condition 09 to allow use of site permanently attached to planning permission 23/01604/FUL be **APPROVED**. Some conditions have already been discharged due to them being pre-commencement. Therefore, the conditions from the original consent have been amended or deleted for relevance. These changes are shown below.

## 10.0 Conditions

~~01~~

~~The development hereby permitted shall not begin later than three years from the date of this permission.~~

~~Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.~~

~~02-01~~

The development hereby permitted shall not be carried out except in complete accordance with the following approved plans:

DRWG no. 23032-20-001 Proposed Plans & Elevations;

DRWG no. 23031-70-001 Existing Location Plan & Proposed Block Plan;

DRWG no. 23032-70-003 Proposed Site Plan;

Glass Recycling Compound layout (received 29.09.2023);

PAS128 Utility Survey Rev R1.

Reason: So as to define this permission.

03

~~The materials to be used in the construction of the development hereby permitted shall be in full accordance with details stated on the approved drawings (as stated within condition 02) or within the application form.~~

~~Reason: In the interests of visual amenity.~~

04

~~The development hereby permitted shall not be commenced until such time as a scheme to dispose of foul and surface water has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved and retained for the lifetime of the development.~~

~~Reason: To ensure there are no unacceptable discharges to ground or surface waters. There should be no infiltration of surface water on contaminated land, or discharges to surface water.~~

05

~~No drainage systems for the infiltration of surface water to the ground (including soakaway or infiltration SUDS) are permitted other than with the written consent of the local planning authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.~~

~~Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants. This is in line with paragraph 174 of the NPPF.~~

06

~~If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall be implemented as approved.~~

~~Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from~~

~~previously unidentified contamination sources at the development site. This is in line with paragraph 174 of the NPPF.~~

## ~~07-02~~

No loading, unloading, deliveries or collections associated with the use hereby permitted shall take place other than between the following hours:-

08:00h to 17:00h Monday - Friday

And not at any other time including Saturdays, Sundays, Public or Bank Holidays

Reason: In the interests of residential amenity.

## ~~08-03~~

There shall be no more than ~~two~~ **three** deliveries of glass to the site per day, and no more than ~~one~~ **two** collection on glass from the site per week. An up to date register of deliveries and collections shall be kept for the site by the owner and shall be made available for inspection by the Local Planning Authority, at any time.

Reason: In the interests of residential amenity.

## ~~09~~

~~The use hereby permitted shall cease and all materials associated with the use be removed and the land restored to its former condition on or before 30th November 2026.~~

~~Reason: To enable evidence to be gathered of the impact of the development upon adjoining occupiers and users.~~

## Informatives

### 01

#### Waste to be reused on-site

Excavated materials that are recovered via a treatment operation can be re-used on-site under the CL:AIRE Definition of Waste: Development Industry Code of Practice. This voluntary Code of Practice provides a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

The Environment Agency recommends that developers should refer to our:

- Position statement on the Definition of Waste: Development Industry Code of Practice and;

- website at <https://www.gov.uk/government/organisations/environment-agency> for further guidance.

### Waste to be taken off-site

Contaminated soil that is, or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes:

- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2010
- The Waste (England and Wales) Regulations 2011

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standards BS EN 14899:2005 'Characterisation of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to our website at

<https://www.gov.uk/government/organisations/environment-agency> for more information.

02

Cadent Gas Ltd own and operate the gas infrastructure within the area of your development. There may be a legal interest (easements and other rights) in the land that restrict activity in proximity to Cadent assets in private land. The applicant must ensure that the proposed works do not infringe on legal rights of access and or restrictive covenants that exist.

If buildings or structures are proposed directly above the apparatus the development may only take place following diversion of the apparatus. The applicant should apply online to have apparatus diverted in advance of any works, by visiting [cadentgas.com/diversions](http://cadentgas.com/diversions)

Prior to carrying out works, including the construction of access points, please register on [www.linesearchbeforeudig.co.uk](http://www.linesearchbeforeudig.co.uk) to submit details of the planned works for review, ensuring requirements are adhered to.

**03**

~~The applicant/developer will need to have a contingency plan should the construction phase reveal any contamination, which must be notified to the Pollution Team in Public Protection at Newark and Sherwood~~

**04**

~~The proposed glass recycling activity will require an Environmental Permit issued and~~

~~enforced by the Environment Agency under the Environmental Permitting (England and Wales) Regulations. Emissions to air, land and water, including noise, will need to be considered by the Environment Agency as part of the application for an Environmental Permit. A Permit will impose conditions for controlling and eliminating emissions, and the site may be subject to inspections to ensure compliance with conditions in the Permit. The Environment Agency would also investigate any complaints regarding alleged breaches of Permit conditions.~~

#### **05 03**

The application as submitted is acceptable. In granting permission without unnecessary delay the District Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

#### **06-04**

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development given that there is no net additional increase of floorspace as a result of the development.

#### **05**

##### **Biodiversity Net Gain**

**From the information provided as part of the application, the development granted by this notice is considered exempt from the biodiversity gain condition.**

**Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 states that planning permission is deemed to have been granted subject to the condition “the biodiversity gain condition” that development may not begin unless:**

- a) a Biodiversity Gain Plan has been submitted to the planning authority, and**
- b) the planning authority has approved the plan;**
- OR**
- c) the development is exempt from the biodiversity gain condition.**

**The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission is Newark and Sherwood District Council (NSDC).**

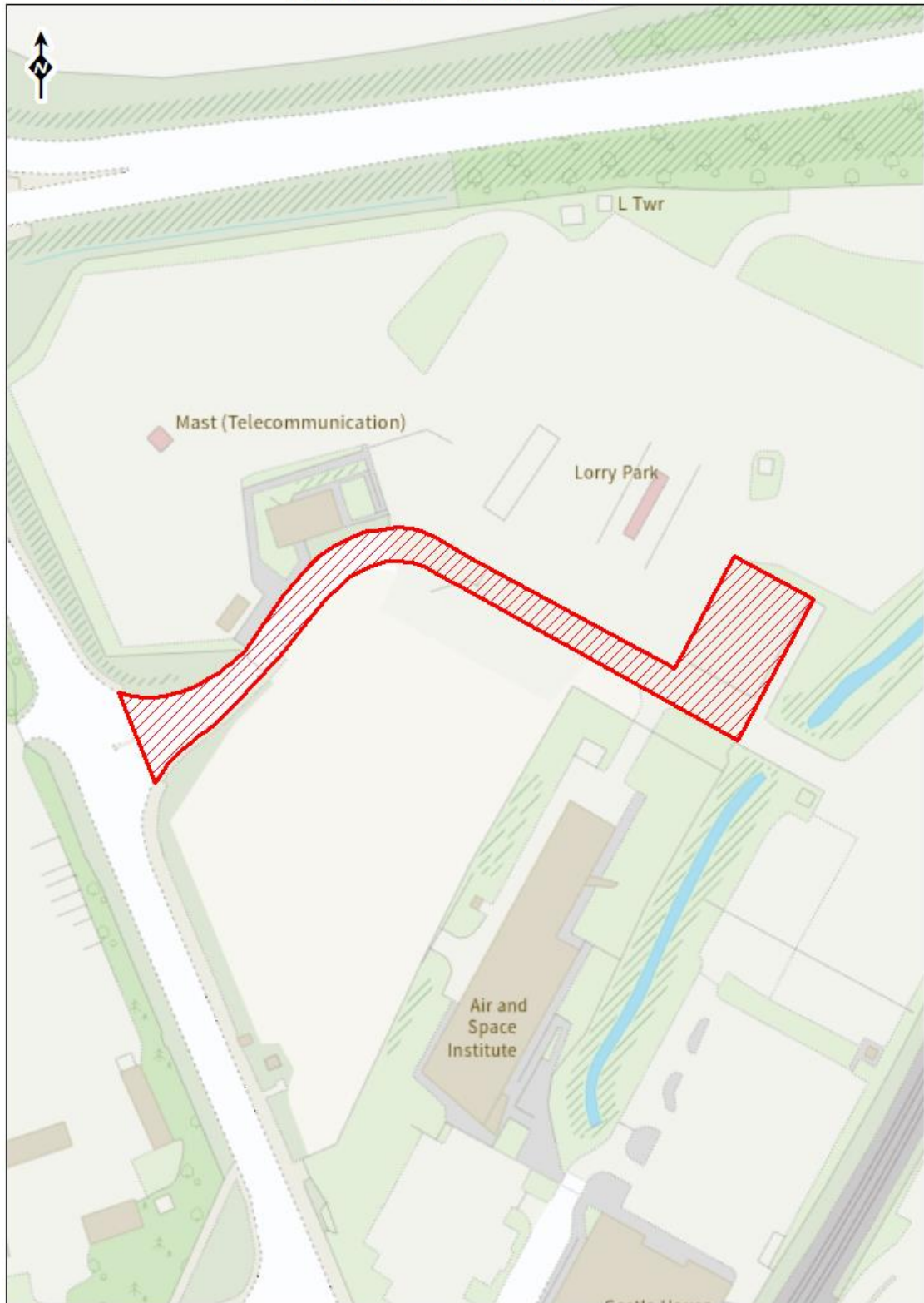
**There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. Details of these exemptions and associated legislation are set out in the planning practice guidance on biodiversity net gain ([Biodiversity net gain - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/biodiversity-net-gain))**

**Based on the information available, this permission is considered by NSDC not to require the approval of a biodiversity gain plan before development is begun, because the following reason or exemption is considered to apply – The approval is a section 73 permission, where the original permission which the section 73 relates to was either granted before 12 February 2024 or the application for the original permission was made before 12 February 2024.**

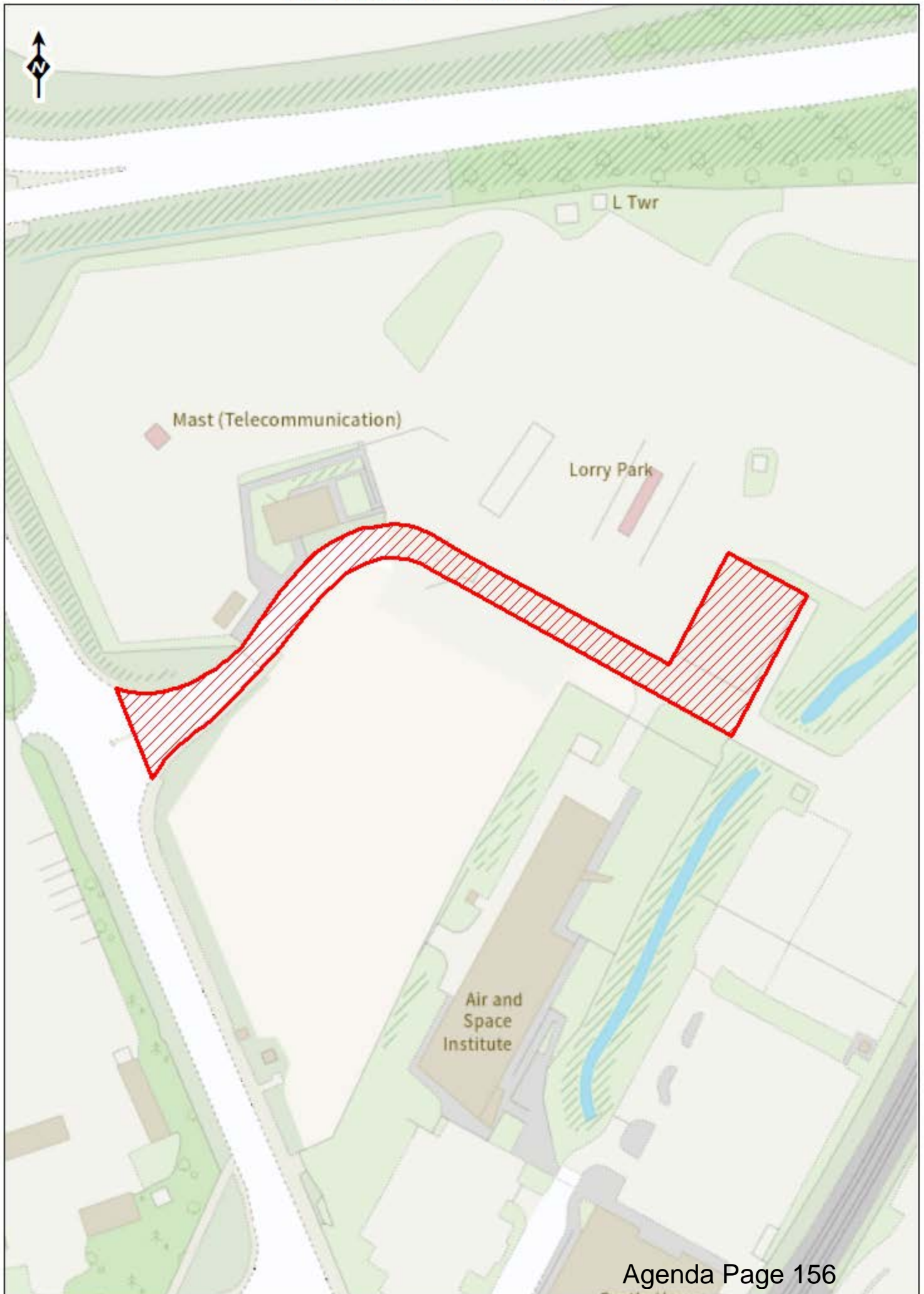
#### BACKGROUND PAPERS

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Application case file.



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Report to Planning Committee 3 July 2025

Director Lead: Matt Lamb, Planning & Growth

Lead Officer: Oliver Scott, Business Manager – Planning Development

Report Summary	
<b>Report Title</b>	Planning Reform Update
<b>Purpose of Report</b>	To engage Members of the Planning Committee on the latest planning reform consultations
<b>Recommendations</b>	<p>That Members of Planning Committee note the planning reform consultations.</p> <p>That the Council's representations on planning reform consultations be delegated to the Director for Planning &amp; Growth in consultation with the Chair and Vice-Chair of Planning Committee.</p>

## 1.0 Background

- 1.1 Planning reform was an important aspect of the King's Speech last year. Reform, it was argued, would be a means of unlocking national economic growth. Members will be familiar with the government's Plan for Change and the commitment to delivering 1.5 million homes during this Parliament. The government updated the National Planning Policy Framework in December 2024, including reintroducing mandatory targets for the number of new homes and encouraging development on 'grey belt' land where housing need cannot otherwise be met. The government has indicated that it plans to go even further in the coming months to streamline the planning system by introducing more 'rules-based' national policies for development management, amending the statutory consultee system, and finalising a proposed 'National Scheme of Delegation' in relation to planning committees.
- 1.2 This report looks at some of the key planning reform consultations. These are summarised in the table below. Most of these are managed by the Ministry of Housing, Communities and Local Government (MHCLG). There are two Department for Environment, Food and Rural Affairs (DEFRA) consultations for Biodiversity Net Gain (BNG) reviews. Whilst this report briefly looks at all of the consultations, the focus of this update is the two key consultations which impact on Planning Committee functions - Planning Reform Working Paper: Reforming Site Thresholds and Reform of planning committees: technical consultation.

Consultation	Overview	Deadline for response
Planning Reform Working Paper: Speeding Up Build Out	This paper invites views on options the government could pursue to ensure the right incentives exist in the housing market, and local planning authorities have the tools they need, to encourage homes to be built out more quickly.	7 <sup>th</sup> July 2025
Technical consultation on implementing measures to improve Build Out transparency	This technical consultation sets out the rationale for implementing the new statutory build out information requirements and the power to decline to determine applications, including setting out the importance of build out and the government's plan to improve build out transparency.	7 <sup>th</sup> July 2025
Planning Reform Working Paper: Reforming Site Thresholds	This working paper seeks views on reforming site size thresholds in the planning system. This means taking a graduated approach to the system as a whole – removing and streamlining perceived disproportionate requirements on small and medium sites, while maintaining and strengthening requirements on major development.	9 <sup>th</sup> July 2025
Reform of planning committees: technical consultation	Further to the introduction of the Planning and Infrastructure Bill this consultation seeks views on the implementation of the three aspects of reform proposed: 1) a national scheme of delegation; 2) control of the size and composition of planning committees; 3) mandatory member training.	23 <sup>rd</sup> July 2025
DEFRA: Biodiversity net gain for nationally significant infrastructure projects	The government is proposing introducing BNG for NSIPs from May 2026. This will ensure consistency with legally binding Environment Act 2021 targets for biodiversity and provide wider benefits for climate change adaptation and mitigation.	24 <sup>th</sup> July 2025
DEFRA: Improving the implementation of Biodiversity Net Gain for minor, medium and brownfield development	This consultation seeks views on options around extending exemptions, simplifying the small sites metric and increasing ease of access to the off-site market. It also addresses specific challenges for brownfield developments.	24 <sup>th</sup> July 2025

## 2.0 Planning Reform consultations

### Planning Reform Working Paper: Reforming Site Thresholds

- 2.1 The government argues that small and medium builders play a crucial role in driving up housebuilding rates by bringing diversity and competition to the market and supporting faster build out rates. The government's working paper outlines the challenges smaller housebuilders have in bringing sites forward, arguing that there needs to be a more proportionate approach for small sites. Members will know that national policy and regulations only differentiate between minor applications (those under 10 units), and major applications (those of 10 or more). Minor applications have some reduced requirements, such as typically being exempt from affordable housing requirements and having shorter statutory timescales for determination. However, the government feels that these easements are limited in scope and – beyond this – there is little

difference between how planning applications for 10 homes are treated in the system compared to those for 100 homes or 1,000. The government has set out three key principles for exploring change:

- I. Moving to a more proportionate planning system that offers a more graduated approach and responds to the needs of different sizes of site. This includes lifting disproportionate requirements for the smaller sites, streamlining requirements for medium sites, and setting clearer expectations for strategic sites.
- II. Establishing clearer categories of development that can support a more effective market, greater consistency across the planning system, and allows more sophisticated and targeted approaches to government policy – both now and in the future.
- III. Providing greater up-front certainty on planning requirements for different site sizes – to help de-risk and speed up development.

2.2 To achieve this, the government sets out a potential new hierarchy of site thresholds:

- Very small sites – under 0.1ha
- Minor Residential Development – fewer than 10 homes /up to 0.5 hectare (ha)
- Medium Residential Development – between 10-49 homes/up to 1.0 ha
- Major Residential Development – 50+ homes / 1+ hectare

2.3 The consultation suggests that this graduated approach would enable significant relaxation of rules in the smallest sites. For example, minor development could be exempt from BNG and have reduced requirements for validation. The medium site size would be an entirely new category with more simplified BNG rules and a potential exemption from the Building Safety Levy. Minor sites would likely always be delegated to officers for decision-making. Some medium and major schemes could still be capable of being called into Committee however.

2.4 The government also sets out a commitment to streamlining section 106 agreements.

#### The Reform of Planning Committees: technical consultation

2.5 It is currently the case that all local planning authorities have their own scheme of delegation, but these vary widely across the country. The government considers that there is a lack of consistency on the types of applications going to committee, and a disproportionate consideration of relatively minor technical details.

2.6 The government states that its intention is to encourage “better quality development that is aligned with local development plans, facilitates the speedy delivery of the quality homes and places that our communities need, and gives applicants the reassurance that in more instances their application will be considered by professional officers and determined in a timely manner. This will allow committees and the elected representatives that sit on them to focus their resources on those applications where local democratic oversight is required.”

2.7 In December 2024, the government published the Planning Reform Working Paper – Modernising Planning Committees which set out three potential actions to reform Planning Committees:

- I. A national scheme of delegation.
- II. Requirement for smaller committees.
- III. Mandatory training for all committee members.

2.8 The government undertook wide-ranging engagement on these proposals, including workshops with local planning authorities and chairs of planning committees. They state that 160 written responses were received alongside an independent survey undertaken by the Planning Advisory Service which attracted 130 responses. The key findings were:

- most respondents could see the case for a scheme of delegation to provide more consistency and certainty, but there were differing views about the structure of such a scheme;
- there was little support for separate strategic development committees, however, there was strong support for smaller committees generally to improve the quality of debate;
- there was strong support for mandatory training of planning committee members to improve their understanding of planning.

2.9 The key actions set out in the December Working Paper are within the current version of the Planning and Infrastructure Bill which was introduced into Parliament on 11 March 2025 (section 48-49 ‘fees’; section 50 ‘training for local planning authorities’; section 51 ‘delegation of planning decisions’). The Bill recently passed its third reading in the Commons (10<sup>th</sup> June) and is currently now in its second reading in the Lords. The measures in the Bill are enabling powers and the detailed provisions will be set out in regulations to be brought forward following Royal Assent. This technical consultation seeks views on what detailed provisions should be included in the regulations.

2.10 The government accepts that whilst there might be broad support for greater clarity and consistency on the delegation of planning functions, the responses to the working paper identified a number of challenges:

- concern about creating new legal risks, being inflexible to deal with local circumstances, and leading inadvertently to more applications going to committee;
- concern that there would be reduced political oversight of locally important applications;
- the option of a scheme based on compliance with the development plan was felt to be too subjective and would not therefore achieve the objective of providing greater certainty;
- there was strong support to remove objection-based delegation criteria on the basis that they artificially encourage objections, lead to non-planning based decisions and create delays to otherwise acceptable development.

2.11 The government has considered these issues and decided to propose that a scheme of delegation which categorises planning applications into two tiers:

- Tier A which would include types of applications which must be delegated to officers in all cases; and
- Tier B which would include types of applications which must be delegated to officers unless the Chief Planner and Chair of Committee agree it should go to Committee based on a gateway test.

2.12 The table below summarises what might fall within the two tiers:

Tier A applications (delegated in all cases)	Tier B (delegated to officers subject to a gateway test through which the chief planning officer and chair of planning committee must mutually agree that they should go to committee if they are to depart from the scheme of delegation)
<ul style="list-style-type: none"> <li>• Householder development</li> <li>• Minor commercial development</li> <li>• Minor residential development</li> <li>• applications for reserved matter approvals</li> <li>• applications for s96A non-material amendments to planning permissions</li> <li>• applications for the approval of conditions</li> <li>• applications for approval of the BNG Plan</li> <li>• applications for approval of prior approval (for permitted development rights)</li> <li>• applications for Lawful Development Certificates</li> </ul>	<ul style="list-style-type: none"> <li>• Applications for planning permission not in Tier A (e.g. medium or major residential/commercial)</li> <li>• any application for planning permission where the applicant is the local authority, a councillor or officer</li> <li>• Section 73 applications to vary conditions where this would affect the principle of development</li> </ul>

2.13 Looking at Committee agendas for the last 12 months, it is likely that we would have continued to have regular meetings under Tier B due to the large number of Council projects considered. Depending on the gateway arrangements, controversial schemes would also likely have ended up on the agenda, notably where statutory objections were made.

2.14 The technical consultation seeks views on whether special control applications such as tree preservation orders, listed building consent or advertisement consent should always be delegated decisions or could be capable of falling into Tier B. There is also thought about whether all section 106 decisions not linked to a planning application should be added to Tier A or B, as well as contentious enforcement decisions.

- 2.15 With respect to the size and composition of committees, the government feels that a committee of 8-11 members is optimal for informed debate on applications. The government states that it recognises that there is a need for some local flexibility to take account of political balance requirements and meeting abstentions. They are therefore, proposing to set a maximum of 11 members in the regulations. They will use the statutory guidance to provide a steer on best practice so that 11 members does not unintentionally become to be seen as the requirement. Committees may be smaller if that works best locally.
- 2.16 A key feature incorporated into the Planning and Infrastructure Bill's provisions is the need for a member to have some form of training certification to ensure they can only make committee decisions if they have been trained. There are two basic options:
- I. a national certification scheme which would be procured by MHCLG and involve an online test for certification; or
  - II. a local based approach where the local planning authority provides certification
- 2.17 Members will note the regular reports we present looking at performance. The planning performance regime covers decision making by both committees and delegated officer, looking at quality of decision making by measuring the proportion of total decisions overturns at appeal (as well as speed of decision-making). As part of the government's agenda to reform the planning system and ensure it is delivering the outcomes communities want, they may consider reviewing the thresholds in the performance regime to support high quality decision making across both committee and officer decisions. There is no detail given on what this might entail, but it could mean increasing the targets for making decisions within statutory timeframes, as well as the level at which appeal overturns are benchmarked.

#### Biodiversity Net Gain consultations

- 2.18 The two DEFRA consultations deal with technical aspects of BNG regulations. As a reminder, BNG is an approach to development which aims to leave the natural environment in a measurably better state than beforehand. The Environment Act 2021 introduced a mandatory BNG requirement in England for most new developments under the Town and Country Planning Act 1990, requiring them to deliver a 10% increase in biodiversity. Following a two-year transition period, BNG has been mandatory for most major developments from 12th February 2024, and for minor development from 2nd April 2024.
- 2.19 The first DEFRA consultation listed in the table in 2.2 explores the government's intention to introduce BNG for NSIPs from May 2026. Central to the consultation request is views on a model framework for those making development consent orders using the following:
- Biodiversity gain objective
  - Irreplaceable habitat
  - Calculating BNG

- Pre-development biodiversity value
  - Delivering BNG
  - Considerations for the delivery of biodiversity gains
  - Evidence for submission and decision making
- 2.20 Model text is included in an annex attached to the consultation document. Views on cost implications for BNG in NSIPS is also sought.
- 2.21 Linked to this is a further consultation on improving the implementation of BNG for minor development. Most of the consultation is not applicable to NSIPs, except brownfield development with open mosaic habitat, which is relevant for all development types with a BNG requirement, including NSIPs.
- 2.22 Importantly, this second consultation recognises the challenges for smaller and specific development types. This discussion is linked to the reforming site thresholds discussed earlier in this report.
- 2.23 Exemptions from BNG include householder development and cover in practice many other minor developments due to the nature of development, particularly through the de minimis exemption which will cover, for instance, development on hard standing such as a car park redevelopment that has little or no impact on biodiversity. The existing exemptions however do not cover all minor development. A high proportion of more substantial minor developments impact on habitats which are above the de minimis threshold, including many minor residential developments for new dwellings. Many of these residential developments are also outside the scope of the separate self and custom build exemption. Although these minor developments subject to BNG cover only a small area as minor development, the cumulative impact of the large number of these developments could be significant, and the habitat enhancements delivered through BNG make an important contribution to halting the decline of nature. Nevertheless, there are a number of problems with this process:
- increased costs and/or time from additional steps in the planning process.
  - increased costs from delivering habitat enhancements where sites may be more constrained so opportunities for onsite BNG may be limited, impacting viability.
  - developing knowledge and expertise amongst developers, ecologists and local planning authorities
- 2.24 The consultation goes on to explore the potential for reforming the existing exemptions, streamlining the small sites metric, relaxation of the biodiversity gain hierarchy and delivery of compensation for development on brownfield sites.

#### Speeding up build out

- 2.25 The government's working paper on speeding up build out with accompanying technical consultation aimed at speeding up construction. The technical consultation indicates that there could be a build out reporting framework with build out statements, commencement notices and annual project reports. The build out statement would become a validation requirement (for major applications only) and would need to

include build out trajectory, housing tenure mix, information on diversification of mix to support build out and any delivery risks. The measures might also include the power for the LPA to decline to determine an application where the developer fails to build out development authorised by an earlier planning permission at a reasonable rate. This will provide LPAs with an important new sanction to address developers who persistently fail to build out quickly.

- 2.26 Subject to the outcome of the consultation, the intention is to bring forward the regulations to implement these measures at the earliest practical opportunity with the new build out reporting framework coming into force from 2026. An Impact Assessment will be prepared by government for the regulations.

### **3.0 Next steps**

- 3.1 It is important to note the other actions the government has already signposted in the planning reform consultations, including:
- A new local plan system
  - National Decision Making Policies and a revised National Planning Policy Framework later this year
  - local planning authorities to set their own planning fees to cover costs of delivering a good planning applications service
- 3.2 There are several consultation deadlines in July as summarised in the box in 1.2. The Council's representations on planning reform consultations will need be delegated to the Director for Planning & Growth in consultation with the Chair and Vice-Chair of Planning Committee.
- 3.3 The Council will need to write to the relevant MHCLG or DEFRA address or otherwise fill in the relevant online survey.

### **4.0 Implications**

- 4.1 In writing this report and in putting forward recommendations' officers have considered the following implications; Data Protection, Digital and Cyber Security, Equality and Diversity, Financial, Human Resources, Human Rights, Legal, Safeguarding and Sustainability, and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.
- 4.2 Legal Implications – LEG2526/6221

This report is for noting.

### **Background Papers and Published Documents**

[Reform of planning committees: technical consultation - GOV.UK](https://www.gov.uk/government/consultations/reform-of-planning-committees-technical-consultation)

[Modernising Planning Committees National Survey 2025 | Local Government Association](#)



[Planning Reform Working Paper: Reforming Site Thresholds - GOV.UK](#)

[Planning Reform Working Paper: Speeding Up Build Out - GOV.UK](#)

[FINAL - 17/07/24 King's Speech 2024 background briefing final GOV.uk.docx](#)

[Planning and Infrastructure Bill](#)

[Biodiversity net gain for nationally significant infrastructure projects - GOV.UK](#)

[Biodiversity net gain for nationally significant infrastructure projects - Defra - Citizen Space](#)

[Improving the implementation of Biodiversity Net Gain for minor, medium and brownfield development - Defra - Citizen Space](#)

## **Planning Committee – 3 July 2025**

### **Appeals Lodged**

- 1.0 Members are advised that the appeals listed at Appendix A to this report have been received and are to be dealt with as stated. If Members wish to incorporate any specific points within the Council's evidence please forward these to Planning Development without delay.
- 2.0 Recommendation
- 2.1 That the report be noted.

### **Background papers**

Application case files.

Further information regarding the relevant planning application and appeal can be viewed on our website at <https://publicaccess.newark-sherwooddc.gov.uk/online-applications/search.do?action=simple&searchType=Application> or please contact our Planning Development Business Unit on 01636 650000 or email [planning@newark-sherwooddc.gov.uk](mailto:planning@newark-sherwooddc.gov.uk) quoting the relevant application number.

Oliver Scott  
Business Manager – Planning Development

## Appendix A: Appeals Lodged (received between 26 May 2025 – 23 June 2025)

Appeal and application refs	Address	Proposal	Procedure	Appeal against
APP/TRN/B3030/9603  21/00421/ENFA	Land Adjacent No 4 Yew Tree Way Coddington	Appeal against Tree Replacement Notice	Hearing	service of Enforcement Notice
APP/B3030/C/25/3364678  25/00121/ENFA	Land To East Of Moorhouse Road Egmanton Newark On Trent NG22 0HH	Without planning permission, "development" consisting of the making of a material change of use of the land from Agriculture to use as a caravan site, including the stationing of caravans and mobile homes and their use for residential purposes; and associated operational development (including but not limited to the laying of hard surface, the erection of means of enclosures, and domestic paraphernalia).	Public Inquiry	service of Enforcement Notice
APP/B3030/W/25/3366276  25/00512/PIP	Smallholding Rear Of 55 Beacon Hill Road Newark On Trent NG24 2JH	Application for permission in principle for a residential development of between two and four dwellings following the demolition of agricultural buildings.	Written Representation	refusal of a planning application
APP/B3030/W/25/3367060  24/01968/FUL	East Stoke Village Hall School Lane East Stoke Newark On Trent NG23 5QL	Demolition of Redundant Village Hall and Erection of Detached Self Build Dwelling.	Written Representation	refusal of a planning application

### Future Hearings and Inquiries

The following applications are due to be heard by hearing or inquiry over forthcoming months.

Planning application number or enforcement reference	Proposal	Procedure and date	Case officer
25/00011/ENFNOT	Without planning permission, "development" consisting of the making of a material change of use of the land from Agriculture to use as a caravan site, including the stationing of caravans and mobile homes and their use for residential purposes; and associated operational development (including but not limited to the laying of hard surface, the erection of means of enclosures, and domestic paraphernalia).	Provisional date 10 September 2025 Venue to be confirmed	Richard Marshall
23/00013/ENFNOT	Appeal against Tree Replacement Notice	Hearing – date to be confirmed	Michael Read
23/01837/FULM	Proposed ground mounted photo voltaic solar farm and battery energy storage system with associated equipment, infrastructure, grid connection and ancillary work.	Public Enquiry 22 – 30 October 2025	Craig Miles

If you would like more information regarding any of the above, please do not hesitate in contacting the case officer.

## Planning Committee – 3 July 2025

### Appendix B: Appeals Determined (between 26 May 2025 – 23 June 2025)

App No.	Address	Proposal	Application decision by	Decision in line with recommendation	Appeal decision	Appeal decision date
23/01480/LDCP	Daisy Farm 6 The Green Upton Newark On Trent NG23 5SU	Certificate of Lawfulness for proposed installation of solar panels on the South slope of the roof of the property	Delegated Officer	Not Applicable	Appeal Allowed	4th June 2025
Click on the following link to view further details of this application: <a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=summary&amp;keyVal=RZQL7SLBK3300">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=summary&amp;keyVal=RZQL7SLBK3300</a>						
24/01602/ADV	MFG Cow Lane - Newark Esso 69 North Gate Newark On Trent NG24 1HD	Erection of a small format Advertising Display	Delegated Officer	Not Applicable	Appeal Allowed	17th June 2025
Click on the following link to view further details of this application: <a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=summary&amp;keyVal=SJLSG1LBI7100">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=summary&amp;keyVal=SJLSG1LBI7100</a>						
23/01618/FUL	Offices And Workshops Downside Cottage Great North Road Bathley Newark On Trent NG23 6HP	Change of use from Sui Generis to B8 to allow the operation of a storage business including shipping containers	Delegated Officer	Not Applicable	Appeal Dismissed	18th June 2025
Click on the following link to view further details of this application: <a href="https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=summary&amp;keyVal=S0TV43LBKF500">https://publicaccess.newark-sherwooddc.gov.uk/online-applications/applicationDetails.do?activeTab=summary&amp;keyVal=S0TV43LBKF500</a>						
23/00149/ENFB	Offices And Workshops Downside Cottage Great North Road Bathley Newark On Trent NG23 6HP	Without planning permission, the material change of use of land to B8 storage with the associated siting of storage containers.			Appeal Dismissed	18th June 2025
Click on the following link to view further details of this application:						

### Recommendation

That the report be noted.

### Background papers

Application case files.

Further information regarding the relevant planning application and appeal can be viewed on our website at <https://publicaccess.newark-sherwooddc.gov.uk/online-applications/search.do?action=simple&searchType=Application> or please contact our Planning Development Business Unit on 01636 650000 or email [planning@newark-sherwooddc.gov.uk](mailto:planning@newark-sherwooddc.gov.uk) quoting the relevant application number.

Oliver Scott  
Business Manager – Planning Development